



# Office of Temporary and Disability Assistance

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## Administrative Directive

### Section 1

<b>Transmittal:</b>	16-ADM-02
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Center for Specialized Services (CSS), Bureau of Refugee and Immigrant Assistance (BRIA)
<b>Date:</b>	April 13, 2016
<b>Subject:</b>	Refugee Cash and Medical Assistance Programs (RCA & RMA)
<b>Suggested Distribution:</b>	Temporary Assistance Directors Employment Coordinators WMS Coordinators SNAP Directors Medical Assistance Directors
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<b>Attachments:</b>	
<b>Attachment Available Online:</b>	<input type="checkbox"/>

### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
96-ADM-07 97-ADM-20 97-ADM-21 97-ADM-23 03-ADM-01 04-ADM-04 05-ADM-01 07-INF-15	96-ADM-07 05-ADM-01	Part 349, 350, 351, 352, 355, 356, 357, 358, 359, 369, 370, 372, 373, 381, Subpart 360-4, 373-2.1-2.6, 386, 415, Subpart 373-1.1 - 1.8, 373-2	Welfare Reform Act of 1997, SSL 20; 34; 65; 117; 131; 131-a; 157; 158; 349; 350	83 MB-20 45 CFR Part 400	Fiscal Reference Manual, Volume 2, Chapter 3

## **Section 2**

### **I. Summary**

This Administrative Directive (ADM) informs social services districts (SSD) of the federally funded Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA) programs.

This ADM supersedes the previous 05-ADM-01, issued June 15, 2004, and revised January 10, 2005.

### **II. Purpose**

The purpose of this Administrative Directive is to inform SSDs of any changes to the federally funded RCA and RMA programs.

### **III. Background**

The Federal Office of Refugee Resettlement (ORR) within the United States Department of Health and Human Services (DHHS) established the RCA and RMA programs in order to assure the availability of short-term cash and medical assistance to new refugee arrivals. At the time of program initiation, many states did not have benefit programs for singles or childless couples, so the RCA and RMA programs were necessary for new arrivals to receive benefits.

In 1996, State regulations at 18 NYCRR Part 373, implemented the RCA and RMA programs for singles and childless couples that are refugees or are in another specified immigration status in order to assist them to achieve self-sufficiency as soon as possible.

In March of 2000, Federal regulations at 45 CFR Part 400 amended the provisions of the RCA and RMA programs.

In October of 2000, the enactment of the "Trafficking Victims Protection Act" (TVPA) made adult victims of severe forms of trafficking in persons that are certified by the ORR and children under 18, given eligibility letters by the ORR, eligible for benefits and services to the same extent as refugees.

In August of 2002, 18 NYCRR Part 373 was amended to incorporate several changes in 45 CFR Part 400.

Effective of December 19, 2009, the Department of Defense Appropriations Act of 2010 (Public Law 111-118), § 8120(a) (Iraqi) and § 8120(b) (Afghan) allowed Afghan and Iraqi special immigrants to receive refugee and other federal public benefits like any other refugee admitted under Section 207 of the U.S. Immigration and Nationality Act (INA).

### **IV. Program Implications**

The SSD shall determine the eligibility of refugees, asylees, Cuban/Haitian entrants, certain Amerasians, certified victims of severe forms of trafficking in persons (adults) and those determined eligible by the ORR (children under age 18), and Afghan and Iraqi special immigrant visa holders who apply for cash assistance to one of the following cash assistance programs: Family Assistance (FA), Safety Net Assistance (SNA), Supplemental Security Income (SSI), or RCA. This directive addresses procedures that are unique to RCA and RMA. Other cash assistance programs supervised by the Office of Temporary and Disability Assistance (OTDA)

are addressed separately in other directives (See the list of cash assistance directives under filing references).

## V. Definitions

For the purpose of this directive, the following definitions apply:

1. "Asylee" is an individual who is granted asylum status under Section 208 of the INA.
2. "Authorized Service Provider" is a public or private community agency that has entered into a contract with the OTDA to provide employment services to recipients of RCA.
3. "Bureau of Refugee and Immigrant Assistance" (BRIA) is housed within OTDA's Center for Specialized Services. Its mission is to direct resources to authorized service providers that assist recent arrivals and their families in achieving early economic and social self-sufficiency, to aid other legal immigrants in their transition to life in the United States, to help repatriated U.S. citizens arrive home safely, and to assure the foster care of unaccompanied refugee minors.
4. "Certain Amerasian Immigrants" are Amerasians from Vietnam who are admitted to the U.S. as immigrants under Section 402 (a) 2( A) (I) (V) of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (8 U.S.C. 1612 (a) 2 (A)).
5. "Cuban/Haitian Entrant" or "Entrant" is (a) any individual granted parole status as a Cuban/Haitian Entrant (status pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and (b) any other national of Cuba or Haiti (1) who:
  - i) Was paroled into the U.S. and has not acquired any other status under the INA;
  - ii) Is the subject of exclusion or deportation proceedings under the INA; or
  - iii) Has an application for asylum pending with the United States Citizenship and Immigration Services (USCIS); and (2) with respect to whom a final, non-appealable, and legally enforceable order of deportation or exclusion has not been entered.
6. "Employability Services" are services designed to enable an individual to obtain employment and to improve the employability or work skills of the individual.
7. "Employable" means not exempt from registration for employability services.
8. "Family Self Sufficiency Plan" is a plan that addresses the employability service needs of the employable members of a family for the purpose of enabling the family to become self-supporting through the employment of one or more family members.
9. "Employability Plan" means an individualized written plan, as part of the family self-sufficiency plan for a refugee, asylee, or entrant registered for employment services that sets forth a program of services intended to result in the earliest possible employment of the refugee or entrant. Note that plans for refugees, asylees and entrants are prepared by the Authorized Service Provider referenced in the definitions.
10. "Local Voluntary Resettlement Agency" or "Volag" is a local affiliate or subcontractor of a

national voluntary agency that entered into a grant, contract, or cooperative agreement with the United States Department of State or other appropriate federal agency to provide for the reception and initial placement of refugees in the U.S.

11. "Match Grant" is an alternative program to public assistance whose goal is to help employable refugees, asylees, Amerasians, Cuban/Haitian entrants, certified trafficking victim, and Iraqi and/or Afghan Special Immigrants attain economic self-sufficiency through the provision of comprehensive case management and services leading to employment within 120 to 180 days after the date of eligibility for the program without accessing public cash assistance. Match Grant is a direct agreement between the Federal Government and the local voluntary resettlement agency.
12. "Refugee" means an individual who meets the definition of a refugee under Section 101 (a) (42) of the Immigration Reform and Control Act of 1986, Public law 99-603, as amended.
13. "Refugee Cash Assistance" (RCA) means a federal program that provides cash assistance provided under Section 412 (e) of the Immigration and Nationality Act (INA) to eligible persons who are ineligible for Temporary Assistance for Needy Families (TANF), Old Age Assistance (OAA), Assistance to the Blind (AB), Aid to the Permanently and Totally Disabled (APTD), Aid to Aged, Blind, and Disabled (AABD) or Supplemental Security Income (SSI). The RCA program provides cash assistance to refugees, Cuban/Haitian entrants, and asylees in New York under 18 NYCRR Part 373, in order to assist them to achieve self-sufficiency as soon as possible. RCA is a publicly administered program through the SSD in which refugees, entrants and asylees reside.
14. "Refugee Medical Assistance" (RMA) means a federal program that provides medical assistance under Section 412 (e) of the Immigration Reform and Control Act of 1986 to eligible refugees, asylees, and Cuban and Haitian entrants who are ineligible for the Medicaid program in order to assist them to achieve self-sufficiency as soon as possible.
15. "Special Immigrant" is an individual that is a national of Iraq or Afghanistan and was granted Special Immigrant status under Section 101 (a) (27) of the INA.
16. "Support Services" means services provided or contracted for by an authorized service provider which are designed to meet the additional needs of refugees, asylees, entrants, certain Amerasian immigrants, trafficking victims and Iraqi and/or Afghan Special Immigrants for which funding is available under Title IV, Refugee Assistance, of the INA. Types of services include, but are not limited to, translation and interpreter services, outreach, social adjustment, transportation, health services and ESL which are supplemental to the benefits provided through RCA.
17. "Trafficking Victim" is a person who meets the definition of severe forms of trafficking in persons under Section 103 (8) of the Trafficking Victims Protection Act (TVPA) and was certified (adults) or determined eligible (children under age 18) by the ORR. Severe forms of trafficking in persons is defined by the Act as any of the following activities:
  - a) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
  - b) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

18. “United States Citizenship and Immigration Services” (USCIS) is the federal agency that oversees lawful immigration to the United States. On March 1, 2003, USCIS officially assumed responsibility for the immigration service functions of the federal government. The Homeland Security Act of 2002 (Pub. L. No. 107–296, 116 Stat. 2135) dismantled the former Immigration and Naturalization Service (INS) and separated the former agency into three components within the Department of Homeland Security (DHS). This component, USCIS, was formed to enhance the security and improve the efficiency of national immigration services by exclusively focusing on the administration of immigration status petitions.

Note: Hereafter, the term “refugee” will refer to the following groups: Refugees, Asylees, Entrants, Certain Amerasian Immigrants, Trafficking Victims, certain family members of Trafficking Victims who have been awarded a T-Visa, and Iraqi or Afghan Special Immigrants, except where specific exceptions apply.

## VI. Program Overview

### A. Goal of Refugee Services

The goal of services to refugees is to provide for the effective resettlement of these populations and to assist them in achieving economic self-sufficiency as quickly as possible.

### B. Refugee Assistance Programs

#### 1. Reception and Placement Services

The Volags provide Reception and Placement Services to newly arriving refugees, including basic needs support, employment orientation, and referrals. Refugees, entrants and certain Amerasian immigrants are eligible for services during the first 30 days after entry into the United States. Asylees are eligible during the first 30 days after asylum status is granted. Trafficking victims are eligible during the first 30 days after the date of certification (adults) or date specified on the ORR eligibility letter (children under age 18). Special immigrant visa holders are eligible during the first 30 days after entry into the U.S.

#### 2. Match Grant Services

Certain local volags also have a Match Grant Program under direct agreement with the ORR in which employable clients receive a cash grant and employment services for 120 to 180 days. Each immigration status becomes eligible for benefits at certain times.

- Refugees and Amerasians are eligible for 120 to 180 days after entry into the U.S. as long as they enroll by day 31 after entry.
- Entrants are eligible during the first 120 to 180 days from the date they are (1) granted parole, (2) are placed in removal proceedings, or (3) has a pending application for asylum (whichever is first).
- Asylees are eligible during the first 120 to 180 days after asylum status is granted as long as they enroll by day 31 after asylum status is granted.
- Trafficking Victims are eligible during the first 120 to 180 days after the date of certification or eligibility date as long as they enroll by day 31 after the certification or eligibility date.

- Special Immigrant Visa holders are eligible for 120 to 180 days after entry into the U.S., or the date of adjustment of status to Special Immigrant Status within the U.S., as long as they enroll by day 31 after entry or date of status granted.

3. Refugee Employment Services

OTDA/BRIA provides employment and support services through refugee service providers who have culturally and linguistically appropriate services to assist refugees in finding jobs and in achieving economic self-sufficiency as quickly as possible.

## VII. Required Action

A. General Requirements

1. Safeguarding and Sharing Information

- a. The SSD must ensure that no information about, or obtained from, an individual and in the possession of any agency providing assistance or services to such individual under this directive, will be disclosed in a form identifiable with the individual without the individual's consent, or if the individual is a minor, the consent of his or her parent or guardian pursuant to Section 136 of the Social Service Law and 18 NYCRR, Part 357.
- b. The provision of information by a SSD to a local volag as to whether an individual has applied for, or is receiving cash/medical assistance and the individual's telephone number is to be for a purpose directly connected with, and necessary to, the administration of the program during the refugee cash assistance period.

2. Maintenance of Records and Reports

- a. The SSD must provide for the maintenance of records as are necessary for federal monitoring of the RCA and RMA programs.
- b. Record keeping must include:
  - i) Documentation of services and assistance provided, including identification of individuals receiving services and/or assistance.
  - ii) Statistical or programmatic information that the OTDA determines to be required.
  - iii) Documentation issued by the United States Citizenship and Immigration Services (USCIS) or ORR that verifies the individual's immigration status for RCA and RMA eligibility.
- c. The SSD must submit expenditure claims for reimbursement each quarter to OTDA as described in Section IX of this directive.

## B. Application for Refugee Cash and Refugee Medical Assistance

To effectively and efficiently assist refugees to achieve economic self-sufficiency, the SSD is required to properly determine benefit eligibility.

The SSD must do the following in determining eligibility for RCA and/or RMA.

1. Offer the opportunity for refugees to apply for assistance without delay.
  - a. The application for RCA and/or RMA shall be submitted on the OTDA's form LDSS/2921 or NYC: APPLICATION FOR: Public Assistance – Medical Assistance – Supplemental Nutrition Assistance Program – Services and include all required and necessary information requested in the form.
  - b. The application shall be filed by the applicant him/herself, his/her authorized representative, or someone acting responsibly for him/her, and be dated and signed by the applicant or the authorized representative.
2. Inform applicants about the eligibility requirements and the rights and responsibilities of applicants and recipients under the RCA and RMA programs.
3. Determine the eligibility of each cash assistance applicant within 30 days from the date the application is filed.
4. Determine the eligibility for federal cash assistance programs in the order described. If not eligible for FA, SSI or RCA then determine eligibility for SNA.
5. Determine from the authorized service provider whether the applicant has refused to accept an offer of employment within 30 consecutive days immediately prior to the date of application, in accordance with Section VII, Subdivision K and Paragraph 3 of this directive.
6. Provide manual notice to the applicant or the applicant's authorized representative that assistance has been authorized, clearly indicating that it is for RCA and/or RMA, and that RCA and/or RMA are limited to the time eligibility period determined by ORR defined in Section VII, Subdivision I, of this directive.
7. Promptly notify the local volag, which provided for the initial resettlement of a refugee, whenever the refugee applies for RCA.

## C. Determination of Alien Status

1. The SSD must establish that the applicant for RCA or RMA has an eligible USCIS or appropriate immigration status by reviewing documentation issued by the USCIS or ORR. The SSD should request from these individuals the appropriate common documentation that is described in LDSS-4579, Alien Eligibility Desk Aid, found at [http://otda.state.nyenet/ldss\\_eforms/](http://otda.state.nyenet/ldss_eforms/).

- a. USCIS documentation for refugees, asylees, entrants, trafficking victims, certain family members of trafficking victims who have been awarded a T-Visa, and Special Immigrant visa holders will indicate the following:
- Paroled as a refugee or asylee under Section 212(d)(5) of the INA, hereafter referred to as the Act (Note: this only pertains to Cuban-Haitian Entrants);
  - Admitted as a conditional entrant under Section 203(a)(7) of the INA;
  - Admitted as a refugee under Section 207 of the INA;
  - Granted asylum under Section 208 of the INA;
  - Granted lawful permanent residence, provided that the individual previously held one of the eligible statuses described within this section;
  - Any national of Cuba or Haiti granted parole status as a Cuban/Haitian Entrant (status pending) or granted any other special status subsequently established under the immigration law for nationals of Cuba or Haiti, regardless of the status provided; and
  - Any other national of Cuba or Haiti who:
    - i) Was paroled into the US and has not acquired any other status under the Act; or
    - ii) Is the subject of exclusion or deportation proceedings under the Act; or
    - iii) Has an application for asylum pending with the USCIS; or
    - iv) Has a final, non-appealable, and legally enforceable order of deportation or exclusion that has not been entered.
  - Certain Amerasian immigrants from Vietnam who are admitted to the U.S. as immigrants pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in Section 101 (e) of Public Law 100-202 and amended by the 9<sup>th</sup> provision under Migration and Refugee Assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 Public Law 100-461 as amended).
  - Family members of trafficking victims who hold a derivative T-Visa issued in the U.S. must submit to the SSD, the I-797, Notice of Action or I-94 coded T1, T2, T3, T4, or T5 stating admission under Section 212 (d) (5) of the INA if status granted for at least one year. The



district will make a copy of either document for the file and the original will be returned to the applicant or authorized representative.

- Iraqi and Afghan Special Immigrants admitted to the U.S. or Iraqi and Afghan Special Immigrants already in the U.S. pursuant to Section 8120 of Public Law 111-118, Department of Defense Appropriations Act 2010, admitted under Section 101 (a) (27) of the INA or; a passport with an immigrant visa stamp noting that the individual has been admitted under IV Category SI-1, SI-2 or SI-3, or SQ-1, SQ-2 or SQ-3 or; USCIS Form I-551 (“green card”) with an IV category of SQ-6, SQ-7 or SQ-9, or SI-6, SI-7 or SI-9. (See GIS 08 TA/DC008).
- b. ORR documentation for trafficking victims, as described in 03-ADM-01 will indicate the following:
- Adult victims of trafficking must submit the original certification letter to the SSD (see 03-ADM-01 for sample eligibility letter issued from ORR). This letter is used in lieu of USCIS issued documentation. The SSD will make a copy of this letter for the file and the original will be returned to the applicant or authorized representative.
  - A child under the age of 18, who has been determined eligible by ORR, will be issued an eligibility letter from ORR. The original eligibility letter must be submitted to the SSD. This letter is used in lieu of USCIS issued documentation. The SSD will make a copy of this letter for the file and the original will be returned to the applicant or authorized representative.

Note: The SSD must call the trafficking verification line at 1-866-401-5510 to confirm the validity of the certification letter, I-797 Notice of Action, I-94, or eligibility letter and to notify ORR of the benefits and services for which the individual has applied.

2. The SSD must:

- Verify the date of arrival in the U.S. for refugees, entrants, certain Amerasians, and Special Immigrant visa holders;
- Verify the date that asylum status was granted for asylees;
- Verify the certification or eligibility date for trafficking victims;
- Verify the eligibility date of the family member(s) of trafficking victims.

D. Determination of Eligibility under Other Programs

1. Family Assistance (FA)

- a. The SSD must determine a refugee’s eligibility under the FA program first.

b. The SSD must provide cash assistance under the FA program to all refugees who apply for and are eligible under that program.

2. Supplemental Security Income (SSI)

a. The SSD must promptly refer refugees who are 65 years of age or older, or who are blind or disabled to the local Social Security Administration offices, to apply for cash assistance under the SSI Program.

\* Note: SSI is limited to the first seven years of residence in the US for disabled and elderly refugees who arrived in the US after 8/22/96. Unless they become US citizens during this seven year window, their SSI benefits will be terminated after seven years.

b. If the SSD determines that a refugee who is 65 years of age or older, or blind or disabled, is eligible for RCA, it must furnish such assistance until eligibility for cash assistance under the SSI program is determined, provided that the conditions of eligibility for RCA continue to be met.

3. Refugee Cash Assistance (RCA)

If the SSD determines that the refugee is not eligible for cash assistance under the FA and SSI programs, it must then determine eligibility for RCA in accordance with Subdivisions E through K of this directive, below.

4. Emergency Cash Assistance

If a refugee has an emergency or immediate need the SSD will address such emergency or immediate need consistent with the regulations for Emergency Assistance to Families (EAF) and Emergency Safety Net Assistance (ESNA)

5. Safety Net Assistance (SNA)

If the SSD determines that the refugee is not eligible for any of the federal programs listed above or Emergency Cash Assistance, it will determine eligibility for Safety Net Assistance (SNA).

6. Medical Assistance

The SSD must first determine eligibility under the Medical Assistance program in accordance with Subdivision E, Paragraph 2 of this directive.

a. The SSD must provide medical assistance under the state Medicaid program to all eligible refugees.

b. If the SSD determines that the refugee is not eligible for medical assistance under the state Medicaid program, it must then determine eligibility for RMA.

- c. In cases where a refugee obtains private medical coverage, any payment of RMA for that individual must be reduced by the amount of the third party payment.

E. Conditions of Eligibility for RCA and RMA

1. RCA

Eligibility for RCA is limited to those persons who:

- a. Are new arrivals that have resided in the U.S. less than the RCA eight month eligibility period;
- b. Meet the employability and employment requirements contained in 18 NYCRR, Subpart 373-1.8;
- c. Are ineligible for cash assistance under FA and SSI programs but meet the standard of assistance established under 18 NYCRR, Part 352;
- d. Meet immigration status and identification requirements set forth in Section VII, Subdivision C of this directive or are the dependent children of and part of the same filing unit as individuals who meet the requirements in Subdivision C;
- e. Provide the name of the local volag, which resettled him/her, if appropriate;
- f. Are not receiving Match Grant funds from a local volag during the RCA eligibility period; and
- g. Are not full-time students in institutions of higher education, except where such enrollment is approved as part of an individual employability plan.

**Note: For ORR-funded assistance and services, including employment services, disclosure of a Social Security Number (SSN) is not required. Eligible populations cannot be denied ORR-funded assistance and services because they have not yet received or fail to provide social security numbers. While a SSN is not required for ORR funded assistance and services, they are an eligibility requirement for SNA, SNAP and MA. In order for refugees to maintain benefit eligibility after the eight month RCA period a SSN would be required.**

2. RMA

Eligibility for RMA is limited to those persons ages 21 through 64 who are not living with a dependent child, are not pregnant, or certified blind/disabled and who:

- a. Are eligible for or receiving Safety Net Assistance (SNA); or

- b. are eligible for medical assistance under the single/childless couples group (S/CC); or
- c. have net available income or resources above the SNA or S/CC levels, but whose net available income or resources are at or below the State's medically needy levels as determined using the requirements of 18 NYCRR, Subpart 360-4; and
- d. meet immigration status and identification requirements in 18 NYCRR, Subpart 373-1.3 ; and
- e. meet eligibility requirements and conditions set forth in 18 NYCRR, Subpart 373-2; and
- f. provide the name of the local volag which resettled them, if a refugee, entrant or special immigrant visa holder; and
- g. are not full-time students in institutions of higher education except where such enrollment is approved as part of an individual employability plan.

Persons who do not meet the financial eligibility standards of the medically needy program must be allowed to spend down to such standard pursuant to 18 NYCRR, Subpart 360-4.8(c).

Eligibility for RMA is limited to a specific period to be determined by the ORR from the date of entry into the U.S. for refugees and Cuban/Haitian entrants, or from the date the USCIS granted asylum for asylees.

The SSD may not require that a refugee actually apply for or receive Family Assistance (FA) or SNA as a condition of eligibility for RMA.

**Note: For ORR-funded assistance and services, including employment services, disclosure of a Social Security Number (SSN) is not required. Eligible populations cannot be denied ORR-funded assistance and services because they have not yet received or fail to provide social security numbers. While a SSN is not required for ORR funded assistance and services, they are an eligibility requirement for SNA, SNAP and MA. In order for refugees to maintain benefit eligibility after the eight month RMA period a SSN would be required.**

F. Documentation of Financial Need

In order to prove that the applicant and others in his/her household are eligible for assistance, districts will follow the same procedures for eligibility as used for FA and SNA.

G. Consideration of Income and Resources for RCA and RMA

1. In determining the income and resources of applicants for and recipients of RCA and RMA, the SSD may not consider the following:
  - a. any resources remaining in the applicant's country of origin;
  - b. a sponsor's income and resources; and
  - c. Any cash grant received by the applicant from the US Department of State or Department of Justice Reception and Placement Programs.
2. The SSD must base eligibility for RMA on the applicant's income and resources on the date of application. It may not use the practice of averaging income prospectively over the application processing period in determining income eligibility for RMA.

H. Continued RMA Coverage of Recipients Who Receive Increased Earnings from Employment

1. If a refugee who is receiving RMA receives earnings from employment, the earnings shall not affect his or her continued RMA eligibility.
2. If a refugee who is receiving Family Assistance or Medicaid has been residing in the United States for less than the time-eligibility period for RMA, and becomes ineligible for either program because of earnings from employment, the individual must be transferred to RMA without a RMA eligibility re-determination.
3. The provisions of paragraphs (1) and (2) of this section apply to a recipient of RMA until the recipient reaches the end of his or her time eligibility period for RMA as described in 18 NYCRR, Subpart 373-2.3(c).
4. In cases where a refugee is covered by employer-provided health insurance, any payment of RMA for that individual must be reduced by the amount of the third party payment.

I. Time Limitation of Eligibility for RCA and RMA

The ORR determines the length of the eligibility period for RCA and RMA.

1. For refugees, entrants, certain Amerasians, and Iraqi or Afghan special immigrant visa holders, RCA and RMA benefits are currently limited to the first eight months from the date of arrival into the United States.
2. For asylees, RCA and RMA benefits are currently limited to the first eight months from the date asylum status is granted.
3. For trafficking victims RCA and RMA benefits are currently limited to the first eight months from the date stipulated on the ORR certification letter (adults) or eligibility letter (children under the age of 18).

J. Transition to Other Programs

At least 30 days before the end of the RCA/RMA eligibility period, the SSD must determine a refugee's eligibility for benefits beyond the eight month RCA/RMA period. There should not be a break in benefits. If the client is no longer eligible for cash assistance, the case must be closed and a separate determination must be made for Medicaid. The client and/or authorized representative must be notified of discontinuance of the cash assistance and the right to a fair hearing, as provided in 18 NYCRR, Part 358. If the client is still eligible for cash assistance, the case must be reclassified and benefits continued under the correct category of assistance, SNA, FA or SSI.

K. Requirements for Employability Services and Employment

FA and SNA work requirements as outlined in 18NYCRR, Part 385 do not apply to RCA applicants or recipients. Recipients of RCA must comply with the RCA work requirements as detailed in 18 NYCRR, Part 373-1.8.

To effectively and efficiently assist refugees to achieve economic self-sufficiency, the SSD is required to refer refugees for employability services to the authorized service provider in their area.

This subdivision sets forth requirements for applicants and recipients of RCA concerning registration for RCA employment services, participation in employment activities, and acceptance of appropriate offers of employment. The employable refugee that is an applicant or recipient of RCA must comply with the requirements described below.

**Note:** In those instances where an RCA recipient is also receiving Supplemental Nutrition Assistance Program (SNAP) benefits, the district must evaluate each individual's employability status according to SNAP work requirements (see Section 385.3 of the Temporary Assistance and SNAP Employment Policy Manual) and assign the appropriate SNAP employability and ABAWD indicator code as described in 16-ADM-01. Refugees that document their participation of at least half-time in a refugee training program approved, funded or operated by the Office of Refugee Resettlement, are exempt from SNAP work requirements during such participation because they are considered students participating in a federally recognized training program and should be assigned a SNAP employability code of "72" - A student enrolled in a recognized school, job skills training or institution of higher education at least half-time (meets student eligibility requirements in 18 NYCRR 387.1) - Exempt, and an ABAWD indicator code of "N", non-ABAWD.

1. Registration for Employment-Related Services, Participation in Employability Services and Targeted Assistance Programs, Participation in Job Search and Interviews, and Acceptance of Appropriate Offers of Employment

- a. As a condition for receipt of RCA, a recipient who is not exempt from complying with employment requirements must, except for good cause:

- i) register with the authorized service provider providing employability services;
    - ii) within 30 days of receipt of RCA, participate in the assigned employability services;
    - iii) carry out job search;
    - iv) go to all job interviews arranged by the authorized service provider;
    - v) accept an offer of employment which is determined to be appropriate by the authorized service provider;
    - vi) accept an offer of employment which is determined to be appropriate by the local volag which was responsible for the initial resettlement of the refugee.
  - b. The SSD must permit, but may not require, the voluntary registration for RCA employability services of an applicant or recipient who is exempt under 18 NYCRR, Subpart 373-1.8 (b).
- 2. Criteria for Exemption from Registration for Employability Services, Participation in Job Search and Interviews, and Acceptance of Appropriate Offers of Employment
  - a. An applicant for or recipient of RCA is employable unless the applicant or recipient is:
    - i) under age 16;
    - ii) under age 18 and a full-time student in secondary school or in the equivalent level of vocational or technical training and reasonably expected to complete the program before reaching age 19;
    - iii) ill, when determined by the SSD on the basis of medical evidence or on another sound basis that the illness or injury is serious enough to temporarily prevent entry into employment or training;
    - iv) incapacitated, when determined by a physician or licensed or certified psychologist and verified by the SSD, that a physical or mental impairment, by itself or in conjunction with age, prevents the individual from engaging in employment or training;
    - v) 65 years of age or older;
    - vi) caring for another member of the household who has a physical or mental impairment which requires, as determined by a physician or licensed or certified psychologist and verified by the SSD, care in the home on a substantially continuous basis, and no other appropriate member of the household is available;

- vii) a parent or other caretaker relative of a child under the age of three who personally provides full-time care of the child with only very brief and infrequent absences from the child. Only one parent or other relative may be exempt under this subparagraph;
- viii) working at least 30 hours a week in unsubsidized employment expected to last a minimum of 30 days. This exemption continues to apply if there is a temporary break in full-time employment expected to last no longer than 10 working days; or
- ix) pregnant, if it has been medically verified that the child is expected to be born in the month in which such registration would otherwise be required or within the next six months.

**b. Inability to communicate in English or Limited English Proficiency (LEP) does not exempt an applicant or recipient from registration for employment services, participation in employability services, and acceptance of appropriate offers of employment.**

3. Effect of Quitting Employment or Failing or Refusing to Participate in Required Services

- a. As a condition of eligibility for RCA, an employable applicant may not, without good cause, within 30 consecutive calendar days immediately prior to the application for assistance:
  - i) have voluntarily quit employment; or
  - ii) have refused to accept an offer of employment determined to be appropriate by the authorized service provider using criteria set forth in 18 NYCRR, Subpart 373-1.8 (c).
- b. As a condition of continued receipt of RCA, an employable recipient may not, without good cause:
  - i) voluntarily quit employment; or
  - ii) fail or refuse to meet the requirements of Paragraph 1 of this Subdivision.

4. Development of an Employability Plan

- a. An individualized employability plan must be developed, as part of a family self-sufficiency plan where applicable, by the SSD or authorized service provider services provider for each recipient of RCA in a family unit which is not exempt as detailed in Paragraph 2 of this Subdivision.



- b. If such a plan has been developed by the local volag which sponsored the refugee or its designee, a SSD may accept this plan if it determines that the plan is appropriate for the refugee and meets the requirements below.
- c. The employability plan must:
  - i) Be designed to lead to the earliest possible employment and not be structured in such a way as to delay employment or job seeking; and
  - ii) Contain a definite employment goal, attainable in the shortest time period consistent with the employability of the refugee in relation to job openings in the area.

5. Criteria for Appropriate Employability Services and Employment

- a. Employability services and employment must meet the following criteria:
  - i) All assignments must be within the scope of the recipient's employability plan. The plan may be modified to reflect changed services or employment conditions;
  - ii) The services or employment must be related to the capability of the recipient to perform the task on a regular basis. Any claim of adverse effect on physical or mental health must be based on adequate testimony from a physician or a licensed or certified psychologist indicating that participation would impair the recipient's physical or mental health;
  - iii) The total daily commuting time to and from home to the service or employment site must not normally exceed two hours, not including the transportation of a child to and from a childcare facility, unless a longer commuting distance or time is generally accepted in the community, in which case the round trip commuting time must not exceed the generally accepted community standards;
  - iv) When child care is required, the care must meet the standards in 18 NYCRR, Part 415 for work and training programs for FA recipients;
  - v) The service or work site to which the recipient is assigned must not be in violation of applicable Federal, State and local health and safety standards;
  - vi) Assignments must not be made which are discriminatory in terms of age, sex, race, creed, color, sexual orientation or national origin;
  - vii) Appropriate work may be temporary, permanent, full-time, part-time, or seasonal work if such work meets the other standards of this subparagraph;
  - viii) The wage must meet or exceed the Federal or State minimum wage law, whichever is applicable, or if such laws are not applicable, the wage must not

be substantially less favorable than the wage normally paid for similar work in that labor market;

- ix) The daily hours of work and the weekly hours of work must not exceed those customary to the occupation;
  - x) No individual may be required to accept employment, if:
    - a. The position offered is vacant due to a strike, lockout, or other bona fide labor dispute; or
    - b. The recipient would be required to work for an employer contrary to the conditions of his /her existing membership in the union governing that occupation. However, employment not governed by the rules of a union in which he/she has membership may be deemed appropriate; and
  - xi) The quality of training, if offered, must meet local employers' requirements so that the recipient will be in a competitive position within the local labor market. The training also must be likely to lead to employment which will meet the appropriate work criteria.
- b. A job offered, if determined appropriate under the requirements of this subdivision, is required to be accepted by the recipient without regard to whether such job would interrupt a program of services planned or in progress unless:
- i) the recipient is currently participating in a program in progress of on-the-job training or vocational training which meets the requirements of this subdivision and which is being carried out as part of an approved employability plan; or
  - ii) the recipient is enrolled full-time in a professional re-certification program which meets the requirements of this subdivision.

## 6. Failure or Refusal to Accept Employment Services or Employment

- a. Timely and Adequate Notice of Intent to Terminate or Reduce Cash Assistance
  - All of the requirements of 18 NYCRR, Part 358 concerning notice requirements and fair hearings will apply to the RCA program. For the purposes of 18 NYCRR, Part 358, RCA will be considered public assistance.
  - When, without good cause, an employable recipient of RCA who is not exempt from registration as described in Paragraph 2 of this subdivision, has failed or refused to meet the requirements of Paragraph 1 of this subdivision or has voluntarily quit a job, the recipient will be subjected to sanction as set forth below in this subdivision and the authorized service provider must notify the appropriate SSD so that the district can take the following actions:

- b. Notice of intended termination.
  - i) In case of proposed action to terminate, discontinue, suspend, or reduce assistance, the SSD must give timely and adequate notice as defined in 18 NYCRR, Part 358-2.
  - ii) The written notice must include:
    - a) an explanation of the reason for the action and the consequences of such failure or refusal; and
    - b) notice of the recipient's right to a fair hearing under 18 NYCRR, Part 358.
- c. Sanctions.
  - i) If the sanctioned recipient is the only member of the filing unit, the SSD must terminate the assistance. If the filing unit includes other members, the SSD must not take into account the sanctioned recipient's needs in determining the filing unit's need for assistance.
  - ii) The sanction applied will remain in effect for three payment months for the first such failure and six payment months for any subsequent such failure.

## 7. Conciliation

- a. Establishment of conciliation procedure
  - i) Each SSD must establish a conciliation procedure through which recipients of RCA must be afforded an opportunity for conciliation to dispute a determination that the recipient has failed or refused to participate in appropriate employment services, to carry out a job search, to accept an appropriate offer of employment or any action taken by a SSD.
  - ii) The conciliation procedure must provide for at least one contact between the recipient, appropriate SSD staff and the mediator. The process may last no longer than 30 days unless mutually agreed to by the SSD and the recipient.
  - iii) The SSD must enter into an agreement with an independent entity or must employ trained SSD staff who has no direct responsibility for the recipient's case to act as mediators for such disputes.
  - iv) Notwithstanding the provisions above, the SSD may designate other staff that is not specifically trained to mediate disputes if no independent entity or trained staff is available. Such staff must have no direct responsibility for the recipient's case and such designation must be submitted to the local commissioner in writing.

b. Conciliation Procedure

- i) A SSD must issue a notice to each recipient of RCA who refuses or fails to comply with the requirements of this subpart. Such notice must be issued as soon as possible, but no later than ten days following the date of failure or refusal to participate. The notice must advise the recipient of his or her refusal or failure to comply and that he or she has seven days to request conciliation with the SSD regarding any dispute related to such refusal or failure to comply.
- ii) If the recipient requests conciliation, it will be the recipient's responsibility to provide reasons for such refusal or failure to comply.
- iii) If the SSD and the recipient cannot, with the assistance of the mediator, resolve the issues related to the recipient's refusal or failure to comply, a written document summarizing the conciliation and notifying the recipient that he or she has the right to a fair hearing pursuant to 18 NYCRR, Part 358 must be given or sent to the recipient by the district within ten days of the termination of conciliation. The SSD must incorporate such document into the recipient's case record and, in the event of a fair hearing, present it as required in accordance with 18 NYCRR, Part 358-4.3. If the SSD determined that the refusal or failure to comply was willful and without good cause, then the SSD must sanction the recipient pursuant to 18 NYCRR, Subpart 373-1.8 (f).
- iv) If the dispute is resolved to the satisfaction of the recipient and the SSD through the conciliation process, a written document memorializing such resolution must be sent to the SSD and the recipient within 10 days of such resolution. Such resolution is binding on the SSD and the recipient.
- v) If the recipient does not respond to the seven day conciliation letter issued by the SSD pursuant to paragraph (i) of this subdivision, or if the SSD determines that the recipient's refusal or failure to comply was willful and without good cause, then the SSD must issue an adequate notice to deny RCA or a timely and adequate notice of intent to discontinue or reduce RCA pursuant to 18 NYCRR, Subpart 373-1.8(f).
- vi) No sanction related to the recipient's refusal or failure to comply may be imposed during the conciliation period.

## **VIII. Systems Implications**

### **New York City**

Cases eligible to receive RCA are categorized as Safety Net Cash Assistance (SNCA) with State/Federal Charge Code 30. The State/Federal Charge Code date is the Date of Entry for Refugees or the date asylum granted (date of status) for asylees, Cuban/Haitian Entrants and Human Trafficking Victims and is limited to eight months. The existing WMS edits will also require entries in the Date of Entry and Date of Status fields as well as the alien registration number on the NCEM15 Eligibility Screen.

Refugees are coded with the appropriate PA and SNAP employability codes. Individuals eligible for RCA are not subject to the 45 day wait for benefit as this State Safety Net Assistance requirement is not applicable to the federal RCA program. All benefits due during the first 45 days of eligibility must be issued via Single Issuances. At the end of the 45 day period, the worker can issue recurring benefits for the balance of the 8 month eligibility period. Workers must reassess eligibility near the end of the 8 month eligibility period for other cash and medical assistance benefits described in this directive.

### **Rest of State**

Districts outside of New York City must code eligible RCA recipients as Case Type 16 – “Safety Net Cash Assistance (SN-CSH)”, enter an “R” – “Refugee Cash Assistance (RCA) in the Special Program code on WMS entry screen 1 and enter the State/Federal Charge code of 30 – (Refugee Assistance Program (RCA/RMA)” on WMS entry screen 3. All RCA cases require the additional data entry of the following information:

1. Citizenship/Alien/Indicator Code
2. Alien Identification Number
3. Date of Entry (Refugees, Iraqi or Afghan Special Immigrants, Certain Amerasian Immigrants)
4. Date of Status (Asylees, Cuban/ Haitian Entrants)
5. Date of Eligibility (Trafficking Victims)

Refugees are coded with the appropriate PA and SNAP employability codes. State/Federal Charge code of 30 requires entry of Anticipated Future Action (AFA) code 351 (SN/FP-MA-8 Months) and an associated date for the appropriate individual(s), reminding workers to reassess eligibility near the end of the 8 month eligibility period.

## IX. Claiming

RCA and RMA programs are entitled to 100% federal reimbursement. Reimbursement for the RCA and RMA programs is obtained on the LDSS-1047 “RF-6 Monthly Claim for Reimbursement Assistance to Resettled Refugees”. RF-6 claiming instructions appear in the Fiscal Reference Manual, Volume 2, Chapter 3, <http://otda.ny.gov/resources/fiscal-reference/FRM-2.pdf>. Guidance on claiming of associated administrative costs can be found in the Fiscal Reference Manual, Volume 3, Chapter 25, <http://otda.ny.gov/resources/fiscal-reference/FRM-3.pdf>.

Please forward claiming questions to the following contacts:

Bureau of Financial Services:

Upstate: Dan Stuhlman at (518) 474-7549

E-mail: [dan.stuhlman@otda.ny.gov](mailto:dan.stuhlman@otda.ny.gov)

Downstate: Michael Simon at (212) 961-8250

E-mail: [michael.simon@otda.ny.gov](mailto:michael.simon@otda.ny.gov)

## X. Effective Date

This Administrative Directive is effective immediately.

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### Issued By

**Name: Linda Glassman**

**Title: Deputy Commissioner**

**Division/Office: Center for Specialized Services/Bureau of Refugee and Immigrant Assistance**