

Cash Assistance Program for Immigrants (CAPI) Program Guide Letter No. 8

October 10, 2007

Subject ELIGIBILITY FOR NON-CITIZEN VICTIMS OF HUMAN TRAFFICKING, DOMESTIC VIOLENCE, AND OTHER SERIOUS CRIMES

Effective date Upon receipt

Reference All-County Letter 06-60

Purpose The purpose of this CAPI Program Guide Letter is to provide instructions for the treatment of non-citizen victims of:

- human trafficking;
- domestic violence; and
- other serious crimes.

Background Prior to 2000, a federal law did not exist to protect victims of human trafficking or non-citizen victims of domestic violence and other serious crimes. In October 2000, the federal Trafficking Victims Protection Act of 2000 created two new nonimmigrant visas, the “T” Visa, for victims of a severe form of trafficking, and the “U” Visa, for victims of criminal activity, to allow these individuals to remain in the United States (U.S.).

T Visa Human trafficking is a modern form of slavery. Federal law defines “severe forms of trafficking in persons” to mean:

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

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T Visa (continued)

The Office of Refugee Resettlement (ORR), after consultation with the U.S. Attorney General, may certify a victim of a severe form of trafficking who is willing to assist in every reasonable way with the investigation and prosecution of human traffickers; and

- has made a bona fide application to Citizenship and Immigration Services (CIS) for a T Visa and the application has not been denied; or
- is a person for whom “continued presence” in the U.S. has been requested by law enforcement for the investigation and prosecution of trafficking in persons.

Once the trafficking victim has been certified by ORR, he/she is eligible for federal benefits and services to the same extent as refugees.

U Visa

Federal law defines non-citizen victims of serious crimes as aliens 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;
 - prostitution;
 - sexual exploitation;
 - female genital mutilation;
 - being held hostage;
 - peonage;
 - involuntary servitude;
 - slave trade;
 - kidnapping;
 - abduction;
 - unlawful criminal restraint;
 - false imprisonment;

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U Visa (continued)

- 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;
- 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.

The Department of Homeland Security has not yet published regulations governing U Visas, so it is not possible to apply for one. However, CIS may grant temporary legal status, called “U Visa Interim Relief,” and work authorization to those who are eligible, which means the non-citizen may remain in the U.S. and may be permitted to work. Non-citizens allowed to remain in the U.S. under U Visa Interim Relief are not eligible for most federal benefits.

New State- Only Program

Senate Bill (SB) 1569 was enacted to provide assistance to trafficking victims prior to federal ORR certification by creating a new, state-supported program to provide critical services to these victims as they await, or prepare to request approval for, federally-funded benefits. SB 1569 also recognizes that applicants for U Visa Interim Relief who are willing to cooperate with law enforcement officials need support.

SB 1569 provides eligible non-citizen trafficking victims and victims of serious crimes benefits equivalent to those available to refugees.

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Eligibility for Trafficking Victims

In determining eligibility under SB 1569 for victims of a severe form of trafficking, the worker must first determine the applicant's trafficking status, based on all relevant information.

Once this has been determined, the worker must then determine if he/she:

- has filed an application for a T Visa with CIS;
 - is preparing to file an application for a T Visa; or
 - is otherwise taking steps to meet the eligibility conditions for federal benefits.
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Verification for Trafficking Victims

A sworn statement by a victim (or a representative if the victim is not able to competently make a sworn statement) similar to the process currently used in self-certification for other programs is sufficient if at least one item of additional evidence is provided, including, but not limited to:

- Police, government agency, or court files
- News articles
- Documentation from a social services, trafficking, or domestic violence program, or a legal, clinical, medical, or other professional from whom the applicant/recipient 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 CIS of receipt of the T Visa application

If the victim cannot provide additional evidence, the sworn statement shall be sufficient if the worker makes a determination documented in the case file that the applicant/recipient is credible.

The sworn statement must contain the victim's declaration that he/she is a victim of human trafficking.

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Verification for Trafficking Victims (continued)

The following documentation can be used in determining if an applicant/recipient has filed, or is preparing to file, for a T Visa:

- a confirmation receipt or letter from CIS verifying an application for a T Visa has been filed;
 - a copy of the application for a T Visa;
 - statements from persons in official capacities (for example, law enforcement officials or victims advocates) who have assisted or are assisting the victim with the T Visa application; or
 - if no documentation is available, the applicant's/recipient's statement that he/she has filed or intends to apply for a T Visa, or is taking steps to become federally eligible (for example, is working with a community-based agency to prepare to qualify for federal benefits), will be acceptable.
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Eligibility Ends for Trafficking Victims

Eligibility for state-funded services will be terminated if:

- the recipient's application for a visa has been finally administratively denied;
 - the recipient has not applied for a T Visa within one year of applying for state benefits;
 - a request by law enforcement officers on behalf of the recipient for federal continued presence has not been made within one year; or
 - the recipient is certified by ORR, resulting in federal eligibility.
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Eligibility for Other Victims

SB 1569 provides state-funded services for non-citizen victims of domestic violence or other serious crime, if otherwise eligible, only when a request with CIS for U Visa Interim Relief or a U Visa has been filed or if U Visa Interim Relief or a U Visa has been granted. In determining potential eligibility for these applicants/recipients, the worker must verify that a request for U Visa Interim Relief or application for a U Visa has been filed.

Verification for Other Victims

Examples of documentation could include, but are not limited to:

- statements from persons in official capacities (for example, law enforcement officials or victims advocates) who have assisted or are assisting the victim with the application for U Visa Interim Relief;
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Verification for Other Victims
(continued)

- a copy of the request for a U Visa Interim Relief application (as there is no standard request form, each “application” will look slightly different);
- a Notice of Action approving U Visa Interim Relief (form I-797);
- a form I-797, which serves as a fee receipt for an employment authorization request based on a U Visa Interim Relief application; or
- a confirmation receipt or letter from CIS verifying that a request for U Visa Interim Relief or a U Visa has been filed.

Eligibility Ends for Other Victims

Eligibility for state-funded services will continue until and unless the recipient’s request for U Visa Interim Relief or application for a U Visa has been finally administratively denied.

CAPI Eligibility

Non-citizens determined eligible under the provisions of SB 1569 will be eligible for benefits under CAPI if all other eligibility requirements are met.

Forms impact

None.

Quality Assurance impact

The California Department of Social Services has not specified a Quality Assurance requirement for CAPI and appeals are handled through the usual State hearing process.

Filing instructions

The table below shows how to file the CAPI PG material.

Action	Pages
Remove	99-101, Table of Contents
	99-101, Pages 5-17
Replace	99-101, Table of Contents
	99-101, Pages 5-17

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**Manager
approval**

ORIGINAL SIGNED BY:

Dann Crawford, Assistant Deputy Director
Medi-Cal, General Relief, and CAPI Program Administration
Strategic Planning & Operational Support Division
