

DEPARTMENT OF HEALTH SERVICES

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March 23, 1993

Letter No. 93-19

TO: All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons

SUBJECT: REDUCTION OF TIME ELIGIBILITY FOR REFUGEE MEDICAL ASSISTANCE (RMA)

REFERENCES: EMC2 DHS #93048

The purpose of this letter is to inform County Welfare Departments that the Office of Refugee Resettlement (ORR) has issued regulations (45 CFR Part 400) which reduce time eligibility for RMA benefits from 8 to 5 months. This reduction is effective April 1, 1993 for both current and newly-arriving refugees.

This reduction means that all new applicants after April 1, 1993, will be subject to the 5-month time eligibility. For refugees who are presently receiving RMA and who will exceed 5 months time eligibility as of March 30, 1993, counties must give timely notice in March in order that benefits may be terminated as of the end of March.

Please keep in mind that eligibility for transitional RMA is limited to four (4) months or until the end of the 5-month time eligibility period, whichever ends first. The discontinuance date indicated above is also applicable to the transitional RMA beneficiaries.

Please use Code of California Regulations (CCR) Section 50257(d)(2), which provides that DHS may shorten time eligibility for RMA based on the availability of federal funds, in the Notices of Action (NOAs) to discontinue refugees who become ineligible due to the shortened time eligibility period.

If you have any questions, please contact Elena Lara at (916) 657-0712.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosures

Dated: February 23, 1993.
Margaret H. McFarland,
Deputy Secretary.
FR Doc. 93-4626 Filed 2-26-93; 8:45 am
GPO 1993 O-918-01-8

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 400

Refugee Resettlement Program;
Refugee Cash Assistance and Refugee
Medical Assistance

AGENCY: Administration for Children and Families (ACF), HHS, Office of Refugee Resettlement.
ACTION: Final rule.

SUMMARY: This rule would reduce the duration of the special programs of refugee cash assistance (RCA) and refugee medical assistance (RMA) from a refugee's first 8 months in the United States for the remainder of FY 1993, effective April 1, 1993.

The reduction is necessitated by the limited funds appropriated for transitional and medical services (TAMS) for Federal FY 1993. Refugee assistance under section 412 of the Immigration and Nationality Act is expressly limited by the extent of available appropriations.

EFFECTIVE DATE: April 1, 1993.

ADDRESSES: Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Toyo A. Biddle, (202) 401-9253.

SUPPLEMENTARY INFORMATION:

Background

Current regulations at 45 CFR 400.203(b) and 400.204(b) provide for Federal refugee funding, subject to the availability of funds (45 CFR 400.202), to be provided to States for the special programs of refugee cash assistance (RCA) and refugee medical assistance (RMA) "during the 12-month period beginning with the first month the refugee entered the United States (except during Federal FY 1993, 8-month period)." The 8-month eligibility period was first established by regulation on January 10, 1992.

Description of the Final Regulation

This final rule would reduce the duration of the special programs of

refugee cash assistance (RCA) and refugee medical assistance (RMA) from a refugee's first 8 months in the United States to a refugee's first 5 months in the United States for the remainder of FY 1993, effective April 1, 1993.

The reduction is necessitated by the limited funds appropriated for transitional and medical services (TAMS) for Federal FY 1993. Refugee assistance under section 412 of the Immigration and Nationality Act is expressly limited by the extent of available appropriations, 8 U.S.C. 1522(a)(1)(A); 45 CFR 400.202.

The decision to reduce the period of time-eligibility is based on the Department's analysis of FY 1992 costs and cost trends in the RCA and RMA programs and on the number of refugees who entered the United States during the latter part of FY 1992 and those who will be admitted during FY 1993 under the refugee admissions ceiling of 122,000 publicly funded refugees established by the President after consultation with Congress. (Memorandum from the President to the United States Coordinator for Refugee Affairs, Determination of FY 1993 Refugee Admissions Numbers and Authorization of In-Country Refugee Status Pursuant to Sections 207 and 101(a)(42), respectively, of the Immigration and Nationality Act, Presidential Determination No. 93-1, October 2, 1992.)

While the refugee admissions ceiling of 122,000 for FY 1993 is approximately 7% lower than the 131,824 publicly funded admissions in FY 1992, the fixed appropriation of \$245,810,656 available for TAMS to cover the costs of refugee cash and medical assistance, unaccompanied minors, State administration, and the voluntary agency matching grant program represents a reduction of 10% from the amount available for these programs in FY 1992.

In part as a result of a reduction in appropriated funds for FY 1993, ORR had issued a Notice of Proposed Rulemaking (NPRM) on November 2, 1992, to terminate the RCA and RMA programs effective January 31, 1993. ORR planned to replace them, through the grant and contract process, with a new private resettlement program and a private medical program. However, this action was challenged in a suit filed on December 7, 1992, in the United States District Court, Western District of Washington at Seattle in the case of *Nguyen v. Sullivan* (No. C92-1867WD), and the Department has been preliminarily enjoined from terminating the State-administered refugee cash and medical assistance program. In order to

enable the State-administered RCA/RMA program to operate for the remainder of FY 1993 within the fixed appropriation available, it is necessary to reduce the period of time-eligibility for RCA and RMA to a refugee's first 5 months in the U.S.

Analysis shows that the fixed appropriation of \$245,810,656 for TAMS for FY 1993 will be insufficient to provide funding for a period longer than a refugee's first 5 months in the U.S. during the remainder of FY 1993, effective April 1, 1993. If the current State-administered RCA and RMA programs were to be continued with an 8-month eligibility period, it is estimated that all available funds would be exhausted by July 31, 1993, and no RCA or RMA would be available to needy refugees during the last 2 months of the fiscal year.

In determining the number of months of benefits to provide under the RCA and RMA programs, it was assumed that the funds appropriated for TAMS, less the amounts necessary for the matching grant program and the unaccompanied minors program, were available for the RCA and RMA programs, including State administrative costs. This total is approximately \$176 million of the \$245,810,656 appropriated for TAMS for FY 1993.

The estimate is derived from refugee arrival, eligibility, and participation data. Arrival data are derived by forecasting refugee arrival patterns based on previous years and the annual refugee admissions ceiling set by the President. Eligibility data are computed by determining the number of refugees who have been in the country only for the number of months that will be paid through RCA/RMA funds. The participation data are derived by estimating what fraction of the time-eligible refugees will actually be RCA/RMA eligible (because they are not eligible for AFDC or SSI), as well as relying on dependency rates based on historical rates.

Using quarterly estimates of RCA and RMA participation, costs are determined by multiplying the number of participants by the per capita amount of cash and medical assistance expected to be paid to the refugee in FY 1993. These per capita costs are based on full-year State-reported expenditures for FY 1992, plus inflation estimates. In determining administrative costs, FY 1992 administrative costs are adjusted for inflation for FY 1993. Varying the number of months of RCA/RMA benefits changes the size of the time-eligible population. It was determined that funds were sufficient to cover 8 months of benefits from October 1, 1992.

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through March 31, 1993, and 5 months of RCA/RMA benefits from April 1, 1993, through September 30, 1993. The reasons for such a substantial reduction in the RCA/RMA eligibility period are twofold: Higher medical costs, an increase in participation rates, and the fact that the RCA/RMA eligibility period is continued at an 8-month level during the first half of the year, resulting in the expenditure of a sizeable portion of TAMS funds during that period and leaving a smaller balance of available TAMS funds for the remainder of the fiscal year.

The Department considers it of the utmost importance to provide refugee support in a manner that ensures the availability of refugee support throughout the year. Failure to decrease 6 months of eligibility would mean that funds available would be insufficient to carry the program through the end of the year, with the result that, during the latter months of 1993, an estimated 25,000 needy refugees would be without Federally-funded refugee assistance.

This rule is applicable to both current and newly-arriving refugees effective April 1, 1993.

Consistent with the preceding actions, CFR 400.2, 400.60(b), 400.100(b), 400.203(b), 400.204(b), and 400.209(b) are being amended to reduce the duration of RCA and RMA in FY 1993 from a refugee's first 8 months in the U.S. to a refugee's first 5 months in the U.S.

Justification for Dispensing With Notice of Proposed Rulemaking

A period for public comment is not being provided because it would be impracticable, unnecessary, and not in the public interest for the following reasons:

Under the current statute and regulations, the duration of benefits is a function of the level of appropriations. The resulting computation is a matter which public comment would not significantly aid because Congressional funding limitations effectively establish the eligibility period, rendering notice of proposed rulemaking and comment procedures unnecessary. In addition, through consideration of alternatives that can be assisted by public input, there is insufficient time to consider other options without adversely impacting the public interest. The public interest is better served by avoiding the premature exhaustion of funds and in providing a finite account equitably distributed throughout the fiscal year. Because there is a continuing flow of refugees into the United States and because continuing costs for RCA and

RMA are being incurred by the States, any delays in applying a reduced period of time-eligibility would result in the need for ever-greater reductions in the RCA and RMA programs in order to avoid their abrupt and complete termination and the absence of such assistance to both current and newly arriving refugees.

Accordingly, the agency finds good cause for issuance of a final rule effective April 1, 1993.

Regulatory Procedures

Regulatory Impact Analysis

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules, which are defined in the Order as any rule that has an annual effect on the national economy of \$100 million or more, or certain other specified effects. The Department has determined that these rules are not major rules within the Executive Order because they will not have an annual effect on the economy of \$100 million or more; nor will they result in a major increase in costs or prices for consumers, any industries, any governmental agencies, or any geographic region; and, they will not have an adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

This final rule reduces the eligibility period for refugee cash assistance (RCA) and refugee medical assistance (RMA) from a refugee's first 8 months in the U.S. to a refugee's first 5 months, in order to contain refugee cash and medical assistance costs within the FY 1993 appropriation level.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. No. 96-354) requires the Federal government to anticipate and reduce the impact of regulations and paperwork requirements on small businesses. The primary impact of these rules is on State governments and individuals. Therefore, we certify that these rules will not have a significant impact on a substantial number of small entities because they affect benefits to individuals and payments to States. Thus, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

This rule does not contain collection-of-information requirements.

Statutory Authority

Section 412(a)(9) of the Immigration and Nationality Act, 8 U.S.C. 1522(a)(9),

authorizes the Secretary of HHS to issue regulations needed to carry out the program.

(Catalogue of Federal Domestic Programs: 21,566, Refugee and Extranat Assistance—State-Administered Programs)

List of Subjects in 45 CFR Part 400

Grant programs—Social programs, Health care, Public assistance programs, Refugees, Reporting and recordkeeping requirements.

Dated: February 5, 1993.

Lawrence J. Love,

Acting Assistant Secretary for Children and Families.

Approved: February 15, 1993.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, 45 CFR part 400 is amended as follows:

PART 400—REFUGEE RESETTLEMENT PROGRAM

1. The authority citation for part 400 continues to read as follows:

Authority: Section 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)).

§ 400.2 [Amended]

2. Section 400.2 is amended by amending the definitions of "Refugee cash assistance" and "Refugee medical assistance" by removing the words "(except during Federal FY 1993, less than an 8-month period)" and by adding in their places "(except during Federal FY 1993, less than a 5-month period)".

§§ 400.60 and 400.100 [Amended]

3. Sections 400.60(b) and 400.100(b) are amended by removing the words "(except during Federal FY 1993, 8-month period)" and adding in their place "(except during Federal FY 1993, 5-month period)".

§§ 400.203 and 400.204 [Amended]

4. Sections 400.203(b) and 400.204(b) are amended by removing the words "(except during Federal FY 1993, 8-month period)" and adding: "(except during Federal FY 1993, 5-month period)".

§ 400.209 [Amended]

5. Section 400.209(b) is amended by removing the words "(except during Federal FY 1993, 8-months)" and adding in their place "(except during Federal FY 1993, 5 months)".

(FR Doc. 93-4724 Filed 2-26-93; 8:45 am) GPO: 1993 O-450-00-00