Agenda

USCIS NATIONAL STAKEHOLDER MEETING

November 13, 2008
20 Massachusetts Avenue, NW
White Oak Conference Room, 2nd Floor
2:00 - 4:00 pm

Note: The next stakeholder meeting will be held on January 27, 2009 at 2:00 pm.

1. **Question:** On September 30, the President signed into law P.L. 110-328, the SSI extension bill for elderly and disabled refugees. The law extends for two years SSI eligibility for refugees, trafficking victims, and certain other defined individuals. Qualified individuals with pending naturalization claims or who are waiting to be sworn in are eligible for an extension for an additional year (a total of three years). The law went into effect on October 1, with no time for SSA or DHS to prepare to implement the new law.

   Now that the law is in effect, what steps has DHS taken to consult with SSA regarding 1) procedures for consideration of the declaration; 2) procedures for verifying immigration status; and 3) procedures for verifying that a naturalization application is pending?

   Response: SSA has continued operations since the passage of PL 110-328 and has been issuing extended benefits. However, SSA will stop automatically extending benefits at the end of November and will then take a case-by-case approach using the information currently available to them. As a result, USCIS has been working diligently to give SSA the information they need to implement the law.

   USCIS and SSA have formed a working group to exchange information. This has allowed USCIS to consult SSA as they require and as the law mandates. USCIS has also begun drafting a *de novo* good faith declaration that SSA will use to determine eligibility for the extended benefits.

   Additionally, SSA currently verifies SSI eligibility of alien applicants through USCIS's SAVE Program. We continue to work closely with SSA to provide them immigration status information to the extent necessary for SSA's program purposes.

2. **Question:** How does a local county or state health department become a USCIS blanket-designated civil surgeon for purposes of the vaccination sign off on Form I-693?

   a. Must the local or state health department file an application with USCIS to become a Civil Surgeon? Is it automatic?

   Response: USCIS has published in chapter 83.4 of the Adjudicator's Field Manual the guidance given to field office directors concerning designation of civil surgeons. This guidance is available at www.uscis.gov. Since 1998, all State and local health departments have been authorized under a blanket designation to perform medical exams for refugees applying under section 209 for adjustment of status. No separate application is required, nor is it necessary for USCIS to "update" its civil surgeons lists to

reflect staff changes at the clinic. The health department, under AFM 83.4(b)(4), simply affixes its official seal to the vaccination supplement, once the staff physician has signed it.

b. How exactly is Civil Surgeon status conferred to a state or local health department, such as if a new local health department is created?

Response: Any health department operated by a State or local government is covered by the blanket designation. No "designation" process is necessary.

c. May state or local health departments which choose to not participate opt out? How do they opt out?

Response: Health departments are not required to participate.

d. If they opt out, is their name removed from the Civil Surgeon Locator, on the USCIS website?

Response: No. If they do not wish to provide this service, they simply would not sign and seal a vaccination supplement. If, for some reason, a health department is listed on the civil surgeon locator, it would need to contact USCIS to be removed. However, the health departments generally should not be listed on our website in the first place.

e. How does an individual private physician become a designated Civil Surgeon for the purposes of completing the entire medical exam?

Response: This issue is also addressed by AFM 83.4. The physician should submit a letter to the District Director in his or her local area and provide a copy of the current medical license, current resume that shows 4 years of professional experience (following the completion of residency, fellowship, or any other training), proof of USC or LPR status in the US, and two signature cards showing name typed and signature.

f. Where a refugee has undergone a full medical exam overseas by a panel physician, and a Class A Medical condition was identified in the course of that overseas exam, must the refugee undergo a complete, 100% new medical exam when applying for adjustment of status one year after admission to the U.S.? Or, alternatively, does the refugee undergo a medical exam domestically only insofar as the Class A medical condition is concerned?

Response: If a refugee is found to have a Class A condition during the overseas medical exam, he or she must repeat the entire medical exam at the time of adjustment of status. This is based on the provision at CFR §209.2(c) that "a refugee seeking adjustment of status under section 209(a) of the Act is not required to repeat the medical examination performed under §207.2(c), unless there were medical grounds of inadmissibility applicable at the time of admission." The medical exam referred to in CFR §207.2(c) is a full physical and mental evaluation.

g. If a Class A condition is identified upon arrival and before Adjustment of Status, how does USCIS receive this information? From whom, and what procedures bring this Class A condition into the refugee's USCIS record in the CIS? An example would be a refugee who has received a "clean bill of health" at his/her overseas exam, but during a routine medical appt. during his first year in the

U.S., a Class A Medical Condition is discovered. How will/is the fact of that Class A Medical Condition brought to the attention of USCIS when the refugee applies for adjustment of status? (See related question below)

Response: See the response to question 3.

3. **Question:** How is medical and vaccination information collected and directed to USCIS as part of the application process for adjustment of status? Specifically, are refugees responsible to keep list of doctor appointments, receipts for each medical encounter and submit medical data along with application? Is the primary physician supposed to forward the relevant information? If the latter, does the physician send the medical exam and vaccination documents directly to the refugee to include in the I-485 application, or does the physician send the information directly to a civil surgeon and the civil surgeon evaluates it and directs it to USCIS? Or is it something else? Clarification would be appreciated.

   Response: Refugees are not expected to provide medical records or to forward information from a primary care physician to USCIS. If the refugee is applying for or has already been granted a waiver of a ground of inadmissibility, the applicant may need to provide medical records to prove that he or she has complied with the terms of the waiver (for HIV positive refugees, this includes being under a physician's care). If the adjudicator has reason to suspect that the applicant has developed a Class A condition after admission but before adjustment, the applicant may be required to undergo another medical exam. Otherwise, unless the refugee informs the adjudicator, any information about a Class A condition will not be included in the applicant's USCIS file.

4. **Question:** It is our understanding that Adam Walsh I-130 cases are not being adjudicated because standard operating procedures (SOP) for Adam Walsh cases have not yet been issued. What is the status of this SOP?

   Response: The SOP has been completed and was provided to USCIS adjudications officers in the field on or about September 24, 2008. Accordingly, family-based cases with Adam Walsh Act issues are being adjudicated in accordance with the guidance set forth in the SOP.

5. **Question**: Recently, one of our affiliates has received several notices from the NBC for N-400 applications filed by refugees. The notices state that the applicants should bring (1) their birth certificates or secondary evidence of birth and (2) a state issued driver's license or photo ID card to their naturalization interview. Are these requirements a new policy? Are the requirements only specific to refugees? What is the rationale behind these requirements?

   Response: Generic language regarding what applicants should bring to interview is included on the receipt and/or appointment notices and also on the N-659 (Interview Document Check List) provided to all applicants. As NBC prepares N-400s for interview, a Complete File Review (CFR) is part of our standard process and is not specific only to refugees. It is important to remember that the CFR is not a process that slows down or stops the processing of any case while pending at the NBC. Rather, the CFR is conducted to provide the applicant with a complete list of items USCIS suggests be brought to the interview in order to help reduce delays in rendering decisions. We are looking at revising the entire CFR including the specific mention of birth certificates. This should alleviate most of the refugee concern.

6. **Question**: As part of the Victims of Trafficking and Violence Prevention Act of 2000 (VTVPA), Congress enacted provisions for T and U non-immigrant visas and subsequent adjustment of status provisions under INA sections 245(l) and 245(m). To date, DHS has not published a T and U visa adjustment of status rule. Crime victims have been and continue to be eligible for adjustment but lack a mechanism. We expect that the rule will also address fee waiver eligibility for inadmissibility waivers, which in April 2008 USCIS had announced would be forthcoming. The fees have created significant barriers for vulnerable trafficking and other crime victims seeking T or U-non immigrant visa relief. Please comment on the status of the adjustment of status rule and the inclusion of fee waiver guidance.

   Response: The rule providing for adjustment of status for T and U nonimmigrant status holders has been cleared by the Office of Management and Budget and will be published in the Federal Register in the next 2-3 weeks. The rule does address fee waiver eligibility for inadmissibility waivers.

7. **Question**: We'd like clarification on the rules for whether an N-400 applicant will be allowed to take the "old" or "new" test. The USCIS website says that applicants may choose either the old or the new test if their application was filed before October 1, 2008. "Filed" is specifically defined on the website: "The Application for Naturalization, Form N-400, is properly filed with USCIS on the date it is received by the appropriate USCIS Office with signature, correct fee, and the form is completed according to instructions." We have applicants whose applications were received at the USCIS Nebraska Service Center on September 29 or 30 and who have certified mail return receipts as evidence of this date, but whose Receipt Notices issued by USCIS say October 1. I guess the question goes to how USCIS defines "received" within their definition of "filed" – whether physically received (and signed for) from the U.S. Postal Service, or the initial processing done and the receipt issued.

   Response: Under 8 CFR 103.2(a)(7), the "receipt date" is the date on which the properly completed petition or application was actually received by USCIS, accompanied by the required filing fee. Thus, the Form I-797 should show the date on which the N-400 and fee were actually received. The date of actual receipt will determine how the "old test v. new test" determination will be made. While the Form I-797 may show a later date, if an applicant has evidence that his or her application was physically received prior to October 1, 2008, he or she is entitled to take the old test. This evidence may be, for example, in the form of a certified mail return receipt that shows USCIS actually received the N-400 on September 29 or 30, 2008. USCIS is also looking into receipting procedures at the Service Centers to determine if our practices need to be revised.

   USCIS will begin administering the redesigned (new) naturalization test on October 1, 2008. Use the chart below to determine if you will take the old or redesigned (new) test.

Date Form N-400 Filed*	**Date of Initial Exam**	**Test to be Taken**	**If Applicant Fails Initial Exam, Re-test to be Taken**
Before October 1, 2008	Before October 1, 2008	Old Test	Old Test
Before October 1, 2008	On or After October 1, 2008 up until October 1,	Applicant's Choice of	The same version of the test as the one taken during the initial

	2009	-Old Test or -Redesigned (New) Test	examination
On or After October 1, 2008	On or After October 1, 2008	Redesigned (New) Test	Redesigned (New) Test
At Any Time (i.e. Before, On or After October 1, 2008)	On or After October 1, 2009	Redesigned (New) Test	Redesigned (New) Test

8. **Question**: When one finds an error on their USCIS receipt notice, they are instructed to call the National Customer Service Center, but the pre-recorded prompts do not give an option of "I wish to report a typographical error or other problem on my receipt notice" or anything similar. The only way to get through to a contracted operator to report a typo or other problem is to say that you do not have a receipt number. Is it possible for USCIS to rectify this?

   Response: USCIS launched a new modification to the IVR in September 2008. The new modification features a menu option that allows customers to report if there is a problem with their case. Option 2 allows the caller "to check the status of an application that has been submitted or report a problem". The NSCS will generate a Service Request, SRMT.

9. **Question**: When a BIA representative from a Community-Based Organization has entered a G-28 on a case, our understanding is that he or she should be able to directly call the Customer Service number and ask for information on the case without the client also being present. However, we are often told that we cannot talk to CIS without the client present with us. Even the automated phone service suggests that we are able to call on our own. We have many cases we need to call about so it is not always convenient to have to have the client with us in the room. Sometimes CIS seems to think that because we are a CBO, the client must be present with us (even though a G-28 is on file). Please clarify.

   Response: USCIS must ensure that the customer's information is protected and the integrity of our process is safeguard. When a BIA representative or attorney contacts the NCSC on the petitioner or customer behalf, the customer representative or the officer will look to see if a filed Notice of Appearance as Attorney or Representative (G-28) accompanies the applicant's file. The NCSC will not give specifics about the applicant's file unless a G-28 is filed with the agency. Once it has been confirmed that the person speaking has filed the G-28, there is no need for the applicant to be present during the call.