ADMINISTRATION FOR CHILDREN & FAMILIES
Office of Refugee Resettlement

Waiver for Shift in RCA Time Eligibility Period[1]

Policy Letter 23-02

Initially Published January 25, 2023
Revised March 23, 2023[2]
Revised November 9, 2023[3]
Revised October 10, 2024[4]
Revised January 27, 2025[5]

The Office of Refugee Resettlement (ORR) is issuing this policy letter (PL) in response to reports of capacity constraints experienced by both ORR and mainstream benefits providers in locations where ORR-eligible populations have been arriving in high volume within a short timeframe. This PL announces that pursuant to 45 CFR § 400.300, States and Replacement Designees[6] may apply to ORR for a waiver of 45 CFR § 400.53(a)(1)[7] and § 400.100(d) to shift the Refugee Cash Assistance (RCA) time eligibility period for eligible individuals, as delineated below. This measure is consistent with refugee policy objectives and will allow ORR-eligible populations to receive critical assistance and services.

I. Background[8]

Grantees and partners in a number of locations have informed ORR that the influx of ORR-eligible populations, including new populations, in a short period of time has exceeded the capacity of agencies providing ORR benefits and mainstream benefits, such as Temporary Assistance for Needy Families (TANF) agencies, to meet with a client, conduct intake, review an application, conduct eligibility determination, and/or enroll the client for benefits and services. As a result, ORR-eligible individuals have not been able to apply for and receive benefits and services in a timely manner and are at risk of losing months of assistance.

For the delays involving applying for TANF, this situation is partially alleviated by ORR PL 25-01. ORR PL 25-01 delineates waivers for which States and Replacement Designees may apply to be able to provide interim RCA payments where an agency can document that, due to agency capacity constraints, a client has not been able to successfully apply for a Social Security number (a pre-requisite for TANF) or TANF. But if individuals are also experiencing delays in applying for and receiving RCA, they may miss several months of receipt of any cash assistance. As a monthly program that requires enrollment, RCA payments cannot be provided retroactively for the time prior to an individual's RCA application, even if that application is delayed due to agency capacity constraints. With the RCA time-eligible period limited to 12 months, an application taking several months to complete can lead to significant loss in total cash assistance.

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[1] Title changed on November 9, 2023, from *Waiver for Shift in RCA Time Eligibility Period for FY 2022 and FY 2023 Arrivals* to *Waiver for Shift in RCA Time Eligibility Period*.

[2] All March 23, 2023, revisions footnoted.

[3] November 9, 2023, revisions are footnoted.

[4] October 10, 2024, revisions are footnoted.

[5] January 27, 2025: Removed former section on equity and inclusion

[6] October 10, 2024: Throughout this PL, State is now capitalized when referring to a governmental agency and Replacement Designees are explicitly included.

[7] March 23, 2023: citation revised from § 400.53(a) to § 400.53(a)(1)

[8] October 10, 2024: Title changed from "Challenge" to "Background."

II. Potential Shift in RCA Time Eligibility Period[9]

Pursuant to 45 CFR § 400.50, States and Replacement Designees must provide individuals the opportunity to apply for cash assistance and must determine eligibility as promptly as possible within no more than 30 days from the date of application. ORR continues to emphasize the importance of meeting these standards, in light of the urgent needs of ORR-eligible populations.

However, because benefits agency capacity constraints are preventing individuals from being able to apply in a timely manner, ORR is exercising its authority under the Refugee Act[10] to, if it approves a State's or Replacement Designee's application, waive 45 CFR § 400.53(a)(1)[11] and allow approved States and Replacement Designees to consider eligible individuals' RCA time-eligible period of 12 months to begin as of the date of their RCA application, rather than upon their date of eligibility,[12] provided that their date of application is within 180 days of their date of eligibility.[13,14] This measure will apply to individuals with a date of ORR eligibility between October 1, 2021, and September 30, 2025.[15,16]

In order to secure ORR approval for this waiver, the State or Replacement Designee must also apply to waive 45 CFR § 400.100(d), which is the regulation that states that all recipients of RCA who are not eligible for Medicaid or Children's Health Insurance Program (CHIP) are eligible for Refugee Medical Assistance (RMA). The waiver of 45 CFR § 400.100(d) will not affect eligibility for RMA, Medicaid, or the Children's Health Insurance Program. Rather, ORR will be delinking the RCA and RMA eligibility time frames. ORR does not intend to universally authorize a shift in the RMA time frame. States and Replacement Designees that identify a need for a shift in the RMA time frame should reach out to their health liaison within ORR's Division of Refugee Health to discuss options.

Even with the waiver, States and Replacement Designees should try to comply with the regulatory requirement at 45 CFR § 400.50 that requires individuals be given the opportunity to apply for cash assistance on request. Further, pursuant to 45 CFR § 400.52, if a State or Replacement Designee determines that an eligible individual has an urgent need for cash assistance, it should review the application for cash assistance and issue the initial payment to the refugee as quickly as possible.[17]

III. Eligible Individuals

A State or Replacement Designee may apply to ORR to exercise this flexibility on behalf of its ORR-eligible clients who meet all of the following five criteria.

1. The individual is eligible for RCA with a date of ORR eligibility between October 1, 2021, and September 30, 2025.[18,19]

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[9] October 10, 2024: "Response:" removed from section title

[10] Per 8 U.S.C. 1522(e)(1), ORR may provide RCA "during the thirty-six month period beginning with the first month in which such refugee has entered the United States."

[11] March 23, 2023: citation revised from § 400.53(a) to § 400.53(a)(1)

[12] For information on eligible populations and their dates of eligibility for ORR benefits, refer to the following ORR PLs: PL 16-01*, Documentation Requirements for the Refugee Resettlement Program*; the PL 16-01 *Documentation Guide*; the PL 16-01 *Frequently Asked Questions document*; PL 22-01*, Afghan Humanitarian Parolees and Unaccompanied Afghan Minors Eligible for ORR Benefits and Services*; and PL 22-13*, Ukrainian Humanitarian Parolees Eligible for ORR Benefits and Services*.

[13] October 10, 2024: Removed unnecessary citations.

[14] Exceptions to this 180-day timeframe may be submitted to the ORR staff members noted within section V. of this letter for consideration on a case-by-case basis.

[15] November 9, 2023: Changed from September 30, 2023, to September 30, 2024.

[16] October 10, 2024: Changed from September 30, 2024, to September 30, 2025.

[17] October 10, 2024: Revised to clarify the steps involved in providing emergency cash assistance.

[18] November 9, 2023: Changed from September 30, 2023, to September 30, 2024.

[19] October 10, 2024: Changed from September 30, 2024, to September 30, 2025.

2. The individual applied for RCA within 180 days of their date of ORR eligibility.[20]

3. The State, Replacement Designee, or its subrecipient had not been able to conduct an RCA eligibility determination for the client in a timely manner or had determined the client's eligibility but had not been able to complete an application for the client in a timely manner, due to limited capacity.

4. The client has not received cash assistance from TANF.

5. The client is not currently enrolled in Matching Grant (MG).
   If a MG client exits the MG program prior to the conclusion of the customary MG period, or the client needs additional support after the conclusion of the MG period, the client may then be enrolled in RCA. However, a client cannot be provided more than 12 months of MG and RCA in total. In addition, the waivers in this PL do not affect the MG eligibility time frame or alter the MG Program guidelines in any way.

An approved application will allow the State or Replacement Designee to exercise this flexibility on behalf of all such clients, without requesting waivers for clients on an individual basis.

IV. Re-Enrollment[21]

A State or Replacement Designee that has received ORR approval for the waiver of 45 CFR § 400.53(a)(1) and § 400.100(d) as described in this PL may re-enroll a client in RCA if all of the following conditions are met.

1. The client experienced a delay in enrollment due to capacity constraints.

2. The client's enrollment in RCA terminated because their time-eligible period of 12 months after the date of their ORR-eligibility concluded, resulting in one or more months of unclaimed RCA for which the client would have been time-eligible had the waivers described in this PL been in place at the time of the client's RCA termination.

3. The State or Replacement Designee is able to document that, at the time of the potential re-enrollment, the client satisfies the eligibility criteria cited in section III of this PL and the ORR RCA eligibility criteria delineated in §400.53(a)(2), (3), and (4); §400.59 for public-private RCA programs; and § 400.66 for publicly-administered RCA programs.

The State or Replacement Designee must re-enroll the client in RCA before 09/30/2025, and the client may only receive up to 12 months of RCA in total.[22,23]

V. Application Contents

States or Replacement Designees that wish to apply must provide a justification to ORR and request a waiver of:

1. 45 CFR § 400.53(a)(1), which states that eligibility for RCA is limited to new arrivals who have resided in the U.S. less than the RCA eligibility period determined by the ORR Director, and

[20] See footnote #13.
[21] March 23, 2023: This entire section on "Re-Enrollment" added
[22] November 9, 2023: Changed from 09/30/2023 to 09/30/2024
[23] October 10, 2024: Changed from September 30, 2024, to September 30, 2025.

2. 45 CFR § 400.100(d), which states that all recipients of RCA who are not eligible for Medicaid or CHIP are eligible for RMA.

The justification must include the following:

1. A description of the lack of capacity of agencies providing ORR benefits and/or mainstream benefits,

2. An estimate of the number of ORR-eligible individuals for which the State or Replacement Designee will apply the shifted eligibility period, and

3. A description of how the State or Replacement Designee will administer this practice.

A State or Replacement Designee must submit a new application for each new FY.[24]

VI. Application Submission

A State or Replacement Designee can apply for this temporary measure by sending an email titled, "Application for RCA time eligibility shift" to their regional team[25] within the Division of Refugee Assistance, with copy to DRAPrograms@acf.hhs.gov. ORR will review the request for applicability and notify the State or Replacement Designee within 130 days whether the application is accepted or not.

VII. Other ORR Refugee Programs

This shift in time eligibility period for RCA does not apply to other ORR refugee programs (e.g., RMA, Refugee Social Services, MG, Preferred Communities, Refugee Family Childcare Microenterprise Development, etc.). As noted within section II., any State or Replacement Designee with concerns about RMA time eligibility should contact their health liaison within ORR's Division of Refugee Health.

If you have questions about the information contained in this PL, contact ORR's Division of Refugee Policy at RefugeePolicy@acf.hhs.gov.

Robin Dunn Marcos
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Director, Office of Refugee Resettlement
Administration for Children and Families

[24] October 10, 2024: Statement added.
[25] October 10, 2024: Changed from Regional Representative/Analyst to regional team.