

Off. of Refugee Resettlement, ACF, HHS

§ 400.83

carried out as part of an approved employability plan.

[54 FR 5477, Feb. 3, 1989, as amended at 65 FR 15448, Mar. 22, 2000]

FAILURE OR REFUSAL TO ACCEPT EMPLOYABILITY SERVICES OR EMPLOYMENT

§ 400.82 Failure or refusal to accept employability services or employment.

(a) *Termination of assistance.* When, without good cause, an employable non-exempt recipient of refugee cash assistance under the public/private RCA program or under a publicly-administered RCA program has failed or refused to meet the requirements of § 400.75(a) or has voluntarily quit a job, the State, or the agency(s) responsible for the provision of RCA, must terminate assistance in accordance with paragraphs (b) and (c) of this section.

(b) *Notice of intended termination*—(1) In cases of proposed action to reduce, suspend, or terminate assistance, the State or the agency(s) responsible for the provision of RCA, must give timely and adequate notice, in accordance with adverse action procedures required at § 400.54.

(2) The State, or the agency(s) responsible for the provision of RCA, must provide written procedures in English and in appropriate languages, in accordance with requirements in § 400.55, for the determination of good cause, the sanctioning of refugees who do not comply with the requirements of the program, and for the filing of appeals by refugees.

(3) In addition to the requirements in § 400.54, the written notice must include—

(i) An explanation of the reason for the action and the proposed adverse consequences; and

(ii) Notice of the recipient's right to mediation and a hearing under § 400.83.

(4) A written notice in English and a written translated notice, or a verbal translation of the notice, in accordance with the requirements in § 400.55, must be sent or provided to a refugee at least 10 days before the date upon which the action is to become effective.

(c) *Sanctions.* (1) If the sanctioned individual is the only member of the fil-

ing unit, the assistance shall be terminated. If the filing unit includes other members, the State shall not take into account the sanctioned individual's needs in determining the filing unit's need for assistance.

(2) The sanction applied in paragraph (b)(3)(i) of this section shall remain in effect for 3 payment months for the first such failure and 6 payment months for any subsequent such failure.

[54 FR 5477, Feb. 3, 1989, as amended at 60 FR 33602, June 28, 1995; 65 FR 15448, Mar. 22, 2000]

§ 400.83 Mediation and fair hearings.

(a) *Mediation*—(1) *Public/private RCA program.* The State must ensure that a mediation period prior to imposition of sanctions is provided to refugees by local resettlement agencies under the public/private RCA program. Mediation shall begin as soon as possible, but no later than 10 days following the date of failure or refusal to participate, and may continue for a period not to exceed 30 days. Either the State (or local resettlement agency(s) responsible for the provision of RCA) or the recipient may terminate this period sooner when either believes that the dispute cannot be resolved by mediation.

(2) *Publicly-administered RCA programs.* Under a publicly-administered RCA program, the State must use the same procedures for mediation/conciliation as those used in its TANF program, if available.

(b) *Hearings.* The State or local resettlement agency(s) responsible for the provision of RCA must provide an applicant for, or recipient of, refugee cash assistance an opportunity for a hearing, using the same procedures and standards set forth in § 400.54, to contest a determination concerning employability, or failure or refusal to carry out job search or to accept an appropriate offer of employability services or employment, resulting in denial or termination of assistance.

[65 FR 15448, Mar. 22, 2000]

Subpart G—Refugee Medical Assistance

SOURCE: 54 FR 5480, Feb. 3, 1989, unless otherwise noted.

§ 400.90

§ 400.90 Basis and scope.

This subpart sets forth requirements concerning grants to States under section 412(e) of the Act for refugee medical assistance (RMA), as defined at § 400.2 of this part.

§ 400.91 Definitions.

For purposes of this subpart—

Medically needy means individuals who are eligible for medical assistance under a State's approved Medicaid State plan in accordance with section 1902(a)(10)(C) of the Social Security Act.

Spend down means to deduct from countable income incurred medical expenses, thereby lowering the amount of countable income to a level that meets financial eligibility requirements in accordance with 42 CFR 435.831 (or, as applicable to Guam, the Virgin Islands, and Puerto Rico, 42 CFR 436.831).

APPLICATIONS, DETERMINATIONS OF ELIGIBILITY, AND FURNISHING ASSISTANCE

§ 400.93 Opportunity to apply for medical assistance.

(a) A State must provide any individual wishing to do so an opportunity to apply for medical assistance and must determine the eligibility of each applicant.

(b) In determining eligibility for medical assistance, the State agency must comply with regulations governing applications, determinations of eligibility, and furnishing Medicaid (including the opportunity for fair hearings) in the States and the District of Columbia under 42 CFR part 435, subpart J, and in Guam, Puerto Rico, and the Virgin Islands under 42 CFR part 436, subpart J, and 42 CFR part 431, subpart E.

(c) Notwithstanding any other provision of law, the State must notify promptly the agency (or local affiliate) which provided for the initial resettlement of a refugee whenever the refugee applies for medical assistance.

(d) In providing notice to an applicant or recipient to indicate that assistance has been authorized or that it has been denied or terminated, the State must specify the program(s) to which the notice applies, clearly dis-

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tinguishing between refugee medical assistance and Medicaid or the State Children's Health Insurance Program (SCHIP). For example, if a refugee applies for assistance, is determined ineligible for Medicaid or the State Children's Health Insurance Program (SCHIP) but eligible for refugee medical assistance, the notice must specify clearly the determinations with respect both to Medicaid or the State Children's Health Insurance Program (SCHIP) and to refugee medical assistance.

[54 FR 5480, Feb. 3, 1989, as amended at 65 FR 15449, Mar. 22, 2000]

§ 400.94 Determination of eligibility for Medicaid.

(a) The State must determine Medicaid and SCHIP eligibility under its Medicaid and SCHIP State plans for each individual member of a family unit that applies for medical assistance.

(b) A State that provides Medicaid to medically needy individuals in the State under its State plan must determine a refugee applicant's eligibility for Medicaid as medically needy.

(c) A State must provide medical assistance under the Medicaid and SCHIP programs to all refugees eligible under its State plans.

(d) If the appropriate State agency determines that the refugee applicant is not eligible for Medicaid or SCHIP under its State plans, the State must determine the applicant's eligibility for refugee medical assistance.

[54 FR 5480, Feb. 3, 1989, as amended at 60 FR 33603, June 28, 1995; 65 FR 15449, Mar. 22, 2000]

CONDITIONS OF ELIGIBILITY FOR REFUGEE MEDICAL ASSISTANCE

§ 400.100 General eligibility requirements.

(a) Eligibility for refugee medical assistance is limited to those refugees who—

(1) Are ineligible for Medicaid or SCHIP but meet the financial eligibility standards under § 400.101;

(2) Meet immigration status and identification requirements in subpart D of this part or are the dependent children of, and part of the same assistance unit as, individuals who meet the