

**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 6

Revision Date:

March 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 qualified 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 reformat this section to current standards. This revision has also incorporated information from CalWORKs Program Guide (CPG) 42-400.H Trafficking Victims Protection Child Citizenship Act, and CPG 42-400.I Tracking Requirements for Qualified and Non-qualified Noncitizens, to clarify the difference between TCVAP cash aid programs. As a result, CPG 42-400.H and 42-400.I are obsolete.

Policy:

Human Trafficking Definition

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
- 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

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

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

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

Trafficking and Crime Victims Assistance Program

Number

70-100.A

Page

2 of 6

- 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.

Trafficking Victims Eligibility for TCVAP Benefits and Services

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)

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 (e.g. working with a community-based organization to prepare to qualify for federal benefits, working with law enforcement, etc.), will be acceptable.

Documentation could 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 shall 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

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

Trafficking and Crime Victims Assistance Program

Number

70-100.A

Page

3 of 6

- A request on behalf of the customer for continued presence has not been made within one year of date of application for public social services
- The customer has been issued a T Visa
- 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
 - Families with children will transition from a state TCVAP aid code to a federal CalWORKs aid code
 - Single cases or families without children are eligible to a new 8-month period of federal Refugee Cash Assistance (RCA) eligibility begins from the date indicated on their certification letter issued by ORR. Catholic Charities will transition the customer from TCVAP Cash Aid to RCA

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; 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)

**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 6

- 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

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.

Derivative “T” and “U” Visas

Certain family members (derivatives) of victims of trafficking 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
- U-3: Children
- U-4: Parent
- U-5: Sibling(s) less than 18 years of age

For a noncitizen who is already in the United States (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 non-citizen 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.

Note: If an individual by themselves possesses a “Derivative T Visa” and has no linkage to the CalWORKs program, they would be aided under the TCVAP Cash aid or RCA programs, administered by Catholic Charities in San Diego County.

Eligibility Criteria for TCVAP- Cash Aid

Individuals determined eligible to TCVAP Cash Aid 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 recipients with the following exceptions that include, but are not limited to:

- Eligibility for Other Programs - Noncitizen victims of human trafficking and noncitizen victims of domestic violence or other serious crimes:
 - Applying for benefits under these provisions shall not be required to apply for Supplemental Security Income (SSI) and/or State Supplemental Payments (SSP), as it would be inappropriate to impose a requirement for which it is known there is no eligibility

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

Trafficking and Crime Victims Assistance Program

Number

70-100.A

Page

5 of 6

- Who qualify for assistance under the Cash Assistance Program for Immigrants (CAPI) shall be aided under CAPI
 - Who qualify for assistance under the state CalWORKs program shall be aided under the state CalWORKs program
 - Who are not already receiving CalFresh and/or Medi-Cal, shall be informed that they can apply for CalFresh and/or Medi-Cal at the same time
- TCVAP trafficking recipients are permitted for one year to apply for a T Visa and are limited to a maximum of 8 months of TCVAP cash aid during this period.

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.

Employment/Training Requirements and Exemptions

Compliance with certain Registration, Employment and Employment-Directed Education/Training Requirements shall not be required if the recipient does not have work authorization from USCIS.

TCVAP recipients 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 Employment Services/Refugee Employment Services (ES/RES) approved employment-directed program 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 Employment Case Manager (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 shall be available to TCVAP recipients 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/training program.

Procedure:

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

CalWORKs Processing Guide 70-100.A.1 Applications submitted by Victims of Human Trafficking

Impacts:

None

References:

WIC 18945

EAS 43-431

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

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 6

ACL No. 06-60, 13-25,17-01

ACIN No. I-07-15

Sunset Date:

This policy will be reviewed for continuance by February 29, 2024.

Approval for Release:

 , 3-9-21

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