

The background is a dark olive green. It features a series of thin, white, intersecting lines that create a sense of movement and complexity. In the lower-left corner, there is a large, stylized white dandelion seed head. Several seeds are shown in mid-air, floating upwards and to the right, suggesting a breeze. Another single seed is shown floating in the upper-right quadrant of the page.

BENEFITS FOR IMMIGRANT VICTIMS OF TRAFFICKING,

DOMESTIC VIOLENCE AND OTHER SERIOUS CRIMES IN CALIFORNIA.

TABLE 1

***Immigrant Victims of Trafficking and Other Serious Crimes:
California Benefits Eligibility and Time Limits***

	Trafficking Victims (Pre-Certification)	Trafficking Victims (ORR Certified)	U Visa/Interim Relief applicants & U Visa holders
CalWORKs Medi-Cal Healthy Families Food Stamps IHSS General Assistance	12 months ¹	Eligible	Eligible
SSI (Supplemental Security Income)	Not eligible	Eligible during first 7 years after certification	Not eligible
CAPI (Cash Assistance Program for Immigrants)	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: Refugee Cash Asst. (RCA) Refugee Medical (RMA)	Not eligible	8 months	Not eligible
Refugee Social Services (RSS)	12 months ^{1, 2}	Eligible	Eligible

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

(Footnotes)

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

² Trafficking victims 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.



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

A new California law (SB 1569) provides state and local benefits to immigrant survivors of human trafficking, domestic violence and other serious crimes under the same rules that apply to refugees. This paper reviews the two categories of immigrants covered by this law (trafficking victims and U visa applicants), the benefits they may receive, and what they need to show in order to get these benefits. Eligibility for trafficking victims is explained below. The rules for U visa/Interim Relief applicants begin on page 7.¹

TRAFFICKING VICTIMS

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Immigrant victims 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 victims (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 victims for federal benefits, under the same rules that apply to refugees. The new California law provides state and local benefits to trafficking victims *before* they can get federal benefits — while they are taking steps to qualify for the federal programs.

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 pages 12–13 for links to information about these immigrants.

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
- 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 Victim?

State and local benefit agencies must consider “all relevant and credible evidence” in determining if a person is a trafficking victim. A sworn statement by the victim is sufficient if she/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 victim cannot provide any additional evidence, the victim’s 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.
- 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 Victims 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, food stamps, and full-scope Medi-Cal. If you have a slightly higher income, your children may be eligible for Healthy Families. You may also be able to get services that do not have an immigration status requirement, such as those listed on page 6.

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, 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.

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Trafficking Victims 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), food stamps 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 immigration requirements. Trafficking victims who are certified for federal benefits become eligible for Supplemental Security Income (SSI), rather than CAPI. (See Table 1)

Trafficking Victims: 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, CAPI or Medi-Cal. However, these trafficking victims may be able to get Refugee Cash Assistance (RCA) or the state-funded “Trafficking and Crime Victims Assistance Program” (TCVAP), Refugee Medi-Cal (RMA), and Refugee Social Services (RSS). These 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 food stamps.

Time Limits for Assistance (See Table 1)

How long can I receive benefits as a trafficking victim?

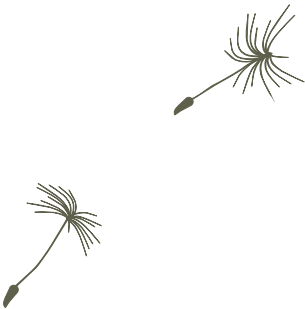
Trafficking victims can get most state or local benefits for up to one year before filing a T visa or having a request for “continued presence” filed on their behalf. Once these documents are filed, they can continue getting benefits. Benefits for trafficking victims end, however, if the T visa application 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 victims can get up to 8 months of *state-funded* cash assistance (TCVAP) and refugee 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 eight-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 victims for up to one year, and continue if a T visa application or request for continued presence is filed. Victims 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 less than 12 months after you began receiving state or local benefits as a trafficking victim, 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 Office of Refugee Resettlement (ORR) can certify you for federal benefits by issuing you a certification letter. If you are a child under the age of 18, ORR will issue you an eligibility letter. Once you have an ORR letter, you should be able 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, 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 victims 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 a SSN. If you do not have a work permit, you may need to apply for a non-work SSN in order to receive some benefits. The welfare office should help you do this. For more information on how to get a non-work SSN for benefits purposes, see California Department of Social Services (DSS) All-County Information Notice I-54-01 (July 10, 2001) at http://www.cdss.ca.gov/getinfo/acinfo/pdf/I-54_01.pdf.

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If I don’t have a work permit, do I need to comply with the CalWORKs, TCVAP, RCA or Food Stamp 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 exceptions 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 prevents 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 & delivery), the Child Health and Disability Prevention Program (CHDP), community clinics, and services from most non-profit agencies. In some counties, children in low and moderate-income families can get health care regardless of their status. 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.

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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 investigating or prosecuting the offender.

Public Charge

Will using benefits affect my application for a T visa or a Green Card?

Trafficking victims are not subject to the “public charge” test when they apply for a T visa or lawful permanent residence (a green card). They can use all public benefits without 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).

Victims of Domestic Violence and Other Serious Crimes

(U Visa/Interim Relief Applicants and U Visa Holders)

There are two major forms of immigration relief available to non-citizen victims of domestic violence. Victims who are married to U.S. citizens or lawful permanent residents (LPRs) can “self-petition” for status under the Violence Against Women Act (VAWA). Victims who have cooperated with law enforcement in the investigation or prosecution of certain criminal activity—including domestic violence—can apply for a U visa.² 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 or Interim Relief?

To qualify for a U visa or Interim Relief, a non-citizen 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
- 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:

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.

² While this immigration status is commonly referred to as the “U visa,” USCIS refers to it as “U nonimmigrant status.”



What is the difference between a U Visa and Interim Relief?

For several years before the federal government published regulations about the U visa, USCIS granted the temporary status of “Interim Relief” to crime victims who established through informal applications that they appeared to be eligible for U visas. On October 17, 2007, federal regulations governing eligibility and applications for U visas went into effect. There is now a U visa application Form I-918 and detailed instructions on who qualifies to apply. USCIS is no longer accepting applications for Interim Relief. Persons who were granted Interim Relief can continue to renew their work permits as long as they file their U visa applications by April 14, 2008.

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

The following documents are examples of what can be used to prove that you have applied for a U visa or Interim Relief.

- A copy of Form I-918 with Supplement B and proof of mailing to USCIS
- A Notice of Action approving U visa Interim Relief or a U visa
- A Notice of Action which serves as a fee receipt for a work permit application based on U visa Interim Relief or an approved U visa
- An Employment Authorization Document issued under Category (a)(19) or (a)(20)
- A confirmation receipt, letter or I-797 from USCIS verifying that a request for a U visa has been filed

You are not limited to the documents in this list.

U Visa Applicants 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, food stamps, and full-scope Medi-Cal. If you have a slightly higher income, your children may be eligible for Healthy Families. 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 on page 11.

U Visa Applicants 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), food stamps 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 immigration requirements.

U Visa Applicants: 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, CAPI or Medi-Cal. However, U visa and Interim Relief applicants may be able to get cash assistance under the “Trafficking and Crime Victims Assistance Program” (TCVAP), refugee medical services and refugee social services. These cash and medical programs are time-limited. When the time limits expire, U visa/Interim Relief applicants 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 food stamps.

Time Limits for Assistance (See Table 1)

How long can I receive benefits as a U visa or Interim Relief applicant?

There is no special time limit for U visa or Interim Relief Applicants or U visa 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 or request for Interim Relief is denied. If have already been granted Interim Relief and want to continue to extend it, you must file for a U visa by April 14, 2008.



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

U visa and Interim Relief applicants can get up to 8 months of *state-funded* cash assistance (TCVAP) and refugee medical services. 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 and Interim Relief applicants 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 or Interim Relief?

You are also eligible for state and local benefits if you get a U visa or Interim Relief. ORR does not certify U visa or Interim Relief holders for federal benefits eligibility. If you already have Interim Relief and want to extend it, you must file for a U visa by April 14, 2008.

Social Security Numbers, Work Permits and Work Requirements

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

U visa/Interim Relief applicants who do not have a work permit are not required to have a Social Security Number in order to get state or local benefits under the new law. 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, RCA or Food Stamp 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, victims 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 & Children (WIC), food banks, soup kitchens, school breakfast and lunch, prenatal care, family planning, emergency medical services (including labor & delivery), the Child Health and Disability Prevention Program (CHDP), community clinics, and services from most non-profit agencies. In some counties, children in low and moderate-income families can get health care regardless of their status. 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.

1 1

Public Charge

Will using benefits affect my application for a Green Card by making me a “public charge”?

U visa holders can ask to “waive” the public charge test when they apply for lawful permanent residence (a green card) if granting the waiver is in the public or national interest. If they do not get this waiver, the government will look at *all* of their circumstances (age, health, income, education, job skills, family situation) to decide whether they are likely to rely on cash welfare or long-term care *in the future*. Other non-cash benefits like food stamps, health care, or housing do not count in the public charge test. And cash benefits used temporarily in the past (e.g. to help a family escape domestic violence and live safely) aren’t weighed heavily, especially if the applicant is now employed. For more information about the public charge test see “INS

Guidance on Public Charge: When Is It Safe to Use Public Benefits?” at http://www.nilc.org/ciwc/ciwc_ce/pubchgce_9-22-04.PDF.

Note: Since U visas were not available until October 17, 2007, and since U visa holders must wait at least three years before applying for a green card, we don’t know how the public charge waiver or decision will work for these victims in practice. In general, however, domestic violence victims have been able to overcome the public charge test.

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 Social Services All-County Letter 06-60 (Dec. 21, 2006) at <http://www.dss.cahwnet.gov/getinfo/aclo6/pdf/06-60.pdf>

California Department of Social Services All-County Letter 07-45 (Oct. 30, 2007)) at <http://www.dss.cahwnet.gov/getinfo/aclo7/pdf/07-45.pdf>

ASISTA Fact Sheet on U visa Interim Regulations at <http://www.asistaonline.org/nnuvisaregs9-11-07.lm.pdf>

For information about immigrant eligibility for California benefits:

National Immigration Law Center and California Immigrant Policy Center’s community education materials at <http://www.nilc.org/ce/ceindex.htm>

Table of Major Benefit Programs Available to Immigrants in California http://www.nilc.org/ce/nonnilc/cal_benefits_table_2007-01-02.pdf

California Department of Social Services All-County Letter 00-07
(regarding “qualified” battered immigrants)
<http://www.dss.cahwnet.gov/getinfo/acloo/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
Government Benefits Unit (213) 640-3883
Immigration Unit (213) 640-3913

Neighborhood Legal Services of Los Angeles County
Toll Free (800) 433-6251

Bay Area Legal Aid
Toll Free (800) 551-5554



Credits

Written by Tanya Broder, National Immigration Law Center and
Sheila Neville, Legal Aid Foundation of Los Angeles.

Edited by Isabel Alegria, California Immigrant Policy Center.

Design by Michelle Matthews, Vagrant Design.



CALIFORNIA IMMIGRANT POLICY CENTER

1225 8th Street, Suite 590

Sacramento, CA 95814

PH 916.448.6762

FAX 916.448.6774

caimmigrant.org