

7 FAM 300 EMERGENCY FINANCIAL AND MEDICAL ASSISTANCE PROGRAMS FOR U.S. CITIZENS ABROAD

7 FAM 310 INTRODUCTION

*(CT:CON-201; 10-31-2007)
(Office of Origin: CA/OCS/PRI)*

7 FAM 311 SUMMARY

(CT:CON-120; 12-06-2005)

This chapter outlines the Department of State Bureau of Consular Affairs (CA) policies, guidance and procedures in providing emergency financial or medical assistance to U.S. citizens/U.S. non-citizen nationals abroad. It provides information to assist consular officers in meeting your responsibilities, developing internal procedures and controls, and reporting on the status of destitute, ill or injured U.S. citizens or non-citizen nationals and your efforts on their behalf.

7 FAM 311.1 Consular Responsibilities

(CT:CON-120; 12-06-2005)

Your key responsibilities in financial and medical emergencies are to:

- (1) Locate and contact the next-of-kin (NOK) or assist the individual in contacting his or her family as needed, consistent with the Privacy Act. (See 7 FAM 060.);
- (2) Assist the individual, the family, and host country officials as appropriate in carrying out whatever financial, medical and legal decisions they reach;
- (3) Administer the consular financial assistance loan programs as appropriate;
- (4) Prepare triennial list of physicians, hospitals and air ambulance services and make list available on post web page to which CA/P can link;

- (5) Provide the individual and his or her family with post list of local physicians, hospitals and air ambulance services;
- (6) Assist the individual or his or her family in contacting emergency medical personnel if such services are available in the host country;
- (7) Conduct welfare and whereabouts check on the individual, being particularly mindful of the needs of possibly vulnerable citizens, including the mentally ill.
- (8) Communicate with host country authorities, attending physicians, air carriers and others consistent with the Privacy Act. (See 7 FAM 060.);
- (9) Coordinate with CA/OCS/ACS on public health related issues. (See 7 FAM 050.); and
- (10) Coordinate with CA/OCS/ACS on repatriation and resettlement matters.

7 FAM 311.2 Objectives

(CT:CON-120; 12-06-2005)

- a. Financial issues involving U.S. citizens or nationals range from the tourist who is temporarily inconvenienced by a loss or theft to families who are totally destitute due to loss of employment, abandonment, and individuals fleeing dangerous situations.
- b. Medical issues include not only cases of individual illness or injury and mass casualty events, but also broad threats to health, such as outbreaks of disease, environmental health hazards and even chemical or biological attacks.
- c. The material in this chapter will help you to handle a variety of issues:
 - (1) Informing families of alternative ways to get emergency funds to their relatives abroad and processing OCS trusts (suspense deposit accounts.) (See 7 FAM 320.);
 - (2) Using the Consular Information Program and coordinating with the Centers for Disease Control and Prevention and other health organizations as necessary to publicize health- related issues. (See 7 FAM 050 and 7 FAM 330.);
 - (3) Assisting citizens or nationals suffering from mental illness. (See 7 FAM 340.);
 - (4) Notifying families of the destitution, injury or illness of a loved one. (See 7 FAM 340 and 7 FAM 350.);
 - (5) Preparing lists of doctors, dentists, hospitals, air ambulance companies and other medical service providers. (See 7 FAM 350.);

- (6) Checking on the well being of a hospitalized citizen or national. (See 7 FAM 340, and 7 FAM 350.);
- (7) Working with families to arrange repatriations, including medical evacuations. (See 7 FAM 360.);
- (8) Processing repatriation loans and emergency medical and dietary assistance loans (EMDA). (See 7 FAM 370 and 7 FAM 380.); and
- (9) Coordinating with CA/OCS/ACS in arranging for reception and resettlement in the United States, as needed. (See 7 FAM 390.)

7 FAM 312 AUTHORITIES

(CT:CON-120; 12-06-2005)

The authority for protection of U.S. citizens abroad and provision of emergency financial and medical assistance exists in a variety of treaties, laws, regulations and Executive Orders. The principal authorities are described below.

7 FAM 312.1 Treaties

7 FAM 312.1-1 The Vienna Convention on Consular Relations

(CT:CON-120; 12-06-2005)

The Vienna Convention on Consular Relations (VCCR) provides the basic authority for consular protection of citizens and nationals. If the VCCR is in force in the host country, you should be familiar with the provisions of the treaty related to consular protection of nationals. Articles 5 and 36 of the VCCR provide very specific consular authority and host country responsibilities regarding protection of minors and “persons lacking full capacity.” This reflects a general understanding among nations of the world that some persons, by their innate vulnerability, require greater protection.

VCCR, Article 5 Consular functions include ...

“(a) **Protecting** the interests of the sending State [the United States] and its nationals, within the limits permitted by international law”

“(e) **Helping** and assisting nationals”

“(h) **Safeguarding** within the limits imposed by the laws and regulations of the receiving State [host country], the interests of minors and other persons lacking full capacity who are nationals of the sending State [the United States], particularly where any guardianship or trusteeship is

required with respect to such persons”

Article 36 of the VCCR provides that ...

“(a) Consular officers shall be free to communicate with nationals and to have access to them. Nationals shall have the same freedom with respect to communication with and access to consular officers.”

7 FAM 312.1-2 Bilateral Consular Conventions

(CT:CON-120; 12-06-2005)

- a. You should be familiar with any bilateral consular treaty between the United States and the host country addressing the issue of responsibility towards protection of minors and “persons lacking full capacity.” (See Treaties in Force on the Department of State Internet home page.)
- b. You will find the texts of most bilateral consular conventions on the treaties feature of the CA/OCS Intranet page.

7 FAM 312.2 Non-Binding United Nations Declarations and Other Instruments

(CT:CON-120; 12-06-2005)

The United Nations General Assembly adopted the following “Principles” and “Declarations” unanimously. You may find it useful to refer to these instruments in any dialogue with the host country about medical assistance matters. Please note that these are not international agreements, and consequently are not legally binding, meaning that the nations of the world are not obliged to follow them. CA/OCS has, however, successfully engaged foreign States about mental health issues by initiating conversations or notes verbale (see 7 FAM 030) with reference to these common points of reference;

- (1) Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (1991);
- (2) Declaration on the Rights of Disabled Persons (1975); and
- (3) Declaration of Rights of Mentally Retarded Persons (1971).

7 FAM 312.3 U.S. Laws, Regulations and Executive Orders

7 FAM 312.3-1 Emergency Medical and Dietary Assistance Loans (EMDA)

(CT:CON-120; 12-06-2005)

- a. Section 3(j) of the State Department Basic Authorities Act 22 U.S.C. 2670(j) (Public Law 95-45 June 15, 1977) provides "The Secretary of State is authorized to provide emergency medical attention and dietary supplements, and other emergency assistance, for United States citizens incarcerated abroad or destitute United States citizens abroad who are unable to obtain such services otherwise, such assistance to be provided on a reimbursable basis to the extent feasible."

22 U.S.C. 2670 **Insurance on motor vehicles in foreign countries; tie lines and teletype equipment; ice and drinking water; excise taxes on negotiable instruments; remains of deceased persons; relief, protection, and burial of seamen; acknowledgement of services of foreign vessels and aircraft; rentals and leases**

provides ...

"The Secretary of State is authorized to—

(j) provide emergency medical attention and dietary supplements, and other emergency assistance, for United States citizens incarcerated abroad or destitute United States citizens abroad who are unable to obtain such services otherwise, such assistance to be provided on a reimbursable basis to the extent feasible."

- b. The following regulations implemented the statute: 22 CFR 51.70(a)(6), 22 CFR 71.10, 22 CFR 71.11 and 22 CFR 71.12 as it pertains to prisoners. We are preparing regulations to clarify procedures for EMDA loans for non-prisoners.

7 FAM 312.3-2 Repatriation Loans

(CT:CON-120; 12-06-2005)

- a. The State Department Basic Authorities Act, 22 U.S.C. 2671.

22 U.S.C. 2671 **Emergency Expenditures provides:**

(a) Delegation of authority pertaining to certification of expenditures

The Secretary of State is authorized to—

(1) subject to subsection (b) of this section, make expenditures, from such amounts as may be specifically appropriated therefore, for unforeseen emergencies arising in the diplomatic and consular service and, to the extent authorized in appropriation Acts, funds expended for such purposes may be accounted for in accordance with section 3526 (e) of title 31; and

(2) delegate to subordinate officials the authority vested in him by section

3526 (e) of title 31 pertaining to certification of expenditures.

(b) Activities subject to expenditures

(1) Expenditures described under subsection (a) of this section shall be made only for such activities as—

(B) loans made to destitute citizens of the United States who are outside the United States and made to provide for the return to the United States of its citizens.

(d) Repatriation loan program

With regard to the repatriation loan program, the Secretary of State shall—

(1) require the borrower to provide a verifiable address and social security number at the time of application;

(2) require a written loan agreement which includes a repayment schedule;

(3) bar passports from being issued or renewed for those individuals who are in default;

(4) refer any loan more than one year past due to the Department of Justice for litigation;

(5) obtain addresses from the Internal Revenue Service for all delinquent accounts which have social security numbers;

(6) report defaults to commercial credit bureaus as provided in section 3711 (e) of title 31;

(7) be permitted to use any funds necessary to contract with commercial collection agencies, notwithstanding section 3718 (c) of title 31;

(8) charge interest on all loans as of May 1, 1983, with the rate of interest to be that set forth in section 3717 (a) of title 31;

(9) assess charges, in addition to the interest provided for in paragraph (8), to cover the costs of processing and handling delinquent claims, as of May 1, 1983;

(10) assess a penalty charge, in addition to the interest provided for in paragraphs (8) and (9), of 6 per centum per year for failure to pay any portion of a debt more than ninety days past due; and

(11) implement the interest and penalty provisions in paragraphs (8), (9), and (10) for all current and future loans, regardless of whether the debts were incurred before or after May 1, 1983.

b. 31 U.S.C. 7701(b) includes a requirement that an individual applying for a U.S. Government loan must provide his or her social security number (SSN). Failure to provide one's SSN may render an applicant ineligible for a loan.

- c. 22 CFR 51.70 Denial of Passports is being expanded to include provisions relevant to the limitation and denial of passports to U.S. citizens who are recipients of repatriation loans. (See also 7 FAM 1380 Denial of Passports.) The pertinent regulations are:
- (1) 22 CFR 51.70(a) provides "a passport except for direct return to the United States shall not be issued in any case in which the Secretary determines or is informed by competent authority that:
 - (7) "The application is in default on a loan received from the United States to effectuate his or her return from a foreign country in the course of travel abroad."
 - (2) 22 CFR 51.70(b) provides "a passport may be refused in any case in which the Secretary of State determined or is informed by competent authority that: (1) the application has not repaid a loan received from the United States to effectuate his or her return from a foreign country."
- d. 22 U.S.C. 2671(d)(4) – 22 U.S.C. 2671(d)(11) directs collection of repatriation loans, in accordance with Federal government-wide debt collection laws codified at 31 U.S.C. 3711 and 31 U.S.C. 3717.

7 FAM 312.3-3 HHS/ISS Reception and Resettlement Authority

(CT:CON-120; 12-06-2005)

- a. 42 U.S.C. 1313 **Assistance For United States Citizens Returned From Foreign Countries** provides that the U. S. Department of Health and Human Services (HHS) may provide temporary assistance to U.S. citizens and dependents identified by the Department of State who have returned or been brought to the United States due to destitution, illness, war, threat of war, invasion, or other crisis, and who are without readily accessible resources to meet their needs. 45 CFR 212 contains the implementing regulations for this statute.
- b. 24 U.S.C. 321 - 329 (24 U.S.C. Chapter 9) (Public Law 86-571, Section 1, July 1, 1960) **Hospitalization Of Mentally Ill Nationals Returned From Foreign Countries** provides for reception, care, treatment, transfer, and release of **mentally ill U.S. citizens/noncitizens** returned from foreign countries. For an individual to be eligible for assistance, the Secretary of Health and Human Services must receive:
- (1) A certificate from the Secretary of State that the individual is a national of the United States; and
 - (2) A certificate obtained or transmitted by the Secretary of State that the individual has been legally judged insane in a foreign country or a certificate of an appropriate authority or person determined by

the Secretary of Health and Human Services stating that at the time of such certification the individual was in a named foreign country and was in need of care and treatment in a mental hospital.

- c. 45 CFR 211 contains the implementing regulations for this statute. 45 CFR 211.3 describes the certificates required to establish that an individual is eligible for assistance.

Note: The Department of State has not authorized consular officers to issue such a certificate.

45 CFR 211.3 Certificates

"The following certificates are necessary to establish that an individual is an eligible person:

"(a) **Certificates as to nationality.** A certificate issued by an authorized official of the Department of State, stating that the individual is a national of the United States."

"(b) **Certificate as to mental condition.** Either

(1) a certificate obtained or transmitted by an authorized official of the Department of State that the individual has been legally adjudged insane in a named foreign country; or

(2) a certificate of an appropriate authority or person stating that at the time of such certification the individual was in a named foreign country and was in need of care and treatment in a mental hospital. A statement shall, if possible, be incorporated into or attached to the certificate furnished under this paragraph setting forth all available medical and other pertinent information concerning the individual."

"(c) **Appropriate authority or person.** For the purpose of paragraph (b)(2) of this section a medical officer of the Public Health Service or of another agency of the United States, or a medical practitioner legally authorized to provide care or treatment of mentally ill persons in the foreign country, is an "appropriate authority or person," and shall be so identified in his execution of the certificate. **If such a medical officer or practitioner is unavailable, an authorized official of the Department of State may serve as an "appropriate authority or person," and shall, in the execution of the certificate, identify himself as serving as such person due to the unavailability of a suitable medical officer or practitioner.**"

- d. The Office of Refugee Resettlement of the Department of Health and Human Services (HHS/ACF/ORR) has entered into a sole-source cooperative agreement with International Social Service, United States of America Branch, Inc., (ISS-USA) Baltimore, Maryland, under which ISS provides services to U.S. citizens returned from abroad through the U.S.

Repatriate Program. See Federal Register Notice, Vol. 66, No. 130, July 6, 2001, page 35651-35652.

- e. **State Programs:** State laws and regulations regarding these cases vary. (See, for example California Specialized Programs, 2002.)

7 FAM 312.3-4 OCS Trusts

(CT:CON-120; 12-06-2005)

The following laws are related to Overseas Citizens Services (OCS) TRUST and OCS Obituary (OBIT) Procedures:

- (1) 31 U.S.C. 1321(a)(63) Miscellaneous Trust Funds, Department of State;
- (2) 31 U.S.C. 1321(a)(73) Estates Of Decedents, Department of State;
- (3) 31 U.S.C. 1322 Payments of Unclaimed Trust Fund Amounts and Refund of Amounts Erroneously Deposited;
- (4) 22 U.S.C. 2668a Disposition of Trust Funds Received From Foreign Governments For Citizens of the United States;
- (5) 22 CFR 22.1 Schedule of Fees – Trust Funds; and
- (6) Consular General Instruction No. 271, January 28, 1914 Accounts and Drafts for Special Funds

7 FAM 312.3-5 Fly America Act

(CT:CON-120; 12-06-2005)

The "Fly America Act", 49 U.S.C. 1517, **does not** require the use of United States air carriers in repatriation cases where the individuals are loaned funds by the Department of State for their subsistence and repatriation. Transportation procured by the individual with funds borrowed from an executive department is not government-financed transportation", so the "Fly America Act" does not apply. (See 60 Comp. Gen. 716, Matter Of Fly America Act - Repatriation Loans, B-202410, Comptroller General of the United States, September 29, 1981.)

7 FAM 312.3-6 Transfer of Mentally Ill Prisoners - Prisoner Transfer Treaties

(CT:CON-120; 12-06-2005)

18 U.S.C. 4102(9) authorizes the Attorney General, in concert with the Secretary of Health and Human Services to make arrangements with the appropriate authorities of a foreign country and issue regulations for the transfer and treatment of individuals who are accused of an offense but who

have been determined to be mentally ill, the expenses of which are to be paid by the country of which such person is a citizen or national. The Departments of Justice and HHS have not promulgated such regulations, (see 7 FAM 480 Prisoner Transfer, and 7 FAM 340).

7 FAM 312.3-7 Volunteers

(CT:CON-120; 12-06-2005)

31 U.S.C. 1342 Limitation on Voluntary Services prohibits an officer or employee of the United States Government from accepting voluntary services other than voluntary services authorized by law except for emergencies involving the safety of human life or the protection of property.

7 FAM 312.3-8 Transporting Mentally Ill Persons by Air

(CT:CON-120; 12-06-2005)

The Federal Aviation Administration's Advisory Circular AC 120-34 - Air Transportation Of Mental Patients issued June 29, 1977 provides guidelines to organizations and persons responsible for the transportation of mental patients and outlines the responsibilities of those escorting such persons. This is only advisory and is **not binding**. (See 7 FAM 340 and 7 FAM 360).

7 FAM 313 ENTITLEMENT TO SERVICES

(CT:CON-120; 12-06-2005)

Persons seeking emergency financial or medical assistance from the U.S. Government must establish that they are U.S. citizens or noncitizen nationals and are entitled to these services.

NOTE: When a U.S. citizen or national is traveling or residing abroad with immediate family members that include an alien immediate family member (spouse, child), such an individual may be included in a repatriation loan—we also say this is possible for EMDA loans. This practice is being incorporated in the 22 CFR.

7 FAM 314 REPORTING

(CT:CON-201; 10-31-2007)

You need to keep the Department (CA/OCS/ACS) informed and up to date in a manner consistent with the nature and urgency of each financial or medical emergency case so that the Department can:

- (1) *Assist post in securing funds from family members or other resources;*
- (2) *Provide guidance, especially in difficult or unusual circumstances, and*
- (3) *Coordinate effectively with other U.S. Government or private entities.*

7 FAM 314.1 Reasons For Reporting Financial/Medical Cases

(CT:CON-120; 12-06-2005)

- a. Approve necessary loan(s) and assign financial data;
- b. Coordination by Department (CA/OCS/ACS) with the Department of Health and Human Services (HHS/ACF/ORR) and ISS (International Social Service USA (ISS/USA) regarding reception in the United States;
- c. Provide liaison with the Centers for Disease Control and Prevention (CDC) as necessary, (see 7 FAM 050 and 7 FAM 330);
- d. Track and control the disbursement of funds worldwide; and
- e. Brief principals and coordinate on urgent or critical cases and cases with potential public diplomacy or political impact.

7 FAM 314.2 Types of Reporting

(CT:CON-120; 12-06-2005)

- a. **Initial Informal Report.** It is **imperative** that you provide an immediate initial report via telephone or email when an incident affecting the safety of U.S. citizen(s) occurs. Points of contact are:
 - (1) The appropriate country officer in CA/OCS/ACS (**202-647-5226**); and
 - (2) The OCS Duty Officer. The CA/OCS/ACS office is staffed from 8 a.m. to 8 p.m. Monday through Friday Washington, DC time, and 9 a.m. to 3 p.m. Saturdays. After hours, you may contact the OCS Duty Officer through the Operations Center (**202-647-1512**).
- b. **Routine Automated Reports: In any incident involving a U.S. citizen for a situation addressed in this chapter, the case should be entered in the** ACS automated system.
- c. **Official Reporting Cable:** Follow your telephonic or other informal notification with a front channel cable as soon as possible, preferably the same day. Once the initial crisis has peaked on high profile cases, you should continue to provide regular front channel reporting cables with

CASC tags. This keeps all interested parties in the Department abreast of developments in a case.

- d. **Note: Informal Reporting:** E-mails, faxes and phone calls are valuable tools for reporting daily activity; however, these informal methods of communication do not take the place of official reporting cables, which receive wide distribution in the Department. Significant information provided by e-mails, faxes or phone calls should be followed up by immediate cable.

7 FAM 315 THROUGH 319 UNASSIGNED