



United States Department of Agriculture
Food and Nutrition Service

Western Region

Reply to
Attn of: FSP – Administrative Notice 05-03 October 1, 2004 FS-2-GEN

Subject: FSP – **Eligibility of Victims of Severe Trafficking**

To: ALL WESTERN REGION FOOD STAMP PROGRAM COORDINATORS

This is to advise you that as the result of the Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), Pub. L. No. 108-193, the categories of noncitizens eligible to participate in the Food Stamp Program (FSP) under the Trafficking Victims Protection Act of 2000 (TVPA), Pub. L. No. 106-386, have been expanded to include the minor children, spouses and in some cases the parents and siblings of victims of severe trafficking. Eligibility was originally limited to the victims themselves. Under TVPA, noncitizens classified as victims of severe trafficking are eligible to participate in the FSP under the same conditions as noncitizens classified as refugees.

Section 107(b)(1) of TVPA, provides that “Notwithstanding title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, an alien who is a victim of a severe form of trafficking is eligible for benefits or services under any Federal or State program, or activity funded or administered by any official or agency ... to the same extent as an alien who is admitted to the United States as refugee under section 207 of the Immigration and Nationality Act. Victims of trafficking are issued T visas by US Immigration and Citizenship Services. Under TVPRA, eligible relatives of trafficking victims are entitled to visas designated as T-2, T-3, T-4 or T-5 (collectively referred to as “Derivative T Visas”) and after the issuance of the visas are eligible for federally funded or administered benefits, including food stamps, to the same extent as direct victims of severe trafficking, provided that they meet the other eligibility criteria for the programs. Under TVPRA, the relatives of victims of trafficking are entitled to Derivative T visas under the following conditions:

- In the case of an alien who is awarded a T visa and who is under 21 years of age on the date the T visa application was filed, Derivative T Visas are available to the alien’s spouse, children, unmarried siblings under 18 years of age on the date on which the alien’s visa application was filed, and parents.
- In the case of an alien who is awarded a T visa and was 21 years of age or older on the date the T visa application was filed, the Derivative T Visas are available to the alien’s spouse and children.

Please be advised of the revised policy regarding the food stamp eligibility of victims of severe trafficking. Except for victims under the age of 18, in order to be eligible for assistance, including food stamps, victims of severe trafficking must be certified by the Office of Refugee Resettlement (ORR) of the Department of Health and Human Services

(HHS). Although children do not have to be formally certified as victims, their status must be verified by HHS. Eligibility for food stamps (as well as the programs administered by HHS, itself) may be verified through the HHS trafficking victims verification toll-free number (1-866-401-5510). Holders of derivative T Visas should be treated the same as refugees.

We also wish to note that since TVPRA also confers potential eligibility for TANF it is very likely that a significant number of persons/households affected by TVPRA would be categorically eligible for food stamps eliminating the need for a separate determination of food stamp eligibility. We have also attached, for your information, guidance issued by ORR since the procedures and eligibility requirements applicable to the HHS programs are also applicable to food stamps.

If you have any questions, please contact your State Program Officer.

KAREN C. JIRSA, Policy Officer
Food Stamp Program
Western Region

ORR State Letter

04-12

Date: June 18, 2004

TO: STATE REFUGEE COORDINATORS
NATIONAL VOLUNTARY AGENCIES
OTHER INTERESTED PARTIES

FROM: Nguyen Van Hanh, Ph.D.
Director
Office of Refugee Resettlement

SUBJECT: The Trafficking Victims Protection Reauthorization Act of 2003 –
Eligibility for Federally Funded or Administered Benefits and Services
to
the Same Extent as Refugees Extended to Certain Family Members of
Victims of a Severe Form of Trafficking in Persons.

The Trafficking Victims Protection Act of 2000 (TVPA), Pub. L. No. 106-386 (8 U.S.C. 7105(b)(1)) makes victims of a severe form of trafficking in persons eligible for federally funded or administered benefits and services to the same extent as refugees.¹ The TVPA was reauthorized and amended by the Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), Pub L. No. 108-193. As a result, effective December 19, 2003, certain family members of victims of a severe form of trafficking are eligible for federally funded or administered benefits and services to the same extent as refugees.² Specifically, holders of a T-2, T-3, T-4 or T-5 visa (collectively referred to as “Derivative T Visas”) are eligible for federally funded or administered benefits and services (*e.g.*, refugee cash and medical assistance, TANF, Medicaid and food stamps) provided they meet other program criteria (*e.g.*, age or income levels).

In the case of an alien who is awarded a T visa and who was under 21 years of age on the date the T visa application was filed, the Derivative T Visas are available to such alien’s spouse, children, unmarried siblings under 18 years of age on the date on which such alien’s T visa application was filed, and parents.

¹ For more information on the eligibility of victims of severe forms of trafficking for federally funded or administered benefits and services, see ORR State Letter #01-13 (May 3, 2001), <http://www.acf.dhhs.gov/programs/orr/policy/sl01-12>, as modified by ORR State Letter #02-01 (January 4, 2002), <http://www.acf.dhhs.gov/programs/orr/policy/sl02-01htm>.

² “Notwithstanding title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, an alien who is a victim of a severe form of trafficking in persons, or an alien classified as a nonimmigrant under section 1101(a)(15)(T)(ii) of Title 8, shall be eligible for benefits and services under any Federal or State program or activity funded or administered by any official or agency described in subparagraph (B) to the same extent as an alien who is admitted to the United States as a refugee under section 1157 of Title 8.” 8 U.S.C. 7105(b)(1)(A).

In the case of an alien who is awarded a T visa and who was 21 years of age or older on the date the T visa application was filed, the Derivative T Visas are available to such alien's spouse and children.

Date of Entry for Purposes of Eligibility for Some Benefits and Services

Because some benefits and services may be time-limited, ORR encourages those with a Derivative T Visa to apply for benefits and services as quickly as possible. For example, Refugee Cash and Medical Assistance is only available to a refugee for the first eight months from that individual's date of entry into the United States.

For an individual who is already present in the United States on the date the Derivative T Visa is issued, the date of entry for federally funded or administered benefits and services is the Notice Date on the I-797, Notice of Action of approval of that individual's Derivative T Visa. A sample of this document is attached.

For an individual who enters the United States on the basis of a Derivative T-Visa, the date of entry for federally funded and administered benefits and services is the date of entry stamped on that individual's passport or I-94 Arrival Record. A sample of this document is attached.

Applications for Benefits

1. When a Derivative T Visa Holder applies for benefits or services, the benefit or service agency should follow their normal procedures for providing services and benefits to refugees except that they should accept the non-immigrant T-2, T-3, T-4 or T-5 visa.
2. Call the toll-free trafficking verification line at 1(866) 401-5510 to notify ORR of the benefits for which the individual has applied. (Note: At this time, the DHS Systematic Alien Verification for Entitlements (SAVE) system does not contain information about victims of a severe form of trafficking or nonimmigrant alien family members. Until further notice, do not contact SAVE concerning victims of trafficking or nonimmigrant alien family members.)
3. Issue benefits to the same extent as a refugee, provided the Derivative T Visa holder meets other program eligibility criteria (*e.g.*, age or income levels). Note that for any of the limitations imposed on the receipt of federal benefits by Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act, 8 U.S.C. 1601 et seq., all exceptions applicable to refugees should be applied to victims of a severe form of trafficking and Derivative T Visa holders.

Please contact Antoinette Aqui if you have questions regarding the information contained in this State Letter at 202 401-4825.