

**County of San Diego, Health and Human Services Agency (HHSA)
CalWORKs Program Guide**

Trafficking and Crime Victims Assistance Program

Number

70-100.A

Page

1 of 7

Revision Date:

September 1, 2021

Background:

The Trafficking and Crime Victims Assistance Program (TCVAP) is a state funded program established to provide public social services and healthcare services to noncitizen victims of human trafficking and to noncitizen victims of domestic violence and other serious crimes. Per Senate Bill (SB) 1569, customers qualifying under TCVAP provisions will be eligible for benefits and services to the same extent as individuals who are admitted to the United States (U.S.) as refugees. Customers may include families with minor children, single victims, and/or married couples without children.

Purpose:

This section has been revised to clarify eligibility requirement for the TCVAP Cash Assistance Program. As of 05/01/2021 Self-Sufficiency Services staff are required to process TCVAP Cash Assistance applications.

Policy:

Benefits and Services Available to TCVAP Customers

Once it is determined that the customer is eligible to TCVAP services, they are potentially eligible to cash aid under the following programs:

- State-funded CalWORKs for families with minor children; or
- TCVAP Cash Assistance for single adults or families without children

Time Limits

Specific program time limits are as follows:

- TCVAP CalWORKs eligible adult customers are subject to the 48-month time limit for the CalWORKs program
- TCVAP Cash Assistance customers who are not eligible to CalWORKs are subject to the eight-month time limit of the Refugee Cash Assistance (RCA) program

Note: If the time limit changes for either program, the time limit will also apply to TCVAP time limits

Income and Resource Limitations

TCVAP CalWORKs customers must meet CalWORKs program requirements including income, resource limitations, and work registration requirements, with the exception of the requirement to have or apply for a social security number.

Income and resource limits for TCVAP Cash Assistance customers will be considered on the same basis as in the RCA program for determining need and computing the assistance payment. Income and resources for the RCA program are considered on the same basis as the CalWORKs program except for sponsored noncitizen provisions as it applies in the CalWORKs program.

Human Trafficking Eligibility for TCVAP

Forms of Human Trafficking are defined as any of the following:

- Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not reached 18 years of age

**County of San Diego, Health and Human Services Agency (HHSA)
CalWORKs Program Guide**

Trafficking and Crime Victims Assistance Program

Number

70-100.A

Page

2 of 7

- 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

Determining Trafficking Victim Status

For purposes of determining eligibility for a victim of human trafficking for TCVAP, a sworn statement by the victim, or a representative (if the victim is not able to competently make a sworn statement) is sufficient to verify trafficking status, if at least one item of additional evidence is provided, including, but not limited to:

- Police, government agency, or court records or files
- News articles
- Documentation from a social services, trafficking, or domestic violence program, or a legal, clinical, medical, or other professional from whom the customer has sought assistance in dealing with the crime
- A statement from any other individual with knowledge of the circumstances that provided the basis for the claim
- Physical evidence
- A copy of a completed visa application
- Written notice from the U.S. Citizenship and Immigration Services (USCIS) of receipt of the Visa application

If the victim cannot provide additional evidence, a sworn statement is sufficient to make an eligibility determination and document in the case comments that the customer is credible. The sworn statement must contain the customer's declaration "under penalty of perjury" that they are a victim of human trafficking.

Once it has been determined that the customer meets the definition of a victim of human trafficking, at least one of the eligibility conditions below must be met for TCVAP eligibility:

- An I-914 application for T Nonimmigrant status (T Visa) has been filed with USCIS and the application has not been denied
- The customer is preparing to file an application for a T Visa
- Steps are being taken to meet the eligibility conditions for federal benefits
- The customer is a person for whom "continued presence" in the U.S. has been requested by federal law enforcement because they are assisting or willing to assist in the investigation or prosecution of human traffickers

Note: "Continued Presence" is a status that allows victims assisting law enforcement to remain in the country during the course of a criminal investigation.

Additional Documentation (T Visa)

The following documentation may be useful in determining whether a customer has filed for a T Visa:

- A confirmation receipt or letter from USCIS verifying an application has been filed
- A copy of the application for a T Visa (form I-914)

County of San Diego, Health and Human Services Agency (HHS) CalWORKs Program Guide

Trafficking and Crime Victims Assistance Program

Number

70-100.A

Page

3 of 7

If a customer has not yet filed for a T Visa, the customer's statement that they intend to file or are taking steps to become federally eligible will be acceptable. Documentation may also include statements from persons in official capacities, (e.g., law enforcement officials or victims' advocates) who are assisting the victim with the T Visa application or steps to becoming eligible.

Termination of Eligibility for TCVAP Services

Eligibility for state-funded services for CalWORKs and Cash Assistance will be terminated if the customer meets any of the conditions below:

- The customer's application for a T Visa has been "ultimately administratively denied"
 - An application for a visa has been "ultimately administratively denied" when an appeal of the visa denial has been unsuccessful or the time to appeal the denial has passed without an appeal having been filed, whichever comes first
- The customer has not applied for a T Visa within one year of the date of application for public social services
 - If the customer has not filed for a T Visa within a year of their application for benefits but federal law enforcement has made a request for continued presence on behalf of the customer, the customer will continue to be eligible for benefits and services
- When a TCVAP victim is certified as a trafficking victim by the federal Office of Refugee Resettlement (ORR), the customer is eligible to federal benefits and is no longer eligible to the TCVAP Cash Assistance or a state funded aid code for TCVAP CalWORKs and will need to be transitioned/transferred to a federally funded aid code

Case Transfer to Federally Funded Programs

- Families with children will transition from a state TCVAP CalWORKs aid code to a federal CalWORKs aid code
 - TCVAP CalWORKs customers transferring to a federal aid code do not start a new eligibility period. The 48-month time limit does not start over
- Single adult cases or married couples without children will transition to a new 8-month period of federal RCA and eligibility begins from the date indicated on their certification letter issued by the ORR
 - These customers will be referred to Catholic Charities to be evaluated for RCA benefits

Note: In cases where a TCVAP customer is transferred to a federally funded program, any family members who hold a derivative Visa will also be transferred to a federal aid code.

Serious Crime Victims Eligibility for TCVAP

In determining serious crime victim's eligibility for TCVAP benefits and services, verification must be provided indicating that the customer has filed a formal application for a U Visa (Form I-918 and required supplements) with USCIS.

Noncitizen Victims of Serious Crimes Federal Law

Federal law defines noncitizen victims of serious crimes as persons who:

- Have suffered substantial physical or mental abuse as a result of having been victims of criminal activity involving or similar to, the following violations: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; sex work; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction;

**County of San Diego, Health and Human Services Agency (HHSA)
CalWORKs Program Guide**

Trafficking and Crime Victims Assistance Program

Number

70-100.A

Page

4 of 7

unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy or solicitation to commit any of the above mentioned crimes; and

- Possess information concerning criminal activity (or in the case of an alien child under the age of 16, the parent, guardian, or adult representing the child); and
- Have been helpful, are being helpful, or are likely to be helpful to a federal, state, or local law enforcement official, prosecutor, or judge or to other federal, state, or local authorities investigating or prosecuting criminal activities described above (or in the case of a noncitizen child under the age of 16, the parent, guardian, or adult representative of the noncitizen is helpful)

Acceptable Documentation (U Visa)

Acceptable documentation for verifying that an application for a U Visa has been filed or that U Visa Interim Relief was requested (U Visa Interim Relief is acceptable only if a request for U Visa Interim Relief was filed before October 17th, 2007) includes, but is not limited to any of the following:

- A confirmation receipt or letter from USCIS verifying that a request has been filed
- The Notice of Action (form I-797) approving a U Visa or request for U Visa Interim Relief (U Visa Interim Relief is acceptable only if a request for U Visa Interim Relief was requested before October 17, 2007)
- A form I-797 which serves as a fee receipt for an employment authorization request based on a U Visa application
- A copy of the Petition for U Nonimmigrant status (Form I-918)
- An Employment Authorization Document (EAD) issued under Category "A19" or "A20" for an approved U Visa petitioner
- A sworn statement cannot be accepted as proof of eligibility for victims of domestic violence and other serious crime victims

Termination of Eligibility for TCVAP Services

Eligibility for state-funded services for victims of serious crimes will be terminated when the customer's application for a U Visa has been ultimately administratively denied, or when the program time limitation has been reached, whichever comes first.

Unlike trafficking victims, victims of domestic violence and other serious crimes are ineligible for federally funded programs, regardless of being issued a U Visa.

Derivative "T" and "U" Visas

Certain family members (derivatives) of victims of trafficking or serious crimes may be eligible for TCVAP benefits and services. The following Visa types are eligible for CalWORKs or TCVAP Cash Assistance benefits and services provided they meet all other program criteria.

- Victim of Trafficking:
 - T-2: Spouse
 - T-3: Children
 - T-4: Parent(s)
 - T-5: Sibling(s) less than 18 years of age
- Victim of a Serious Crime:
 - U-2: Spouse

**County of San Diego, Health and Human Services Agency (HHSA)
CalWORKs Program Guide**

Trafficking and Crime Victims Assistance Program

Number

70-100.A

Page

5 of 7

- U-3: Children
- U-4: Parent
- U-5: Sibling(s) less than 18 years of age

For a noncitizen who is already in the U.S. on the date that the Derivative T Visa is issued, the date of entry for purposes of benefits and services is the notice date on the Form I-797, Notice of Action of approval of the individual's Derivative T Visa.

For a noncitizen individual who enters the U.S. on the basis of a Derivative T Visa, the date of entry for purposes of benefits and services is the date of entry stamped on the individual's passport or I-94 Arrival Record.

Eligibility Criteria for TCVAP Cash Assistance

Individuals determined eligible to TCVAP Cash Assistance are entitled to benefits and services to the same extent as refugees and are subject to the same requirements (outside of legal status) as RCA customers with the following exceptions that include, but are not limited to:

- Eligibility for Other Programs – TCVAP applicants who:
 - Are applying for benefits under these provisions will not be required to apply for Supplemental Security Income/State Supplemental Payments (SSI/SSP), as it would be inappropriate to impose a requirement for which it is known there is no eligibility
 - Qualify for assistance under the Cash Assistance Program for Immigrants (CAPI) will be aided under CAPI
 - Qualify for assistance under the state CalWORKs program will be aided under the state CalWORKs program
 - Are not already receiving CalFresh and/or Medi-Cal, will be informed that they can apply for CalFresh and/or Medi-Cal at the same time

Reporting Requirements

It is the customer's responsibility to notify the county when they have a change in immigration status such as administrative denial of their T or U Visa application or if they become certified by the ORR.

TCVAP CalWORKs customers are subject to Semi-Annual reporting (SAR 7) requirements unless they meet the definition of an Annual Report/Child Only (AR/CO) case. Refer to CPG 44-260.A Annual Reporting.

TCVAP Cash Assistance customers are not required to submit a SAR 7 for the duration of the eight-month time limit.

Medi-Cal Coverage

TCVAP CalWORKs customers are certified eligible to Medi-Cal under the CalWORKs aid code. When TCVAP Cash Assistance is approved, the customer is eligible to Medi-Cal through a TCVAP Medi-Cal/Refugee Medical Assistance only aid code.

**County of San Diego, Health and Human Services Agency (HHSA)
CalWORKs Program Guide**

Trafficking and Crime Victims Assistance Program

Number

70-100.A

Page

6 of 7

Employment/Training Requirements and Exemptions

TCVAP CalWORKs customers must participate in Employment Services (ES) activities to the same extent as other participants. However, the TCVAP population may not have employment authorization documents because of their immigration status. An EAD, also known as a work permit, authorizes a noncitizen to work in the U.S. for a period of time, usually one year. An EAD can be granted at the same time that a T or U Visa is granted. The Employment Case Manager (ECM) must ask the customer if they are authorized to work in the U.S. Once a person has entered the U.S. in a nonimmigrant status, they are usually restricted to the activity or reason for which they were allowed entry into the country. Compliance with certain registration, employment and employment directed education/training requirements will not be required if the customer does not have work authorization from USCIS.

TCVAP customers may not possess a social security number or be authorized to work. Employment directed education and training must be appropriate to the situation. Therefore, if a customer is technically or legally unable to participate, they cannot be required to do so. If a customer is unable to work or participate in ES or Refugee Employment Services (RES) approved employment directed programs due to lack of work authorization, they would not be required to participate in job search activities or be referred to the Employment Development Department (EDD). Activities should be identified by the ECM that will assist the recipient to prepare for future employment, such as English language training, job skills development, job specific training, etc.

In addition to the exemptions from appropriate applicable work registration, employment and training requirements, an exemption will be available to TCVAP customers if physical or psychological trauma related to or arising from the victimization impedes their ability to comply, when verified by a physician's written statement that the illness or injury is serious enough to temporarily prevent their entry into an appropriate education and/or training program.

Procedure:

BEnDS 32432

CalWORKs Processing Guide 15-100.A1 Time-on-Aid

CalWORKs Processing Guide 70-100.A.1 TCVAP Application Process

Did You Know – Cash Aid Services for the Trafficking and Crime Victims Assistance Program (TCVAP)

Impacts:

CalFresh Program Guide: 63-155 Battered Noncitizens, Victims of Trafficking and Other Serious Crimes

Medi-Cal Program Guide 05.08.10 Trafficking and Crime Victims Assistance Program (TCVAP)

Cash Assistance Program for Immigrants (CAPI) Program Guide: 99-101.2 Non-Citizen/Citizen Status

References:

WIC 18945

MPP 70-102, 70-103, 70-104, 70-105

ACL No. 06-60, 07-45, 07-45E, 08-15, 09-49, 13-25, 17-01

ACIN No. I-41-07, I-07-15

Sunset Date:

This policy will be reviewed for continuance by August 31, 2024.

County of San Diego, Health and Human Services Agency (HHSA)
CalWORKs Program Guide

Trafficking and Crime Victims Assistance Program

Number

70-100.A

Page

7 of 7

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AWH, 9-7-21

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