

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6 FAMILY AND ADULT SERVICES DIVISION

CHAPTER 661

REFUGEE RESETTLEMENT, REPATRIATE, AND STATE
LEGALIZATION IMPACT ASSISTANCE GRANT (SLIAG) PROGRAMS

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Historical Note: This chapter is based substantially upon §17-619-5 [Eff 7/19/82; am 5/23/83; am 4/20/85; am 1/28/88; am 12/16/88; am 12/27/90; R 3/19/93] chapter 17-639 [Eff 7/19/82; am 10/20/82; am 5/23/83; am 11/12/83; am 5/10/84; am 8/12/85; am 12/1/85; am 5/5/86; R 3/19/93] chapter 17-644 [Eff 4/20/85; am 10/23/87; R 3/19/93] §§17-752-1, 17-752-2, 17-752-3, 17-752-4, 17-752-5, 17-752-6, 17-752-7, 17-752-8, 17-752-9 [Eff 7/19/82; am 12/17/82; am 8/20/83; am 3/30/84; am 5/5/86; R 3/19/93]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-661-1 Purpose. The purpose of this chapter is to establish the financial assistance requirements for eligibility and participation in the refugee resettlement, repatriate, and state legalization impact assistance grant (SLIAG) programs. [Eff 3/19/93; am 8/1/94] (Auth: HRS §346-14) (Imp: HRS §§346-14, 346-53)

§17-661-2 Definitions. As used in this chapter: "Administrative hearing" means an administrative proceeding which affords an aggrieved person an opportunity to present an appeal before the department's hearing officer.

"Assistance unit" means persons whose needs, income, and assets are considered in determining eligibility for financial assistance and the amount of financial assistance.

"Caretaker relative" means a relative who provides care and supervision to children.

"Categorical relatedness" means requirements which an individual shall meet in order to be eligible for assistance for a specific program. [Eff 3/19/93; am 8/1/94] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-661-3 Administrative hearings. (a) The procedures for administrative hearings specified in chapter 17-602.1 shall apply.

(b) Recipients of assistance under the repatriate program are not eligible to receive aid pending a hearing decision. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. §§211.6, 211.7, 212.4, 400.23)

§17-661-4 to 17-661-5 (Reserved)

SUBCHAPTER 2

REFUGEE RESETTLEMENT PROGRAM

§17-661-6 Purpose. The purpose of this subchapter is to establish the financial assistance requirements for eligibility and participation in the refugee resettlement program. [Eff 3/19/93; am 8/1/94] (Auth: HRS §346-14) (Imp: HRS §§346-14, 346-56)

§17-661-7 Definitions. As used in this subchapter:

"Full-time training" means that the refugee is enrolled in at least thirty hours of training in a program as part of an employability plan approved by the service agency which has been approved by the department.

"Refugee" means a person who is outside of the country of the person's nationality or last place of habitual residence, is unable or unwilling to use the protection of that country because of persecution or a well founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, has been admitted into the United States by the Immigration and Naturalization Service (INS) as a refugee and, if a dependent of a repatriated United States citizen, has been in the United States for more than ninety days.

"Refugee cash assistance (RCA)" means cash assistance provided to refugees who are ineligible for AFDC or SSI and who have resided in the United States for less than a specified period of time from their initial entry into the country. Effective October 1, 1991, the specified period of time shall be eight months and may be increased or decreased, subject to the availability of federal funds, by the Office of Refugee Resettlement.

"Refugee resettlement program" means the federally funded program, established by section 412(a)(9), Immigration and Nationality Act (8 U.S.C. §1522(a)(9)), for the resettlement of refugees in the United States.

"Repatriated United States citizen" means an individual who has reestablished residence in the United States.

"Service agency" means an agency providing employment services funded under the refugee resettlement program.

"Sponsor" means any person or agency who has assumed the responsibility for assisting a refugee resettle into a community.

"State employment service" means the employment service of the state department of labor and industrial relations.

"Voluntary resettlement agency" means a private, nonprofit organization contracted by the federal government to provide initial resettlement services to refugees. [Eff 3/19/93; am 8/1/94] (Auth: HRS §§346-14, 346-56) (Imp: HRS §346-56; 45 C.F.R. §400.2)

§17-661-8 Exclusions from the definition of refugee. Excluded from the status of a refugee shall be:

- (1) Dependents of repatriated United States citizens who:
 - (A) Have been in the United States for ninety days or less; and
 - (B) Have one of the following specified relationships to the repatriated citizens:
 - (i) Spouse;
 - (ii) Parents;
 - (iii) Grandparents;
 - (iv) Unmarried minor child, including an adopted child or stepchild;
 - (v) Unmarried adult child, including an adopted child or stepchild, who is dependent because of a handicap;
 - (vi) Spouse's parents;
 - (vii) Spouse's grandparents; or
 - (viii) Minor siblings of the repatriated citizen or the citizen's spouse;
- (2) Individuals from Cuba who:
 - (A) Entered the United States before October 1, 1978, and are registered with the United States Cuban refugee center in Miami, Florida; or
 - (B) Have been admitted into the United States with the INS status of "applicant for asylum" or "Cuban entrant";
- (3) Individuals from Haiti who are admitted into the United States with the INS status of "Haitian entrant"; or
- (4) Any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion. [Eff 3/19/93] (Auth: HRS §§346-14, 346-56) (Imp: HRS §346-56; 8 U.S.C. §1101(a)(42))

§17-661-9 Identification of a refugee. Refugees shall possess an INS form I-94 or INS form I-151 or I-551.

- (1) The individual who began receiving financial assistance under the refugee resettlement program prior to October 15, 1980, shall possess:
 - (A) INS form I-94 with the status of "conditional entrant", "paroled", or "voluntary departure"; or
 - (B) INS form I-151 or I-551, admitted to the United States with permanent resident status on or after April 8, 1975, or has attained permanent resident as a result of an adjustment of status under Pub. L. No. 95-145.
- (2) The individual who is an applicant or recipient of refugee resettlement assistance on or after October 15, 1980, and possesses:
 - (A) INS form I-94 indicating that the individual has been admitted or paroled as a refugee or asylee if the form was issued:
 - (i) To a person from Cambodia, Laos, or Vietnam on or after June 1, 1980;
 - (ii) To a person from Cuba on or after October 1, 1978; or
 - (iii) To a person from any other country at any time;
 - (B) INS form I-94 indicating that the individual has been admitted as a conditional entrant. The "conditional entrant" status shall not be related to the "entrant" status granted Cubans and Haitians, who are not eligible under the refugee resettlement program; or
 - (C) INS form I-151 or I-551, identifying the individual as a resident alien. In addition, the person shall also have sufficient documentation to substantiate that one of the statuses indicated in subparagraphs (A) or (B) was held prior to adjustment of the person's status to

that of resident alien. [Eff 3/19/93]
(Auth: HRS §§346-14, 346-56) (Imp: HRS
§346-56)

§17-661-10 Sponsor contact. (a) The department shall notify the voluntary resettlement agency or local affiliate which provided for the initial resettlement of the refugee when a refugee applies for assistance.

(b) The department shall contact the refugee's sponsor or resettlement agency to determine what assistance is being provided the refugee and whether the refugee requesting financial assistance has refused an offer of employment or has voluntarily quit a job without good cause.

(1) A telephone contact with the sponsor or resettlement agency shall be acceptable when a personal contact is not possible; and

(2) Information obtained shall be recorded in the case record.

(c) The income and resources of sponsors shall not be considered in determining the refugee's eligibility.

(d) In order to meet an emergency need, the requirement for verification with the sponsor or resettlement agency shall be temporarily waived when it is not possible to reach the sponsor or resettlement agency.

(1) The procedures for emergency processing of financial assistance shall apply; and

(2) For financial assistance, the necessary verification shall be obtained before any subsequent payment is made. [Eff 3/19/93; am 8/1/94] (Auth: HRS §§346-14, 346-56) (Imp: HRS §346-56; 45 C.F.R. §§400.55, 400.93)

§17-661-11 Eligibility for RCA. (a) Refugee families who qualify for AFDC shall be categorized as state funded AFDC (AFDC-S):

(1) The eligibility requirements and conditions of the AFDC program shall apply;

- (2) Income and assets remaining in the refugee's country of origin shall not be considered available; and
 - (3) These families shall be considered eligible for RCA.
- (b) Refugee applicants and recipients who do not qualify for AFDC shall be processed for RCA without regard to categorical relatedness;
- (1) The refugee shall be classified under the general assistance (GA) or state aged, blind, or disabled (AABD) program, as appropriate;
 - (2) The budgeting of income and assets shall be in accordance with the state's AFDC need standard; and
 - (3) Income and assets remaining in the refugee's country of origin shall not be considered available.
- (c) Effective March 1, 1986, a refugee who meets the eligibility criteria of the refugee resettlement program shall be eligible for RCA. The amount and duration of assistance shall not exceed the maximum amount which the State is permitted to claim as reimbursement from the Office of Refugee Resettlement.
- (d) Children born in the United States of refugee parents are eligible for RCA from the date of the most recently arrived parent or the date of the child's birth, whichever occurs first.
- (e) Refugees who are full-time students in institutions of higher education shall not be eligible for RCA, except where enrollment is approved as part of an employability plan. [Eff 3/19/93; am 7/16/99]
(Auth: HRS §§346-14, 346-56) (Imp: HRS §346-56; 8 U.S.C. §1522(e); 45 C.F.R. §400.60)

§17-661-12 Repealed. [R 8/1/94]

§17-661-13 Relationship to supplemental security income. (a) All refugee recipients under the refugee resettlement program who are sixty-five years of age or older, or who are blind or disabled shall be referred to the Social Security Administration to apply for Supplemental Security Income (SSI) benefits.

(b) State supplemental assistance to refugee SSI recipients shall be provided according to state standards. [Eff 3/19/93] (Auth: HRS §§346-14, 346-56) (Imp: HRS §346-56)

§17-661-14 Records. The following information shall be entered in the case record of each refugee:

- (1) The name and address of the sponsor;
- (2) The name of the national voluntary resettlement agency which resettled the refugee. If a refugee was not resettled by a voluntary resettlement agency, this information shall be recorded in the case file; and
- (3) The passport or alien registration number on the form I-94. [Eff 3/19/93] (Auth: HRS §§346-14, 346-56) (Imp: HRS §346-56)

§17-661-15 Redetermination of eligibility. (a) The provisions of Chapter 17-648 relating to redetermination of eligibility shall apply.

(b) Eligibility for RCA shall be redetermined not less frequently than every twelve months.

(c) The department shall contact the refugee's sponsor or resettlement agency to determine what assistance the sponsor or resettlement agency is providing and whether the refugee receiving RCA has refused an offer of employment or has voluntarily quit a job without good cause. [Eff 3/19/93; am 8/1/94] (Auth: HRS §§346-14, 346-56) (Imp: HRS §346-56; 45 C.F.R. §400.64)

§17-661-16 Employment requirements for RCA. (a) As a condition for receipt of RCA under the refugee resettlement program, a refugee shall register with an appropriate service agency approved by the state, unless exempt under section 17-661-19. If there is no service agency approved by the state, the refugee shall register with the state employment service.

(b) The employable refugee shall not, during thirty consecutive calendar days immediately prior to

the application for assistance have voluntarily quit employment or have refused to apply for or accept an appropriate offer of employment.

(c) The dependents of an ineligible applicant may apply for and receive RCA if the dependents otherwise meet eligibility requirements.

(d) While receiving RCA, the employable refugee shall be disqualified when:

- (1) The refugee voluntarily quit employment for the purpose of receiving assistance; or
- (2) The refugee refused to apply for or complete the application or appraisal process with the state employment service or service agency approved by the state; or
- (3) The state employment service or service agency approved by the state determines that the employable refugee has refused to apply for or accept an appropriate offer of employment, or refused to participate in employment related training. [Eff 3/19/93]
(Auth: HRS §346-14) (Imp: HRS §346-56; 8 U.S.C. §1522; 45 C.F.R. §§400.75, 400.76, 400.77)

§17-661-17 Training requirements for RCA. (a) As a condition for continued receipt of RCA, the refugee who is unemployed or employed less than one hundred hours per month, shall be required to participate in training such as English language or skill training, if available, and if determined appropriate by the service agency approved by the state.

(b) The refugee who is employed one hundred or more hours per month, shall be encouraged to participate in part-time English language or skill training. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: HRS §346-56; 45 C.F.R. §400.75)

§17-661-18 Appropriate employment and training criteria for RCA. (a) The determination of appropriate work or training for the RCA refugee shall

be made by the state employment service or the service agency approved by the state.

(b) The work or training site to which the individual is assigned shall not be in violation of applicable federal, state, and county health and safety standards.

(c) Assignments shall not be made which are discriminatory in terms of age, sex, race, creed, color, or national origin.

(d) The total commuting time to and from a work or training site to which the individual is assigned shall not normally exceed two hours, not including the transporting of a child to and from a child care facility. A longer commuting distance and time may generally be accepted in the community, in which case the round-trip commuting time shall not exceed the generally accepted community standards.

(e) Full-time attendance in a college program for a person aged eighteen or over shall be considered appropriate training for an individual provided:

- (1) The individual is a professional in need of professional refresher training and other recertification services to qualify to practice his or her profession in the United States: and
- (2) The training:
 - (A) Is approved as part of the individual's employability plan by the state agency;
 - (B) Does not exceed the specified time period to receive RCA benefits;
 - (C) Is specifically intended to assist the professional in becoming relicensed in his or her profession; and
 - (D) If completed, can realistically be expected to result in such relicensing.

(f) A refugee of any age who is otherwise eligible shall not be denied RCA while enrolled and participating in a full-time training program which has a definite short-term, less than one year employment objective, which is part of an employability plan approved by the service agency approved by the department.

(g) When child care is required during the hours the individual is in training, or is in English

language instruction, or when child care is required for additional commuting time, a referral for assistance shall be made by the eligibility worker to the department's social service section.

(h) The individual's claim of adverse effect of a job or training assignment on the individual's physical or mental health shall be based upon medical verification from a physician or certified psychologist that participation would impair the individual's physical or mental health. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 45 C.F.R. §400.81)

§17-661-19 RCA employment and training exemptions. (a) A refugee shall be considered employable unless one of the following exemptions applies:

- (1) The individual is under age sixteen, or under age eighteen and is a full-time student as specified in chapter 17-656;
- (2) The individual is age eighteen and is:
 - (A) A full-time student in a secondary school or in the equivalent level of vocational or technical training, as specified in chapter 17-656, and is reasonably expected to complete the program before reaching age nineteen; or
 - (B) Enrolled full-time in training as part of an employability plan approved by the service agency approved by the department;
- (3) A person is ill, incapacitated, or over age sixty-five. The incapacity shall be verified through a written medical, psychological, or psychiatric report showing the limitations and the estimated period of incapacity;
- (4) A person whose presence in the home is required because of illness or incapacity of another member of the household;
- (5) A mother or other caretaker of a child under the age of six who is caring for the child; or
- (6) A mother or other caretaker of a child, when the nonexempt father or other nonexempt adult

relative in the house is registered and has not refused to accept employment without good cause.

(b) A refugee shall not be exempt from accepting employment because of part-time participation in training under an approved employability plan by the service agency approved by the department.

(c) Inability to communicate in English shall not make the refugee unemployable. [Eff 03/19/93] (Auth: HRS §§346-14, 346-56) (Imp: HRS §346-56, 45 C.F.R. §400.76)

§17-661-20 RCA employment and training sanctions.

(a) Upon refusal by an employable refugee recipient to comply with the employment requirements of section 17-661-16 the department shall:

- (1) Provide a timely and adequate notice as provided in chapter 17-649; (2) Provide a conciliation period prior to the imposition of a sanction within the following time-limitations:
 - (A) No later than ten days following the date of failure or refusal to participate; and
 - (B) Complete conciliation within a thirty day period; or
 - (C) Terminate conciliation within the thirty day period when either the department or the recipient believes that the dispute cannot be resolved by conciliation;
- (3) Terminate assistance for the refugee refusing to comply with the employment and training requirements after the conciliation period specified in paragraph (2) and following timely and adequate notice standards as identified in chapter 17-649 and hearing requirements as described in chapter 17-602.1;
- (4) Apply a sanction in the following manner:
 - (A) If the assistance unit includes other individuals, then the grant shall be reduced by the amount included on behalf of that refugee. If the employable

refugee is a needy caretaker relative, assistance in the form of protective or vendor payments shall be provided to the remaining members of the assistance unit; or

(B) If the individual is the only individual in the assistance unit, the grant shall be terminated.

(b) An employable refugee shall be ineligible for assistance for the following periods when assistance is terminated because of refusal to accept or continue employment or to participate in an available and appropriate social service program:

(1) Three payment months for the first occurrence; and

(2) Six payment months for each subsequent occurrence.

(c) An employable refugee who reapplies for assistance after the disqualification period shall be required to accept and participate in any training or employment before assistance is approved. [Eff 03/19/93; am 3/14/94] (Auth: HRS §346-56) (Imp: HRS §346-56, 45 C.F.R. §§400.77, 400.82)

§17-661-21 Repealed. [R 8/1/94]

§§17-661-22 to 17-661-25 (Reserved)

SUBCHAPTER 3

REPATRIATE PROGRAM

§17-661-26 Purpose. This chapter identifies the individuals and the services available to United States citizens who are returned from foreign countries (repatriates). [Eff 03/19/93] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. §§211, 212)

§17-661-27 Definitions. As used in this chapter:

"Department" means the department of human services.

"Eligible person" means an individual who meets the conditions specified in section 17-661-28.

"Service" means the Social and Rehabilitation Service, Department of Health and Human Services.

"Temporary assistance" means financial assistance, medical care, temporary billeting, transportation, and other goods and services necessary for the health or welfare of individuals, including guidance, counseling, and other welfare services. [Eff 03/19/93] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. §§211, 212)

§17-661-28 Conditions of eligibility. To be eligible for services, the individual shall be:

- (1) A citizen of the United States or a dependent of a citizen of the United States;
- (2) Identified as having returned or been brought from a foreign country to the United States through a written statement transmitted to the Service by an authorized official of the Department of State because of the following situations:
 - (A) Destitution of the citizen of the United States;
 - (B) Illness of the citizen or any of the citizen's dependents;
 - (C) War;
 - (D) Threat of war;
 - (E) Invasion; or
 - (F) Similar crises;
- (3) Without resources immediately accessible to meet the individual's needs; and
- (4) Ineligible to receive AFDC:
 - (A) Eligible persons shall be processed for AFDC rather than repatriation assistance wherever possible;
 - (B) Repatriation assistance shall be provided until AFDC is approved; and
 - (C) When the family or a member of the family becomes ineligible for AFDC, repatriation assistance shall be provided for any period remaining in the

ninety day eligibility period. [Eff
03/19/93] (Auth: HRS §346-14) (Imp:
HRS §346-14; 45 C.F.R. §§211, 212)

§17-661-29 Scope of service. (a) The department, upon notification by the Service, shall meet individuals identified under section 17-661-28 at the port of entry or debarkation.

(b) The department shall provide temporary assistance to an eligible person for up to ninety days from the date of arrival in the United States.

(c) Temporary assistance may be extended for up to nine months if the repatriate is handicapped in attaining self-support or self-care for the following reasons:

- (1) Age;
- (2) Disability; or
- (3) Lack of vocational preparation, in which case temporary assistance may be extended upon prior authorization by the Service for nine additional months.

(d) Prior authorization from the federal administration to provide benefits beyond ninety days is required. [Eff 03/19/93] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. §§211, 212)

§17-661-30 Financial assistance. (a) Financial assistance for resettlement expenses shall be provided as a one time payment:

- (1) The resettlement expenses shall be limited to actual cost, not to exceed the difference between the standard of assistance authorized by Family Support Administration per family member and the department's standard of assistance for that size family; and
- (2) The family may request the one time payment anytime during the ninety day period of eligibility.

(b) Financial assistance for subsistence expenses shall be limited to the department's standard of assistance for that size family specified in chapter 17-678.

(c) Any income shall be counted against the financial assistance. [Eff 03/19/93; am 3/14/94] (Auth: §346-14) (Imp: HRS §346-14; 45 C.F.R. §§211, 212)

§17-661-31 Termination of payment. (a) The eligible individual who receives assistance, or the individual who is caring for or otherwise is acting on behalf of the eligible individual, shall report promptly to the department any event or circumstances which would cause the assistance to be changed in amount or terminated.

(b) Assistance shall be terminated on the ninety-first day unless assistance has been extended as provided in section 17-661-29(c).

(c) When assistance is terminated, an adequate notice which includes the following information shall be sent:

- (1) A statement of the action the department intends to take;
- (2) The reasons for the intended action; and
- (3) An explanation of the individual's right to request an informal review, an administrative hearing, or both.

(d) When an administrative hearing request is received, the request shall be processed according to chapter 17-602.1.

(e) The repatriate is not eligible to receive aid pending a hearing decision. [Eff 03/19/93] (Auth: §346-14) (Imp: HRS §346-14, 45 C.F.R. §§205.10, 211, 212)

§§17-661-32 to 17-661-35 (Reserved).

SUBCHAPTER 4

SLIAG PROGRAM

§17-661-36 Purpose. The purpose of this subchapter is to establish the requirements for eligibility and participation in the state legalization

impact assistance grant (SLIAG) program. [Eff 03/19/93] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-661-37 Eligible individuals. (a) SLIAG benefits are available to individuals granted lawful temporary or permanent resident status under sections 210, 210A, or 245A of the Immigration and Nationality Act (8 U.S.C. §§1101, et seq.) in accordance with section 204 of Pub. L. No. 99-603 (8 U.S.C. §1255a), Immigration Reform and Control Act of 1986.

- (b) Financial assistance shall be provided to:
- (1) Individuals between eighteen and sixty-four years of age who are disabled;
 - (2) Individuals between fifty-five and sixty-four years of age who are able to work; and
 - (3) Families with dependent children who do not qualify for AFDC. [Eff 03/19/93; am 8/1/94] (Auth: HRS §346-14) (Imp: 45 C.F.R. §§402.1, 402.2)

§17-661-38 Program requirements. The individual or family shall comply with the general assistance (GA) requirements specified in chapter 17-659. [Eff 3/19/93; am 8/1/94] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. §§402.1, 402.2)