

Benefits for Immigrant Survivors of Trafficking, Domestic Violence, and Other Serious Crimes in California

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A California law, SB 1569, provides that immigrant survivors of human trafficking, domestic violence, and other serious crimes may receive state and local benefits under the same rules that apply to refugees. This publication reviews the two categories of immigrants covered by this law (trafficking survivors and U visa applicants/holders), the benefits they may receive, and what they need to show in order to get these benefits.¹

TRAFFICKING SURVIVORS

Immigrant survivors of a “severe form of trafficking in persons” who are willing to help law enforcement officials in prosecuting their traffickers can apply for a “T visa” or may have a request for “continued presence” filed on their behalf. Child victims and relatives of trafficking survivors (spouse and children of adult victims; spouse, parents, children, and minor siblings of child victims) can also get immigration relief. The U.S. Office of Refugee Resettlement (ORR) then can certify survivors for federal benefits, under the same rules that apply to refugees. California law provides that trafficking victims may receive state and local benefits before they can get federal benefits—while they are taking steps to qualify for the federal programs.

What is a “severe form of trafficking in persons”?

Federal and state laws define a “severe form of trafficking in persons” as the recruitment, harboring, transportation, provision or obtaining of a person for:

- a commercial sex act induced by force, fraud or coercion;
- a commercial sex act in which the person induced to perform such act is under the age of 18; or

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¹ This paper does not address benefits eligibility for immigrants who have filed a family-based visa petition or a self-petition for a visa under the Violence Against Women Act. See “Information for All Applicants” (page 11) for links to information about these immigrants.

- labor or services, through the use of force, fraud or coercion, for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

How can I show that I am a trafficking survivor?

State and local benefit agencies must consider “all relevant and credible evidence” in determining if a person is a trafficking survivor. A sworn statement by the person is sufficient if she or he provides at least one item of additional evidence. This includes, but is 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 applicant or 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 T visa application
- written notice from the federal agency of receipt of the T visa application

If the trafficking survivor cannot provide any additional evidence, his or her sworn statement is enough, if the benefits-granting agency decides it is credible.

How can I show that I am taking steps to qualify for federal benefits?

There are two basic ways to show that you are taking steps to qualify for federal benefits:

- You can present proof that you have filed, or are preparing to file, for a T visa. This proof might include, for example, a letter from a community-based agency that is helping you file for a T visa or to obtain “continued presence.”
- If this proof is not available, you can present a statement that you intend to apply for a T visa or are taking other steps to become federally eligible, such as working with a community-based agency to prepare to tell law enforcement officials about being a trafficking victim.

Trafficking Survivors in Families with Children

I am in a family with children. Which benefits may I receive?

If your income is low, you may be able to get CalWORKs, CalFresh or the California Food Assistance Program (CFAP), and full-scope Medi-Cal. You also may be able to get services that do not have an immigration status requirement, such as those listed below under “Services Available to All Immigrants and Citizens” (page 6).

(Continued on page 4.)

TABLE
 IMMIGRANT SURVIVORS OF TRAFFICKING AND OTHER SERIOUS CRIMES
 California Benefits Eligibility and Time Limits

	Trafficking Survivors (Precertification)	Trafficking Survivors (ORR Certified)	U Visa Applicants & U Visa Holders
California Benefits			
CalWORKs Medi-Cal IHSS General Assistance	12 months ¹	Eligible	Eligible
California Food Assistance Program (CFAP)	12 months ¹	Not eligible	Eligible
Cash Assistance Program for Immigrants (CAPI)	12 months ¹	Eligible once SSI time limit expires	Eligible
State-Funded: Refugee Cash (TCVAP) Refugee Medical	Up to 8 months ²	Not eligible	8 months
Federal Benefits			
Supplemental Nutrition Assistance Program (SNAP, known as CalFresh)	Not eligible	Eligible	Not eligible
Supplemental Security Income (SSI)	Not eligible	Eligible during first 7 years after certification	Not eligible
Refugee Cash Asst. (RCA) Refugee Medical (RMA)	Not eligible	8 months	Not eligible
Refugee Social Services (RSS)	Not eligible	Eligible	Not eligible

To be eligible, immigrant survivors must also meet the program’s general rules (income, age, disability, pregnancy, family with children, etc.).

¹ The 12-month period may be extended if the trafficking survivor files a T visa application.

² Trafficking survivors who become federally certified transition from state to federal RCA/RMA/RSS. Federal RCA/RMA is available for 8 months; federal RSS is available for 5 years.

(Continued from page 2.)

Can my children, spouse, or other close relatives get benefits if they were granted T visa status based on my application?

Yes. If your relatives were granted a T visa based on your application,¹ they are eligible for federal benefits under the rules that apply to refugees. (Family members do not get ORR certification letters.) Family members who are U.S. citizens or lawfully present immigrants may also be eligible for benefits.

Trafficking Survivors with Disabilities

I have a disability. Which benefits may I receive?

Low-income seniors and people with disabilities may qualify for the Cash Assistance Program for Immigrants (CAPI), food stamps, and full-scope Medi-Cal. People with severe disabilities may qualify for In-Home Supportive Services (IHSS). They may also get services that do not have immigration requirements. Trafficking victims who are certified for federal benefits become eligible for Supplemental Security Income (SSI), rather than CAPI. (See the table on page 3.)

Trafficking Survivors: Single Adults without Disabilities

I have no children or disabilities. Which benefits may I receive?

Able-bodied adults without children generally are not eligible for CalWORKs or CAPI. However, these trafficking survivors may be able to get Refugee Cash Assistance (RCA), or assistance from the state-funded Trafficking and Crime Victims Assistance Program (TCVAP), and Refugee Social Services (RSS). Individuals who earn up to 138 percent of the federal poverty level (FPL) can get full-scope Medi-Cal, and those who earn between 138 and 200 percent FPL may be eligible for Refugee Medi-Cal (RMA). The refugee cash and medical programs are time-limited. When the time limits expire, trafficking victims may be able to get General Assistance and county medical care (if they are not otherwise eligible for Medi-Cal). They may also be eligible for CalFresh or CFAP.

Time Limits for Assistance *(see also the table on page 3)*

How long can I receive benefits as a trafficking survivor?

Trafficking survivors can get most state or local benefits for up to one year before filing for a T visa or having a request for “continued presence” filed on their behalf. Once these documents are filed, they can continue getting benefits. Benefits for trafficking survivors end,

¹ While this immigration status is commonly referred to as the “T visa,” U.S. Citizenship and Immigration Services refers to it as “T nonimmigrant status.”

however, if the T visa application is denied. The Refugee Cash and Refugee Medical programs have shorter time limits.

How long can I receive Refugee Cash, Medical, and Social Services?

Trafficking survivors can get up to 8 months of *state-funded* cash assistance (TCVAP) and refugee Medi-Cal (if they are not eligible for full-scope Medi-Cal) from the date of application. Victims who are certified for federal benefits can then get up to 8 months of *federal* RCA and RMA. The federal 8-month period starts on the date the victim is certified by ORR. Employment services such as English-language training and job preparation are available to trafficking survivors for up to 1 year and continue if a T visa application or request for “continued presence” is filed. Survivors who are certified for federal benefits can get Refugee Social Services for up to 5 years.

What happens to my benefits if I file an application for a T visa?

If you file an application for a T visa sooner than 12 months after you began receiving state or local benefits as a trafficking survivor, these services should continue without a break in aid. The services will end if your application for a T visa is denied.

What happens to my benefits if I get a T visa or “continued presence”?

If you are granted a T visa or “continued presence,” the ORR can certify you for federal benefits by issuing you a certification letter. If you are a child under the age of 18, ORR may issue an eligibility letter or an interim eligibility letter. Once you have an ORR letter, you should be able to transfer from state to federal services without a break in aid. In some cases (e.g., if you are moving from CAPI to SSI), you may need to apply separately for the federal program. In addition to the cash, food, and medical programs discussed above, victims with an ORR letter may be eligible for federal financial aid as well as public and Section 8 housing if they are otherwise eligible for these programs.

Social Security Numbers, Work Permits, and Work Requirements

Do I need to have a Social Security number (SSN) in order to get benefits?

Trafficking survivors are not required to have a Social Security number in order to get state or local benefits. If you become certified for federal benefits through the grant of either a T visa or “continued presence,” you will receive a work permit and can apply for an SSN. If you do not have a work permit, you may need to apply for a nonwork SSN in order to receive some benefits. The welfare office should help you do this. For more information on how to get a nonwork SSN for benefits purposes, see California Department of Social Services (DSS) All-County Information Notice I-54-01 (July 10, 2001, www.cdss.ca.gov/getinfo/acinfo1/pdf/I-54_01.pdf). See also Office of Refugee Resettlement

State Letter 00-23 (Nov. 16, 2000, www.acf.hhs.gov/programs/orr/resource/state-letter-00-23).

If I don't have a work permit, do I need to comply with the CalWORKs, TCVAP, RCA, or CFAP work requirements?

If you do not have a work permit, you will not be required to participate in job search or to meet the programs' work requirements. You may be assigned to other activities, such as adult basic education, English-language training, vocational education and training, or domestic violence, mental health or substance abuse services.

What if I have mental or physical issues related to the trafficking?

In addition to the exemptions from work requirements available to all participants, trafficking victims may be exempt from education and training programs if physical or mental issues arising from the trafficking prevent them from participating.

Services Available to All Immigrants and Citizens

Which services are available regardless of my immigration status?

Services available regardless of immigration status include domestic violence and homeless shelters, the Supplemental Nutrition Program for Women, Infants & Children (WIC), food banks, soup kitchens, school breakfast and lunch, prenatal care, family planning, emergency medical services (including labor and delivery), the Child Health and Disability Prevention Program (CHDP), community clinics, and services from most nonprofit agencies. In some counties, children in low- and moderate-income families can get health care regardless of their immigration status. In a few counties, adults can get medical care. No sooner than May 1, 2016, new rules will allow children, regardless of their immigration status, to establish eligibility for Medi-Cal.

If your family includes U.S. citizens or lawfully present immigrants, they may be able to get other benefits as well.

Services provided under the Victims Compensation Program also are available regardless of immigration status. To get these services, the trafficking survivor must agree to cooperate with police and court agencies in investigating or prosecuting the offender.

Covered California

Can trafficking survivors buy health coverage and qualify for tax credits in the health insurance marketplace, Covered California?

Lawfully present California residents whose income makes them ineligible for Medi-Cal can buy health insurance and qualify for tax credits through Covered California. Trafficking survivors who have been granted T nonimmigrant status or "continued presence" or who

have been certified by the Office of Refugee Resettlement are considered lawfully present for this purpose.

Public Charge

Will using benefits affect my application for a T visa or a green card?

Trafficking survivors are not subject to the “public charge” test when they apply for T nonimmigrant status or lawful permanent residence (a “green card”). They can use all public benefits without it affecting their immigration status. They could have immigration problems, however, if they did not tell the truth when they applied for benefits (e.g., if they did not reveal all of their income).

SURVIVORS OF DOMESTIC VIOLENCE AND OTHER SERIOUS CRIMES

(U Visa Applicants/holders)

There are two major forms of immigration relief available to non-U.S. citizen survivors of domestic violence. Survivors who are married to U.S. citizens or lawful permanent residents (LPRs) can “self-petition” for status under the Violence Against Women Act (VAWA). Survivors who have cooperated with law enforcement in the investigation or prosecution of certain criminal activity—including domestic violence—can apply for a U visa.¹ U visa applicants do not have to be married to a U.S. citizen or LPR. This section addresses benefits for U visa/interim relief applicants and U visa holders.

Who can file an application for a U visa?

To qualify for U visa, a noncitizen must prove that he or she

- has been the victim of certain criminal activity that occurred in the U.S. or violates a law of the U.S.,
- possesses information concerning this criminal activity,
- has been helpful, or is being helpful, or is likely to be helpful to law enforcement in the investigation or prosecution of this criminal activity, and
- suffered “substantial physical or mental abuse” as a result of the victimization.

What kinds of crimes are covered?

The criminal activity referred to above involves any of the following or similar activity in violation of federal, state or local criminal law:

¹ While this immigration status is commonly referred to as the “U visa,” U.S. Citizenship and Immigration Services refers to it as “U nonimmigrant status.”

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, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury, conspiracy, solicitation or attempt to commit any of these crimes.

How can I show that I have applied for a U visa?

The following documents are examples of what can be used to prove that you have applied for U nonimmigrant status:

- a copy of Form I-918 with Supplement B and proof of mailing to U.S. Citizenship and Immigration Services (USCIS)
- a notice of action approving U visa
- a confirmation receipt, letter or I-797 from USCIS verifying that a request for a U visa has been filed
- a notice of action that serves as a fee receipt for a work permit application based on an approved U visa
- Form I-797A approving U status, or U visa stamp in passport
- an employment authorization document issued under category (a)(19) or (a)(20)
- Form I-797C extension of U nonimmigrant status

You are not limited to the documents in the above list.

U Visa Applicants/ HOLDERS in Families with Children

I am in a family with children. Which benefits can I receive?

If you are low-income, you may be able to get CalWORKs, CFAP, and full-scope Medi-Cal. If your family includes U.S. citizens or lawfully present immigrants, they may be able to get these benefits as well. You and your family may also receive services that do not have immigration requirements, such as those listed below under “Services Available to All Immigrants and Citizens” (page 10).

U Visa Applicants/ HOLDERS with Disabilities

I have a disability. Which benefits can I receive?

Low-income seniors and persons with disabilities may qualify for the Cash Assistance Program for Immigrants (CAPI), CFAP, and full-scope Medi-Cal. Persons with severe disabilities may qualify for In-Home Supportive Services (IHSS). They may also get services that do not have restrictions based on immigration status.

U Visa Applicants/holders: Single Adults without Disabilities

I have no children or disabilities. Which benefits can I receive?

Able-bodied adults without children generally are not eligible for CalWORKs or CAPI. However, U visa applicants and holders may be able to get cash assistance under the Trafficking and Crime Victims Assistance Program (TCVAP) and Refugee Social Services (RSS). Individuals earning up to 138 percent of the federal poverty level can get full-scope Medi-Cal, and those earning between 138 and 200 percent FPL may be eligible for TCVAP Medi-Cal. The refugee and TCVAP cash and medical programs are time-limited. When the time limits expire, U visa applicants/holders may be able to get General Assistance and county medical care (if they are not otherwise eligible for Medi-Cal). They may also be eligible for CFAP.

Time Limits for Assistance (see also the table on page 3)

How long can I receive benefits as a U visa applicant/holder?

There is no special time limit for U visa applicants/holders. You can receive benefits under the same rules and time limits that apply to other program recipients. Your benefits will end if your U visa is denied.

How long can I receive TCVAP cash, and medical and social services?

U visa applicants and U visa holders can get up to 8 months of *state-funded* cash assistance (TCVAP) and TCVAP Medi-Cal (if they are not eligible for other full-scope Medi-Cal). Employment services such as English-language training and job preparation are available for up to 5 years.

Do I need to show that I am taking steps to qualify for federal benefits?

No. U visa applicants and U visa holders already have filed documents with the immigration authorities and do not need to take any other steps in order to get or keep their state or local benefits.

What if I get my U visa?

You are also eligible for state and local benefits if you get a U visa. ORR does not certify U visa holders for federal benefits eligibility.

Social Security Numbers, Work Permits, and Work Requirements

Do I need to have a Social Security number in order to get benefits?

U visa applicants/holders who do not have a work permit are not required to have a Social Security number in order to get state or local benefits. If you have a work permit, you may need to show your SSN in order to receive some benefits.

If I don't have a work permit, do I need to comply with the CalWORKs, TCVAP, or CFAP work requirements?

If you do not have a work permit, you will not be required to participate in job search or to meet the programs' work requirements. You may be assigned to other activities, such as adult basic education, English language training, vocational education and training, domestic violence, mental health or substance abuse services.

What if I have mental or physical issues related to the domestic violence or crime?

In addition to the exceptions from work requirements available to all recipients, survivors of domestic violence or other serious crimes may be exempt from education and training programs if physical or mental issues arising from the crime prevent them from participating.

Services Available to All Immigrants and Citizens

Which services are available regardless of my immigration status?

Services available regardless of immigration status include domestic violence and homeless shelters; the Supplemental Nutrition Program for Women, Infants, and Children (WIC); food banks; soup kitchens; school breakfast and lunch; prenatal care; family planning; emergency medical services (including labor and delivery); the Child Health and Disability Prevention Program (CHDP); community clinics; and services from most nonprofit agencies. In some counties, children in low- and moderate-income families can get health care regardless of their status. No sooner than May 1, 2016, new rules will allow children, regardless of their immigration status, to establish eligibility for Medi-Cal. In a few counties, adults can get medical care. If your family includes U.S. citizens or lawfully present immigrants, they may be able to get other benefits as well.

Services provided under the Victims Compensation Program also are available regardless of immigration status. To get these services, the victim must agree to cooperate with police and court agencies in prosecuting the offender.

Covered California

Can survivors of serious crimes buy health coverage and qualify for tax credits in the health insurance marketplace, Covered California?

Lawfully present California residents whose income makes them ineligible for Medi-Cal can buy health insurance and qualify for tax credits through Covered California. Survivors of serious crimes who have been granted U nonimmigrant status are considered lawfully present for this purpose.

Public Charge

Will using benefits affect my application for U status or for a green card by making me a “public charge”?

Survivors of serious crimes are not subject to the public charge test when they apply for U status or lawful permanent residence (a “green card”). They can use all public benefits without it affecting their immigration status. They could have immigration problems, however, if they did not tell the truth when they applied for benefits (e.g., if they did not reveal all of their income).

For more about the public charge test, see “INS Guidance on Public Charge: When Is It Safe to Use Public Benefits?” (www.nilc.org/document.html?id=464).

INFORMATION FOR ALL APPLICANTS

What should I do if the welfare office doesn’t accept my documents or denies my benefits?

You should get help from a legal advocate who is familiar with government benefits. See “Where can I go to get help?,” below.

For more information about benefits eligibility for survivors of trafficking, domestic violence, and other serious crimes, see:

- California Department of Health Care Services, All-County Welfare Directors Letter 15-25 (July 22, 2015), www.dhcs.ca.gov/services/medicaid/eligibility/Documents/ACWDL2015/ACWDL15-25.pdf.
- California Department of Social Services All-County Letter 06-60 (Dec. 21, 2006), www.dss.cahwnet.gov/getinfo/aclo6/pdf/06-60.pdf.
- California Department of Social Services All-County Letter 07-45 (Oct. 30, 2007), www.dss.cahwnet.gov/getinfo/aclo7/pdf/07-45.pdf.
- California Department of Social Services All-County Letter 08-15 (Apr. 4, 2008), www.cdss.ca.gov/lettersnotices/entres/getinfo/aclo8/08-15.pdf.
- Regulations at www.cdss.ca.gov/ord/entres/getinfo/pdf/fo20801r.pdf.

For information about immigrant eligibility for California benefits, see:

- National Immigration Law Center and California Immigrant Policy Center’s community education materials, available at www.nilc.org/communityed.html and www.nilc.org/benefitsca.html.
- The National Immigration Law Center’s table, “Major Benefit Programs Available to Immigrants in California,” www.nilc.org/bens_table.html.
- California Department of Social Services All-County Letter 00-07 (regarding “qualified” battered immigrants), www.dss.cahwnet.gov/getinfo/aclo0/pdf/00-07.PDF.
- Health Consumer Alliance’s consumer brochures, <http://healthconsumer.org/searchbrochures.php>.

Where can I go to get help?

- Legal Aid Foundation of Los Angeles
Toll-free 800.399.4529
- Neighborhood Legal Services of Los Angeles County
Toll-free 800.433.6251
- Bay Area Legal Aid
Toll-free 800.551.5554

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