

	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children and Families Office on Trafficking in Persons	
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PROGRAM INSTRUCTION

Issuance of Child Eligibility Letters on or after Applicant's 18th Birthday if Application Received Prior to 18th Birthday

- TO:** Anti-Trafficking Organizations, Task Forces, and Coalitions; State Refugee Coordinators; State Refugee Health Coordinators; National Voluntary Agencies; and Other Interested Parties
- SUBJECT:** Issuance of Child Eligibility Letters on or after Applicant's 18th Birthday if Application Received Prior to 18th Birthday
- REFERENCES:** Sections 107(b)(1)(C) and (b)(1)(G) of the Trafficking Victims Protection (TVPA), as amended (22 U.S.C. §§ 7105(b)(1)(C) and (b)(1)(G))
- PURPOSE:** This Program Instruction (PI) describes the process by which an individual may request eligibility for federally funded assistance for an alien child who may have been subjected to human trafficking. The PI supersedes instruction provided in ACF Office of Refugee Resettlement (ORR) State Letters 10-05¹, 08-09², 02-25³, and 02-01⁴, to the extent such instructions are contrary to this PI. The PI notes a change in policy for issuance of Eligibility Letters for applicants who turn 18 years of age after submitting a Request for Assistance or a Request for Reconsideration.
- BACKGROUND:** Under the Trafficking Victims Protection Act of 2000 (TVPA), as amended, the U.S. Secretary of Health and Human Services (HHS) is charged with determining whether an alien child (under the age of 18) in the United States is eligible for the benefits and services made available under the TVPA to victims of a severe form of trafficking in persons. An "Eligibility Letter" from the HHS Office on Trafficking in Persons (OTIP) enables a child victim of human trafficking to receive federally funded benefits and services to the same extent as a refugee.
- The William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA of 2008), directs the Secretary of HHS, upon receipt of credible information that a child who is seeking assistance may have been subjected to a severe form of trafficking in persons, to promptly determine if the child is

¹ Available at <http://www.acf.hhs.gov/programs/endtrafficking/resource/state-letter-10-05>

² Available at <http://www.acf.hhs.gov/programs/endtrafficking/resource/state-letter-08-09>

³ Available at <http://www.acf.hhs.gov/programs/endtrafficking/resource/state-letter-02-25>

⁴ Available at <http://www.acf.hhs.gov/programs/endtrafficking/resource/state-letter-02-01>

eligible for interim assistance for up to 90 days. During the interim eligibility period, initiated by OTIP's issuance of an "Interim Assistance Letter," OTIP will consult with the U.S. Department of Justice (DOJ), the U.S. Department of Homeland Security (DHS), and nongovernmental organizations with expertise in victims of trafficking to determine the child's eligibility for assistance as a victim of trafficking. An "Interim Assistance Letter" from OTIP will make a child eligible to receive federally funded benefits and services to the same extent as a refugee for up to a 90-day period, which may be extended for an additional 30 days.

On March 28, 2001, the HHS Secretary delegated the authority to conduct human trafficking victim certification activities to the Assistant Secretary for Children and Families, who in turn re-delegated this authority to the Director of ORR. On March 23, 2009, the HHS Secretary delegated the authority to provide interim assistance to potential child trafficking victims to the Assistant Secretary for Children and Families, who further re-delegated this authority to the Director of ORR in April 2009. These authorities were transferred from ORR to OTIP when OTIP was established on June 10, 2015 and the authorities have been re-delegated to OTIP.

INFORMATION: Prior to the issuance of this PI, ACF issued Interim Assistance and/or Eligibility Letters only to applicants under the age of 18 years of age. If the applicant turned 18 during the eligibility review period, or during the reconsideration process, the applicant was determined to not meet the requirement that the applicant be a "child" under the TVPA and denied eligibility.

This PI changes the policy. OTIP has determined that the TVPA may be read such that an individual is determined to be a "child" based on the date of a complete application. Under this policy amendment, for applicants who submit the initial Request for Assistance prior to turning 18 years of age:

- The ACF Office on Trafficking in Persons (OTIP) will make eligibility determinations for Requests for Assistance, including for applicants who turn 18 years of age during the review process; and
- ACF will make eligibility determinations for Requests for Reconsideration, including for applicants who turn 18 years of age during the reconsideration process.

Federal Definition of Human Trafficking

The TVPA defines "severe forms of trafficking in persons" (22 U.S.C. 7102) as:

- **Sex Trafficking:** Sex trafficking⁵ in which a commercial sex act⁶ is induced by force, fraud, or coercion,⁷ or in which the person induced to perform such act has not attained 18 years of age

⁵ "Sex trafficking" is defined as "the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act."

- **Labor Trafficking:** 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.⁸

Benefits and Services

Victims of a severe form of trafficking in persons (human trafficking) who meet Federal and State eligibility requirements may access Federal benefit programs that otherwise might prohibit eligibility for certain non-citizens without lawful immigration status. These programs include, but are not limited to: refugee medical screenings, Temporary Assistance for Needy Families (TANF), Medicaid, State Children’s Health Insurance Programs (SCHIP), Supplemental Nutrition Assistance Program (SNAP), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and public housing programs.

Recipients of an Eligibility Letter prior to turning 18 years of age will be eligible for benefits and services to the same extent as a refugee, including:

- For those persons determined not eligible for federal cash assistance such as TANF or SSI, Refugee Cash Assistance (RCA) is available for up to 8 months from the effective date on the Eligibility Letter.
- For those persons determined not eligible for Medicaid, Refugee Medical Assistance (RMA) for up to 8 months from the effective date on the

⁶ A commercial sex act is defined as: “any sex act on account of which anything of value is given to or received by any person.”

⁷ Coercion is defined as: “(A) threats of serious harm to or physical restraint against any person; (B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or (C) the abuse or threatened abuse of the legal process.”

“Abuse or threatened abuse of the legal process” means “the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.”

⁸ The term “involuntary servitude” includes a condition of servitude induced by means of—

(A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or (B) the abuse or threatened abuse of the legal process.” (See above for definition of “abuse or threatened abuse of the legal process.”)

The term “debt bondage” means: “the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.”

Eligibility Letter.

- The benefit level of RCA and RMA will vary from State to State as RCA is generally tied to the TANF payment standard by family size, and RMA reflects the same services as each State's approved Title XIX State Plan. There is no difference between Medicaid coverage and RMA coverage except that ORR pays 100 percent of the RMA costs.
- Refugee Social Services (RSS) are available for up to 5 years from the effective date on the Eligibility Letter. RSS includes employment and employability services; job training and preparation; assistance with job search, placement and retention; English language and vocational training; skills recertification; job-related day care; job-related transportation; translation and interpreter services, and case management.
- A child victim of trafficking with an Eligibility Letter who has no available parent or legal guardian in the U.S. may be eligible for the Unaccompanied Refugee Minor (URM) program through ORR. Under the URM program, children are placed in licensed foster homes or other care settings according to individual needs. An appropriate State or local court also awards legal responsibility to the State, county, or private agency providing services. Children in the URM program receive the full range of services available to other foster children in the State, as well as special services to help them adapt to life in the United States and recover from their trafficking experience.

Recipients of an Eligibility Letter who have turned 18 years of age will be eligible for the same benefits and services provided to Eligibility Letter recipients who are under the age of 18, with the exception of the URM program. Youth must enter the URM program prior to their 18th birthday.

OTIP encourages recipients of an Interim Assistance Letter or Eligibility Letter to reach out to the State Refugee Coordinator and Refugee Health Coordinator to obtain assistance and services through the State refugee program⁹. Eligibility Letters do not expire, but some benefits are time-limited.

INSTRUCTION: *Notification to HHS to Facilitate Provision of Interim Assistance*

The TVPA provides that "Not later than 24 hours after a Federal, State, or local official discovers that a person who is under 18 years of age may be a victim of a severe form of trafficking in persons, the official shall notify HHS to facilitate the provision of interim assistance" (22 U.S.C. § 7105(b)(1)(H)).

Federal, State, or local officials should notify OTIP Child Protection Specialists at ChildTrafficking@acf.hhs.gov or call (202) 205-4582 when they are aware of an alien child who may be a victim of trafficking. To the extent possible, officials should provide:

⁹ A list of ORR Funded Programs Key Contacts is available at <http://www.acf.hhs.gov/programs/orr/resource/orr-funded-programs-key-contacts>

- Child’s name, age, location, and country of origin
- Location of exploitation and suspected form of trafficking
- Official’s contact information or other preferred point of contact

An OTIP Child Protection Specialist will respond to each notification and follow up with the reporting official, as appropriate. Follow-up will involve facilitating interim and long-term eligibility, where applicable, and providing technical assistance as needed.

Request for Assistance for Child Victims of Human Trafficking

An individual may request, on behalf of a child, eligibility for federally funded benefits and services when the individual has credible information the child may have been subjected to a severe form of trafficking in persons. The information provided through the submission of a “Request for Assistance for Child Victims of Human Trafficking” form¹⁰ enables OTIP to make determinations regarding the eligibility of these children for the same benefits and services available to refugees, and to assess and address potential child protection issues.

The Request for Assistance must be received by OTIP prior to the applicant’s 18th birthday. OTIP recommends submitting a Request for Assistance as soon as possible for consideration of eligibility to the full range of benefits and services available to refugees. Requests for Assistance should be sent by e-mail to ChildTrafficking@acf.hhs.gov. An OTIP Child Protection Specialist will respond to the requestor upon receipt and review the request. Individuals willing to speak to an OTIP Child Protection Specialist about a child who may be a victim of trafficking eligible for assistance should call (202) 205-4582.

Victims of trafficking and service providers can also contact the National Human Trafficking Resource Center (NHTRC) for additional services. The NHTRC is a dedicated national, toll-free, confidential anti-trafficking hotline that is available by phone (1-888-373-7888), email (nhtrc@polarisproject.org), and online form (traffickingresourcecenter.org) to respond to requests from anywhere in the country in more than 200 languages, 24 hours a day, every day of the year. The NHTRC provides emergency assistance and support and connects individuals in need with referrals for specialized victim services.

Eligibility for Interim and Long-Term Assistance

OTIP issues an Interim Assistance Letter when it receives credible information that a child may have been subjected to a severe form of human trafficking, providing potential victims with an up-to 90-day period of eligibility which may be extended for an additional 30 days. Upon issuing an Interim Assistance Letter, OTIP will notify DOJ and DHS of this determination within 24 hours. During the interim assistance period, OTIP will consult with DOJ, DHS, and

¹⁰ The “Request for Assistance for Child Victims of Human Trafficking” form (OMB Control Number 0970-0362) is available at: https://www.acf.hhs.gov/sites/default/files/orr/request_for_assistance_form_feb_2015.pdf

nongovernmental organizations with expertise in severe forms of human trafficking to make a determination on whether the child is eligible for benefits and services as a victim of a severe form of trafficking in persons. If OTIP has not issued an Interim Assistance Letter within 10 business days after the receipt of the Request for Assistance, OTIP will notify the requestor about the status of the request.

OTIP issues an Eligibility Letter when it receives credible information that a child has been subjected to a severe form of human trafficking. OTIP may issue an Eligibility Letter after issuing an Interim Assistance Letter or may directly issue an Eligibility Letter without first issuing an Interim Assistance Letter. A child is not required to cooperate with law enforcement as a condition for receiving an Eligibility Letter. OTIP reviews information, taken as a whole, including information in the Request for Assistance, follow-up email and phone correspondence, and consultation with DHS, DOJ, and non-governmental organizations with expertise in severe forms of human trafficking.

OTIP issues a Denial Letter in the following situations:

- OTIP has received a Request for Assistance that has not provided credible information that a child may have been subjected to a severe form of trafficking in persons within 30 calendar days of receiving the Request for Assistance; or
- OTIP has issued an Interim Assistance Letter but, during the interim assistance period, did not receive credible information that a child has been subjected to a severe form of trafficking in persons.

OTIP will issue Interim Assistance, Eligibility, and Denial Letters to the child, in care of the requestor. OTIP Denial Letters will provide information on the reasoning behind the decision and information it used to make its determination. Should additional information become available for OTIP's consideration prior to receiving a Denial Letter, the requestor should update the initial "Request for Assistance for Child Victims of Human Trafficking" form and submit to OTIP.

Requests for Reconsideration

If the applicant receives a Denial Letter for Interim Assistance or for Eligibility, the requestor will have 30 business days from the date of receipt of the denial to submit a request for reconsideration. The request for reconsideration should be sent to: Assistant Secretary, Administration for Children and Families, 330 C Street SW, 4th Floor, Washington, DC 20024, ATTENTION: Child Trafficking Eligibility Reconsideration.

The Request for Reconsideration must include:

- Name of the individual denied eligibility;
- Brief statement of why the requestor believes the denial decision is wrong, including any new information, additional pertinent documentation, and reasons in support of the requestor's position; and
- The initial Request for Assistance package

The ACF Assistant Secretary will send his/her decision on the Request for Reconsideration within 30 business days from the date of the receipt of the reconsideration request. This will be considered a final administrative decision.

Trafficking Victim Verification Line

Please notify the OTIP Trafficking Victim Verification Line at 1-866-401-5510 if the State refugee program or other service provider encounters difficulty enrolling eligible victims of trafficking into appropriate benefit programs and services; to verify the validity of Interim Assistance or Eligibility Letters; or for more information about the benefits available to victims of trafficking.

INQUIRIES: If you have questions about any of the information in this PI, please contact the ACF OTIP Child Protection Specialists at 202-205-4582 or at Childtrafficking@acf.hhs.gov.

_____/s/_____
Katherine Chon, Director
Office on Trafficking in Persons