

OTHER ELIGIBILITY REQUIREMENTS

**CITIZENSHIP AND IMMIGRATION STATUS
QUALIFIED ALIENS**

VICTIMS OF TRAFFICKING

Description: The federally eligible immigration category, “victims of a severe form of trafficking”, Section 107(b) of The Trafficking Victims Protection Act of 2000 (P.L. 106-386) makes victims of “a severe form of trafficking in persons” eligible for Medicaid and other benefits (if otherwise eligible) to the same extent as an alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act (INA).

Policy: Victims of “a severe form of trafficking in persons” (VOTs) are eligible for Medicaid and other benefits (if otherwise eligible) to the same extent as an alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act. Individuals with letters of certification or eligibility as victims of severe forms of trafficking are eligible for medical assistance. They retain this eligibility for seven years from the date of certification contained in the letter.

References:

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| The Trafficking Victims Protection Act of 2000 | Sect.107(B) P.L. 106-386 |
| The Trafficking Victims Reauthorization Protection Act of 2003 | P.L. 108-193 |
| Chapter 74 of the Laws of 2007 | |
| Dept. Regs. | 360.3.2 (j) |
| ADMs | 09 ADM-01(OTDA) 04-OMM/ADM-7 03-ADM-1(OTDA) |
| INF | 06 OMM INF-5 |
| GIS | 10 MA/002 08 MA/009 |

Interpretation: A “victim of a severe form of trafficking in persons” means a person:

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- 1) Who has been subjected to a “severe form of trafficking in persons,” which is defined as “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 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”; and
- 2) Who has not attained the age of 18 years or who is the subject of a certification issued by the federal government pursuant to Section 107(b)(1)(E) of the Act.

For individuals who meet the above criteria, the Office of Refugee Resettlement (ORR) will issue the certification letters for adults and the eligibility letters for children. To receive a certification or a letter, a victim of trafficking must be willing to assist with the investigation and prosecution of trafficking cases AND either:

- (1) Have made a bona fide application for a “T” visa that has not been denied. **OR**
- (2) Be an individual whose continued presence the Attorney General is ensuring to effectuate a Trafficking prosecution.

When a victim of trafficking applies for Medicaid, local districts must follow their normal procedures for establishing Medicaid eligibility for refugees. Local districts must also:

1. Accept the certification letter for adults, or eligibility letter for children in place of USCIS documentation. **Please note, as of November 6, 2001, certification letters for adults and eligibility letters for children no longer contain an eight-month expiration date.** Victims of severe forms of trafficking do not need to provide any other documentation of their immigration status. The local district must call the trafficking verification line at 1-866-401-5510 to verify the validity of the documentation.
2. Use the certification date as the “Date of Status” (DOS) for Medicaid purposes. The certification date is in the body of the certification letter or the eligibility letter for children.
3. Issue benefits to the same extent as other refugees, provided the victim of a severe form of trafficking meets other program eligibility criteria (e.g., income levels).

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criteria (e.g., income levels).

4. Upstate WMS: Districts should use citizenship/alien code (ACI) "D"-Victim of Human Trafficking.
5. New York City WMS: Workers should use ACI code "R"- Person Admitted as a Refugee" for Victim of Human Trafficking.

For purposes of Medicaid/Family Health Plus and/or Child Health Plus eligibility, victims of a severe form of trafficking, (holders of a T-visa/T-1, and holders of T-2, T-3, T-4 and T-5 ["Derivative" T-visas]) who are the minor children, spouses and in some cases the parents and siblings of victims of severe forms of trafficking in persons, may receive Medicaid benefits to the same extent as refugees. Recipients of a "T" visa are eligible for employment authorization. "T" visa recipients also may, if eligible, adjust their status to that of lawful permanent resident after three years. Victims may also apply for other immigration benefits such as an "S" visa (See section on **OTHER VISA STATUSES**) or asylum.

New York State "Confirmed" Victims of Human Trafficking:

Effective November 1, 2007 human trafficking was established as a crime in New York State. Under the law, a process to "*confirm*" victims of human trafficking as a means of providing assistance to such victims was established. State "*confirmed*" human trafficking victims who are citizens or aliens with a satisfactory immigration status who are otherwise eligible, are eligible for Medicaid benefits and services to the same extent as any other citizen or alien with satisfactory immigration status.

State "*confirmed*" human trafficking victims who do not have a satisfactory immigration status who are otherwise eligible for Medicaid may receive coverage and care necessary for the treatment of an emergency medical condition. (See **OTHER ELIGIBILITY REQUIREMENTS CITIZENSHIP AND IMMIGRATION STATUS UNDOCUMENTED/ILLEGAL ALIENS TREATMENT OF AN EMERGENCY MEDICAL CONDITION**) When the State "*confirmed*" adult or minor victim is an alien without satisfactory immigration status, local districts must contact the Office of Temporary and Disability Assistance (OTDA), Bureau of Refugee and Immigration Affairs (BRIA) Anti-Trafficking Program Coordinator. BRIA will refer the victim to a specific regional case management agency and/or other local resources that may be able to assist the victim.

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At the time of application, the “*confirmed*” adult victim should have received a letter from OTDA indicating that she/he is a state “*confirmed*” victim of human trafficking. Each “*confirmed*” adult victim must present evidence of confirmation. Should the victim not present the letter to the intake worker or she/he does not appear to have a letter, or if additional information about the case is needed, the local district must contact the BRIA Anti-Trafficking Program Coordinator.

Minor children who are State “*confirmed*” trafficking victims who are otherwise eligible, may be provided medical coverage without regard to immigration status under the Child Health Plus program. BRIA will notify the Idss by telephone and follow-up letter of any minor victims of human trafficking whether “*confirmed*” or “*not confirmed*”, and whether a “victim” or “possible victim” of human trafficking.

State “*confirmed*” human trafficking victims who are pregnant and otherwise eligible may be provided Medicaid at any time without regard to immigration status.

NOTE: State “*confirmed*” victims of human trafficking are not to be confused with the federally “*certified*” alien victims of human trafficking. Federally “*certified*” adults will have a Certification Letter from the Office of Refugee Resettlement (ORR). Children victims of human trafficking (under age 18) will have a letter of eligibility from ORR.