

## ORR State Letter

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# 04-12

Date: June 18, 2004

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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.<sup>1</sup> 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.<sup>2</sup> 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.

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<sup>1</sup> 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/sl02-01.htm>.

<sup>2</sup> “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.