COMMENT DUE DATE: December 7, 2021

Date: November 23, 2021

Linda Cavitt, Deputy Director AFS 405-317-0886
Holli Kyker, Policy Specialist 405-982-2217
Dena Thayer, Programs Administrator 405-693-6542

It is important that you provide your comments regarding the draft copy of policy by the comment due date. Comments are directed to *STO.LegalServices.Policy@okdhs.org. The proposed policy is EMERGENCY.

SUBJECT:
Chapter 60. Refugee Resettlement Program
340:60-1-3 [AMENDED]
(Reference WF 21-13)

SUMMARY:
The proposed amendment to Chapter 60 Subchapter 1 amend the rules to: (1) consolidate relevant information regarding the purpose, legal basis, and funding availability being revoked from Oklahoma Administrative Code (OAC) 340:60-1-1 and 340:60-1-2; (2) add recently admitted Afghans who receive special immigrant (SI) conditional permanent residence, SI/SQ parole, or who are considered humanitarian parolees to be eligible for refugee cash assistance (RCA) and refugee medical assistance (RMA) benefits for a designated time period; (3) add clarifying language and a legal citation; and (4) update terminology.

EMERGENCY APPROVAL:
Emergency rulemaking approval is requested to add recently admitted Afghans who receive SI conditional permanent residence, SI/SQ Parole, or who are considered humanitarian parolees to be eligible for RCA and RMA benefits for a designated time period, per the recently passed, per the Afghanistan Supplemental Appropriations Act, 2022.

LEGAL AUTHORITY:
Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes; Sections 400.1 and 400.23 of Title 45 of the Code of Federal Regulations, the Afghanistan Supplemental Appropriations Act, 2022, Policy Letter 22-01, Afghan Humanitarian Parolees and Unaccompanied Afghan Minors Eligible for Office of Refugee Resettlement (ORR) Benefits and Services, and Policy Letter 22-02, Additional ORR-Eligible Statuses and Categories and Acceptable Documentation Requirements for Afghan Nationals.
Rule Impact Statement

To: Programs administrator
   Office of Intergovernmental Relations and Policy

From: Deborah Smith, Director
       Adult and Family Services

Date: October 28, 2021

Re: Chapter 60. Refugee Resettlement Program
   340:60-1-3 [AMENDED]
   (Reference WF 21-13)

Contact: Linda Cavitt, 405-317-0886

A. Brief description of the purpose of the proposed rule:

Purpose:
The proposed amendment to Chapter 60 Subchapter 1 amend the rules to: (1) consolidate relevant information regarding the purpose, legal basis, and funding availability being revoked from Oklahoma Administrative Code (OAC) 340:60-1-1 and 340:60-1-2; (2) add recently admitted Afghans who receive special immigrant (SI) conditional permanent residence, SI/SQ parole, or who are considered humanitarian parolees to be eligible for refugee cash assistance (RCA) and refugee medical assistance (RMA) benefits for a designated time period; (3) add clarifying language and a legal citation; and (4) update terminology.

Strategic Plan Impact.
The proposed amendment achieves Oklahoma Human Services (OKDHS) goals by continuously improving systems and processes and improving communication with OKDHS clients and staff.

Substantive changes.
Chapter 60
OAC 340:60-1-3 is amended to: (1) consolidate relevant information regarding the purpose, legal basis, and funding availability being revoked from OAC 340:60-1-1 and 340:60-1-2; (2) add recently admitted Afghans who receive SI conditional permanent residence, SI/SQ Parole, or who are considered humanitarian parolees to be eligible for RCA and RMA benefits for a designated time period; (3) add clarifying language and a legal citation; and (4) update terminology.

Reasons.
The proposed amendment to incorporate relevant information regarding the purpose, legal basis, and funding availability of the Refugee Resettlement Program is
made to consolidate rules into fewer sections, add clarifying language for greater understandability, and to make information easier to find.

The proposed amendment to add recently admitted Afghans who receive SI conditional permanent residence, SI/SQ Parole, or who are considered humanitarian parolees to be eligible for RCA and RMA benefits for a designated time period, per the Afghanistan Supplemental Appropriations Act, 2022 that became effective September 30, 2021.

**Repercussions.**

If the proposed amendment is not implemented, expected benefits from consolidating rules and clarifying information will not be accomplished.

If the proposed amendment to add recently admitted Afghans who receive SI conditional permanent residence, SI/SQ Parole, or who are considered humanitarian parolees to be eligible for RCA and RMA benefits for a designated time period is not implemented, OKDHS will be out of compliance with federal law.

**Legal authority.**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes; Sections 400.1 and 400.23 of Title 45 of the Code of Federal Regulations, the Afghanistan Supplemental Appropriations Act, 2022, Policy Letter 22-01, Afghan Humanitarian Parolees and Unaccompanied Afghan Minors Eligible for Office of Refugee Resettlement (ORR) Benefits and Services, and Policy Letter 22-02, Additional ORR-Eligible Statuses and Categories and Acceptable Documentation Requirements for Afghan Nationals.

Emergency rulemaking approval is requested to add recently admitted Afghans who receive SI conditional permanent residence, SI/SQ Parole, or who are considered humanitarian parolees to be eligible for RCA and RMA benefits for a designated time period, per the recently passed, per the Afghanistan Supplemental Appropriations Act, 2022.

B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the Agency from any private or public entities: The classes of persons most likely to be affected by the proposed amendment are Afghan parolees applying for or receiving RCA and RMA benefits and Adult and Family Services (AFS) staff. The affected classes of persons will bear no costs associated with implementation of the rules.

C. A description of the classes of persons who will benefit from the proposed rule: The classes of persons who will benefit are Afghan parolees applying for or receiving RCA and RMA benefits and AFS staff.

D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee
The proposed amendment does not have an economic impact on the affected persons or political subdivisions. There are no fee changes associated with the revised rules.

The probable costs and benefits to the Agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the Agency: The probable cost to OKDHS includes the cost of printing and distributing the rules estimated to be less than $20. The revised rules will result in easier access to benefits for refugee clients. Funding for this expansion in eligibility is provided under the Afghanistan Supplemental Appropriations Act.

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K. The date the rule impact statement was prepared and, if modified, the date modified: Prepared October 28, 2021; modified N/A
CHAPTER 60. REFUGEE RESETTLEMENT PROGRAM

340:60-1-3. Refugee Resettlement Program (RRP)
Revised 44-1-0912-1-21

(a) The Refugee Act of 1980 Purpose. The RRP purpose is to provide for effective refugee resettlement and to assist them to achieve economic self-sufficiency as quickly as possible, per Section 400.1 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 400.1.) The Oklahoma Department of Human Services (OKDHS) RRP uses the international definition of refugee adopted under the Refugee Act of 1980.

(b) Legal basis and funding availability. The Refugee Act of 1980 [Public Law 96-212] provides assistance to refugees, regardless of national origin, to be administered by the states, with up to 100 percent reimbursement from federal funds. Provision of RRP benefits is based on federal fund availability. If federal funding is reduced or terminated, RRP benefits are reduced or terminated accordingly.

(c) Refugee documentation. An applicant for assistance under the A refugee applying for RRP must provide documentation issued by the United States Citizenship and Immigration Services (USCIS) to verify his or her refugee status. Acceptable documentation includes, but is not limited to:

1. Form I-94, Departure Record;
2. Form I-551, Legal Permanent Resident Card;
3. a passport stamped with the classification status;
4. a T-Visa; or
5. a letter or order from the USCIS or court granting asylum.

(d) Refugee status. Documentation from The USCIS provided by documentation the applicant provides must show the applicant's status is:

1. paroled as a refugee or asylee under Section 212(d)(5) of the Immigration and Nationality Act (INA);
2. admitted as a refugee under Section 207 of the INA;
3. granted asylum under Section 208 of the INA;
4. admitted as an Amerasian immigrant from Vietnam under Section 584 of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1989, as amended;
5. admitted for permanent residence, provided the person previously held one of the statuses identified in this Section;
6. a Cuban or Haitian entrant, per requirements in 45 C.F.R Part 401;
7. an alien and his or her eligible relatives who are victims of a severe form of trafficking pursuant to Section 107(b) of the Trafficking Victims Protection Act of 2000 which was reauthorized and amended by the Trafficking Victims Protection Reauthorization Act of 2003;
(9) an Afghan admitted in special immigrant status as defined in Section 101(a)(27) of the INA [8 U.S.C. 1101 (a)(27)] and per Section 1059, P.L. 109-163, the National Defense Authorization Act for Fiscal Year 2006, and Section 602, Division F, P.L. 111-08, the Omnibus Appropriations Act, 2009, pursuant to Section 525 of Division G of P.L. 110-161 of the Consolidated Appropriations Act, 2009; or
(10) an Afghan who receives special immigrant (SI) conditional permanent residence, SI/SQ parole, or who is a humanitarian parolee admitted to the United States (U.S.) due to urgent humanitarian reasons or significant public benefit, per the Afghanistan Supplemental Appropriations Act, 2022, P. L. 117-43. Humanitarian parolees paroled into the U.S. between July 31, 2021 through September 30, 2022 are eligible for refugee cash assistance (RCA) and refugee medical assistance (RMA) benefits for eight months beginning October 1, 2021, or the date the parolee "enters the community" in the U.S., such as when they leave a military base, whichever is later. The latest date humanitarian parolees may receive RCA and RMA benefits is March 31, 2023 or the end of their parole term, whichever is later.

(d) Verification of alien Alien status declaration. A declaration of alien status is required at application for all persons applying for RRP.

(1) Under penalty of perjury, the applicant declares the alien status of all persons applying for RRP benefits on the application form and signs the application. After Before adding an additional person to the benefit after certification, this declaration is made on Form 08MP022E, Declaration of Citizenship Status, before additional persons are added to the benefit.

(2) The Systematic Alien Verification for Entitlement (SAVE) process is used to verify alien status, per OAC 340:65-3-4(5).

(e) Exclusions from RRP. Persons excluded from participation in RRP are:

(1) resident aliens who did not previously have the refugee or asylee status of refugee or asylee; or
(2) any asylum applicant for asylum who has not been granted asylum status.

INSTRUCTIONS TO STAFF 340:60-1-3
Revised 11-1-09

1. The Per the Refugee Act of 1980, the international refugee definition of refugee is:

(1) a person outside his or her country of origin who is unable or unwilling to return to that country due to persecution or a well-founded fear of persecution after such return; and
(2) in specifically designated countries, those persons who are still within their countries of origin who have a well-founded fear of persecution if they remain.

2. (a) The Comprehensive Alien Chart can be accessed on the Family Support Services/Temporary Assistance for Needy Families (FSSD/TANF) Web site on the InfoNet. The worker codes the alien as a "qualified alien - refugee (F)" in the "citizenship/alien" field of the Family Assistance/Client Services (FACS) Interview Notebook’s Household tab when the verification document(s) provided show the alien was:
(1) admitted to the United States (U.S.) under Section 207 of the Immigration and Nationality Act (INA), with an:
   (A) I-94, Arrival/Departure Record, or passport with annotation "Section 207" or "refugee";
   (B) I-94 showing paroled as a refugee under Section 212(d)(5);
   (C) I-551, Permanent Resident Card, coded R8-6, RE6, RE7, RE8, or RE9;
   (D) I-571, Refugee Travel Document;
   (E) I-730, Approval Letter; or
   (F) I-766, Employment Authorization Document coded 274.12(a).12(a)(3), A03, or A04;
(2) certified by the Administration for Children and Families Office of Trafficking in Persons as a victim of a severe form of trafficking on:
   (A) an I-94 with a T1 or T2 code; or
   (B) a certification letter, eligibility letter, or interim assistance letter. These letters do not expire and can be confirmed by calling (866) 401-5510; and
(3) admitted to the U.S. as an Amerasian immigrant under Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriation Act of 1988 with an:
   (A) I-94, passport, or I-551 coded AM1, AM2, AM3, AM6, AM7, or AM8 for Amerasian immigrants;
   (B) I-551 coded AM1, AM2, AM3, AM6, AM7, or AM8;
   (C) Vietnamese Exit Visa with codes AM-1, AM-2 or AM-3;
   (D) Vietnamese passport with codes AM-1, AM-2 or AM-3; or
   (E) United States passport with codes AM-1, AM-2 or AM-3.
(b) The worker codes the alien as a "qualified alien – asylee (A)" in the "citizenship/alien" field of the FACS Interview Notebook's Household tab when the verification documents provided show the alien:
   (1) was granted asylum under Section 208 of the INA with an:
      (A) an I-94 or passport with annotation "Section 208" or "Asylee";
      (B) an asylum approval letter from the United States Citizenship and Immigration Services or a court order granting asylum;
      (C) an I-551 coded AS6, AS7, AS8;
      (D) an I-571;
      (E) an I-766 coded 274a.12(a)(5) or A5;
      (F) written decision from the Board of Immigration Appeals; or
      (G) I-730 Approval Letter; and
   (2) is a Cuban or Haitian entrant with:
      (A) an I-94 with annotation "Cuban-Haitian Entrant" or any notation indicating "parole" on or after 10/10/1980;
      (B) an I-551 coded CU6, CU7, or CH6;
      (C) an Form I-485, Application to Register Permanent Residence or to Adjust Status, stamped by the Executive Office for Immigration Review (EOIR);
(D) an I-589, Application for Asylum and Withholding of Removal, for a Cuban who does not have a final, non-appealable, and legally enforceable order of removal, deportation or exclusion entered;

(E) an I-766 coded C08;

(F) a Cuban or Haitian passport with a §212(d)(5) stamp dated on or after October 10, 1980; or

(G) another applications for relief that were date stamped by EOIR.

(c) The worker codes a Cuban or Haitian asylum seeker with "qualified alien – deportation withheld (D)" in the citizenship/alien field of the FACS Interview Notebook Household tab when the verification document provided is:

1. Form I-122, Notice to Applicant Detained for a Hearing Before an Immigration Judge;
2. Form I-220A, Order of Release on Recognizance;
3. Form 1-221, Order to Show Cause and Notice of Hearing;
4. Form I-221S, Order to Show Cause;
5. I-485 date stamped by EOIR showing the Cuban or Haitian is the subject of removal, exclusion or deportation proceedings;
6. I-589 date stamped by the EOIR showing the Cuban or Haitian is subject of removal, deportation or exclusion proceedings;
7. I-766 showing code C10 that means an application for suspension of deportation/cancellation of removal was submitted to DHS or EOIR;
8. Form I-862, Notice to Appear;
9. EOIR-26, Notice of Appeal from a Decision of an Immigration Judge, date stamped by the Board of Immigration Appeals; or
10. another documentation pertaining to an applicant's removal, exclusion or deportation proceedings.

(d) The worker codes the alien with a "special immigration status – Iraqi (I)" or "special immigration status – Afghan (U)" in the "citizenship/alien" field of the FACS Interview Notebook's Household tab when the verification documents provided show the alien is an Iraqi or Afghan with:

1. an Iraqi or Afghan passport or I-94 with an immigrant visa stamp noting the person is classified under immigrant visa category SI1 or SQ1, SI2 or SQ2, or SI3 or SQ3;
2. I551 with an immigrant visa code SI6 or SQ6, SI7 or SQ7, or SI9 or SQ9;
3. I-94 noting SI or SQ parole, per Section 602(B)(1) of the Afghan Allies Protection Act and Sec 1059(a) of the National Defense Authorization Act or humanitarian parole, per Section 212(d)(5)(A) of the INA;
4. I-551 or foreign passport with Department of Homeland Security (DHS)/U.S. Customs and Border Protection admission stamp noting that the individual was classified under immigrant visa category CQ1, CQ2 or CQ3;
5. DHS/CBP or DHS United States Citizenship and Immigration Services (USCIS) temporary Form I-551, Alien Documentation Identification. and telecommunication stamp; or
6. foreign passport with DHS/CBP admission stamp noting:
   (i) Operation Allies Refuge or "OAR";
   (ii) Operation Allies Welcome or "OAW"; or
(iii) "DT".

3. Form I-151, Resident Alien Card, is no longer valid to prove immigration status. Persons who present Form I-151 must be referred to the United States Citizenship and Immigration Services (USCIS) for a replacement Form I-551, Permanent Resident Card.

4. Refugees who inquire about changing their alien status to legal permanent resident (LPR) contact USCIS, 4400 SW 44 St, Suite A, Oklahoma City, Oklahoma, 73119.