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**IDAPA 16
TITLE 03
CHAPTER 06**

16.03.06 - RULES GOVERNING REFUGEE MEDICAL ASSISTANCE

000. LEGAL AUTHORITY.

This program is authorized by 45 CFR Part 400, by Section 412E, Title IV, Pub. L. 96-212 also known as the Refugee Act of 1980, 94 Stat. 114 (8 USC 1521) and Action Transmittal ORR-AT-80-6, and by provisions of Sections 56-202 and 56-203, Idaho Code, which authorize the Department of Health and Welfare to assist needy people of the State with medical assistance and to enter into contracts with the federal government to provide assistance. (7-1-99)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as Idaho Department of Health and Welfare Rules, IDAPA 16.03.06 "Rules Governing Refugee Medical Assistance". (7-1-99)

02. Scope. The rules contained in this Chapter govern the administration of the refugee medical assistance program in the state of Idaho. (7-1-99)

002. DEFINITION OF TERMS AND ABBREVIATIONS.

For the purposes of the rules contained in IDAPA 16.03.06, the following terms and abbreviations are used, as defined herein: (6-1-81)

01. AFDC. As used in this chapter, Aid to Families with Dependent Children (AFDC) will refer to the program in effect on June 30, 1997. (7-1-98)

02. Caretaker. A person related by blood or marriage who holds legal responsibility for the care and support of a minor child or otherwise dependent individual and who is needed in the home to care for such dependent. (5-22-78)

03. Department. The Department of Health and Welfare. (6-1-81)

04. Eligible Amerasian. A citizen of Vietnam born between January 1, 1962, and January 1, 1976, who has one (1) American parent. (7-1-88)

05. Entrant. A person from Cuba or Haiti who has been granted special immigration status by INS. (4-1-82)

06. HHS. Department of Health and Human Services. (6-1-81)

07. INA. Immigration and Naturalization Act. (6-1-81)

08. INS. United States Immigration and Naturalization Service. (5-1-77)

09. IRSP. Idaho Refugee Service Program. (7-1-89)

10. I-94. A white three by five (3x5) inch alien identification card issued to refugees prior to their release to a sponsor. This card gives the refugee's name, U.S. address, and other identifying data. The refugee status will be printed in the lower right hand corner. If a refugee does not have this card, he should be referred to INS to obtain one. The dependent of a repatriated U.S. citizen may also have an I-94 card. (6-1-81)

11. Refugee. An alien who: (6-1-81)

a. Because of persecution or fear of persecution on account of race, religion, or political opinion fled from his homeland; (6-1-81)

b. Cannot return there because of fear of persecution on account of race, religion or political opinion. (6-1-81)

12. Repatriate. Excluded from the definition of “refugee” are those persons who are U.S. citizens returning to the United States from a foreign country, or dependents of repatriated U.S. citizens. (5-1-77)

13. TAFI. Temporary Assistance for Families in Idaho. Program which replaced the AFDC program. Provides temporary cash assistance for Idaho families. (7-1-98)

003. -- 009. (RESERVED).

010. CONFIDENTIALITY.

A refugee’s rights to confidentiality are contained in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 01, “Use and Disclosure of Department Records”. (7-1-89)

011. -- 099. (RESERVED).

100. IDENTIFICATION OF REFUGEES.

01. Refugee Immigration Status. A person has refugee status for purposes of assistance under the Refugee Medical Assistance Program if he is one (1) of the following: (7-1-99)

a. A person from Cambodia, Laos, or Vietnam who has a Form I-94 indicating that the person has been paroled under Section 212(d)(5) of the Immigration and Naturalization Act (INA). The I-94 must clearly indicate that the person has been paroled as a refugee or asylee. (10-1-82)

b. A person from Cuba who entered the U.S. on or after October 1, 1978 and who has an I-94 indicating that the person has been paroled under Section 212(d)(5) of the INA. The I-94 must clearly indicate that the person has been paroled as a refugee or asylee. (10-1-82)

c. A person from any country who has Form I-94 indicating that the person has been: (6-1-81)

i. Paroled under Section 212(d)(5) of the INA as a refugee or asylee; or (6-1-81)

ii. Admitted as a conditional entrant under Section 203(a)(7) of the INA; or (6-1-81)

iii. Admitted as a refugee under Section 207 of INA; or (6-1-81)

iv. Granted asylum under Section 208 of INA; or (6-1-81)

d. A person who entered the United States and has Form I-151 or I-551 showing that his status has been subsequently adjusted from one (1) of the statuses in Subsection 100.02.c. to that of permanent resident alien provided he can document his previous status. (12-31-91)

e. A child born in the United States to eligible refugee parent(s) with whom he lives. (10-1-82)

f. An Amerasian together with close family members who entered the United States beginning March 20, 1988, in immigrant status through the Orderly Departure Program. Close family members who are eligible refugees under this provision are limited to: (7-1-88)

i. The Amerasian’s spouse and child(ren); (7-1-88)

ii. The mother of an unmarried Amerasian and such mother’s spouse and child(ren); and (7-1-88)

iii. A person who has acted as the parent of an unmarried Amerasian and that person’s spouse and child(ren). (7-1-88)

02. Other Factors In Determining Eligibility For The Refugee Medical Assistance Program. (7-1-99)

- a.** An applicant for asylum is not eligible. This is a person who has applied for but has not been granted asylum. (6-1-81)
- b.** A person who entered the U.S. as a resident alien (i.e., immigrant) is not eligible. (10-1-82)
- c.** A Form I-94 which shows a person has been paroled into the U.S. under Section 212(d)(5) of the INA must clearly indicate that the person has been paroled as a “Refugee” or “Asylee” if such form was issued: (6-1-81)

 - i.** To a person from Cambodia, Laos, or Vietnam on or after June 1, 1980; or (6-1-81)
 - ii.** To a person from Cuba on or after April 21, 1980; or (6-1-81)
 - iii.** To a person from any other country at any time. (6-1-81)
- d.** A person whose status is Cuban/Haitian Entrant must have his eligibility for benefits under the Refugee Medical Assistance Program determined pursuant to Sections 125 and 135. (7-1-99)
- e.** Repatriated U.S. citizens and their dependents arriving in the U.S. are not eligible for benefits under the Refugee Medical Assistance Program but may be eligible for benefits under the Repatriate Program. Following the first ninety (90) days after their arrival in the U.S., those alien dependents of U.S. citizens who qualify as refugees would be eligible to apply under the Refugee Medical Assistance Program. (7-1-99)
- f.** An Amerasian or close family member admitted as an immigrant but eligible for refugee medical assistance as though he were a refugee must have either of the following documents verifying his status: (7-1-99)

 - i.** A temporary identification document, Form I-94 stamped “Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until (expiration date). Employment authorized.” The back of Form I-94 contains the stamped word “Admitted” and is coded AM1, AM2, or AM3; or (7-1-88)
 - ii.** A permanent identification document, Form I-551 coded AM6, AM7, or AM8. (7-1-88)

101. -- 124. (RESERVED).

125. IDENTIFICATION OF ENTRANTS.

01. Entrant Immigration Status. A person is an entrant for purposes of the Refugee Medical Assistance Program if he is one (1) of the following: (7-1-99)

- a.** A Cuban or Haitian who possesses an INS form I-94 which is stamped “Cuban/Haitian Entrant” (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti. (4-1-82)
- b.** A Cuban who possesses an I-94 which states that the person is a citizen of Cuba and which contains the initials “OOE”. A Temporary Restraining Order makes Exclusion Orders against this person legally unenforceable. If the Temporary Restraining Order is removed in the future, the person will become ineligible. (4-1-82)
- c.** A Cuban who possesses an I-94 which meets all of the following requirements: (4-1-82)

 - i.** States that the person is a citizen of Cuba; (4-1-82)
 - ii.** States that the person has been “Paroled” after April 20, 1980; and (4-1-82)
 - iii.** Does not contain the words “Outstanding Order of Exclusion”. (4-1-82)

d. A Haitian who possesses an I-94 which states that he is a citizen of Haiti who has been either “Paroled” or granted “Voluntary Departure”. (4-1-82)

e. A Cuban or Haitian who has an application for asylum pending with INS. (4-1-82)

f. A Cuban or Haitian who is the subject of exclusion or deportation proceedings under the INA, but about whom no decision has been reached. (4-1-82)

g. The persons listed in Subsections 125.01.a. through 125.01.f. are eligible even if the expiration date of their parole or voluntary departure has passed. (12-31-91)

02. Ineligible Entrants. A person is not eligible for assistance under the Refugee Medical Assistance Program if he is one (1) of the following: (7-1-99)

a. A Cuban or Haitian who has a final, nonappealable, and legally enforceable order of deportation or exclusion. (4-1-82)

b. A Cuban whose I-94 contains the words “Outstanding Order of Exclusion”. (4-1-82)

c. A Cuban or Haitian who has never been encountered by INS. (4-1-82)

d. A Cuban or Haitian who possesses a regular immigration or nonimmigration visa. (4-1-82)

126. -- 134. (RESERVED).

135. ASSISTANCE TO CUBAN/HAITIAN ENTRANTS.

01. Eligibility. For purposes of determining the eligibility of Cuban and Haitian entrants no distinction is made between refugee and entrant immigration status. (7-1-99)

02. Period Of Eligibility. The number of months during which an entrant may be eligible for medical assistance under the Cuban/Haitian Entrant Program must be counted starting with the first month in which an individual entrant was first issued documentation by the INS indicating: (7-1-99)

a. The entrant has been granted parole; or (4-1-82)

b. The entrant is in voluntary departure status; or (4-1-82)

c. The entrant’s residence in the United States is known by INS. (4-1-82)

136. -- 149. (RESERVED).

150. SPONSORSHIP.

01. Providing Name Of Resettlement Agency. A refugee must provide the name of his resettlement agency as a condition of eligibility for the Refugee Medical Assistance Program. (7-1-99)

02. Resettlement Agency And Sponsor Notification. Whenever a refugee applies for cash or medical assistance for which total or partial reimbursement is provided by the Office of Refugee Resettlement, the Department must promptly notify the resettlement agency (or its local affiliate), which provided for the initial resettlement of the refugee, that the refugee has so applied. (10-1-84)

03. Contact. In determining or redetermining a refugee’s eligibility for medical assistance, the Field Office must contact the refugee’s sponsor or resettlement agency and obtain sufficient information to make a correct eligibility determination including verification of the amount of financial assistance the sponsor or resettlement agency is providing to the refugee. (7-1-99)

151. -- 399. (RESERVED).

400. REFUGEE MEDICAL ASSISTANCE PROGRAM.

01. Time Limitation. Medical assistance under the Refugee Medical Assistance Program will be limited to eight (8) consecutive months beginning with the month the refugee enters the United States. The eligibility period for a child born in the United States to parents receiving Refugee Medical Assistance expires when both of his parents with whom he is living are no longer eligible. (7-1-99)

02. Medical Only. A refugee is not required to apply for or receive Cash Assistance as a condition of eligibility for Refugee Medical Assistance. Denial or closure of Refugee Cash Assistance is not a reason to deny or close Refugee Medical Assistance. (3-30-01)

03. Refugee Cash Assistance Excluded. Refugee Cash Assistance is excluded from income and resources. (3-30-01)

04. Automatic Eligibility. Refugees whose countable income does not exceed the AFDC payment standard are automatically eligible for medical assistance. The AFDC payment standard is listed in Table 400.04.

TABLE 400.04 - AFDC PAYMENT STANDARD	
Number In Family	Payment Standard
1	\$205
2	\$251
3	\$317
4	\$382
5	\$448
6	\$513
7	\$579
8	\$645
9	\$710
10	\$776
Over 10 Persons	Add \$65 Each

(3-30-01)

05. Medical Assistance With "Spend Down". An applicant for Refugee Medical Assistance whose countable income exceeds the AFDC payment standard may also become eligible for medical assistance under certain conditions. A special provision, for refugees only, will allow those refugees whose income exceeds the AFDC payment standard to apply their income above the payment standard to their medical costs and thus "spend down" to the AFDC eligibility level. This "spend down" will be computed on a quarterly basis; the quarter begins with the month of application. Compute the amount by which the refugee's income exceeds the AFDC payment standard on a monthly basis using the best estimate of income to be received during the quarter and multiply the monthly excess by three (3) to determine the quarterly "spend down". (7-1-99)

06. Counting Income And Resources For Refugee Medical Assistance With A "Spend Down". (7-1-93)

a. AFDC policy determines which income must be counted, excluded, or deducted. Exceptions to AFDC policy are listed in Subsections 400.06.a.i. through 400.06.a.iii. (3-30-01)

- i. The refugee is not entitled to the thirty dollars (\$30) disregard. (3-30-01)
- ii. The refugee is not entitled to the one third (1/3) disregard. (3-30-01)
- iii. Refugee Cash Assistance is excluded from income and resources. (3-30-01)
- b.** The AFDC payment standard applicable for the size of family unit determines the amount to which an individual or family must “spend down” to be eligible for refugee medical assistance. (7-1-89)
- c.** AFDC policy determines which resources must be counted or excluded for a refugee unit which must meet a medical “spend down”. (10-1-82)
- d.** Total countable resources of the assistance unit must not exceed one thousand dollars (\$1,000). (7-1-89)
- e.** No financial resources which are not available to the refugee, including resources remaining in his homeland, are to be considered in determining eligibility for medical assistance. (6-1-81)
- f.** The income and resources of sponsors, and the in-kind services and shelter provided to refugees by their sponsors, will not be considered in determining eligibility for medical assistance. A shelter allowance must not be given for any in-kind shelter provided. (6-1-81)
- 07. Financially Responsible Relatives.** (6-1-81)
 - a.** The Department must consider the income and resources of nonrefugee spouses or parents as available to the refugee whether or not they are actually contributed, if they live in the same household. (6-1-81)
 - b.** If the nonrefugee spouse or parent does not live with the individual, the Department must consider income and resources that are actually contributed by the spouse or parent as available to the refugee. (6-1-81)
- 08. Deduction Of Incurred Medical Expenses.** If countable income exceeds the AFDC income standard, the Department must deduct from income, in the following order, incurred medical expenses that are not subject to payment by a third party: (6-1-81)
 - a.** Medicare and other health insurance premiums, deductibles, or coinsurance charges, incurred by the individual or family or financially responsible relatives. (10-1-82)
 - b.** Expenses incurred by the individual or family or financially responsible relatives for necessary medical and remedial services that are recognized under State law but not covered under the scope of the Medical Assistance Program. (6-1-81)
 - c.** Expenses incurred by the individual or family or financially responsible relatives for necessary medical and remedial services covered in the scope of the Medical Assistance Program. (6-1-81)
 - d.** The Department may set reasonable limits on expenses to be deducted from income under Subsections 400.08.a. and 400.08.b. (3-30-01)
- 09. Determining Eligibility For Medical Assistance For Refugees Who Must Meet A “Spend Down”.** The refugee applicant must provide verification of expenses incurred pursuant to Subsection 400.08. If the applicant has medical coverage from a third party, he must verify that charges will not be paid by this third party by providing an Explanation of Benefits or other written statement from the third party. (3-30-01)
 - a.** As the applicant submits medical expenses, the charges should be added in the order listed in Subsection 400.08 and then under Subsection 400.08.c. in chronological order by the date of service. (3-30-01)
 - b.** When the charges equal or exceed the amount of the “spend down,” the applicant becomes eligible

for Medical Assistance. (7-1-99)

c. The date of eligibility is the date of service on the last bill which is covered under the scope of the Medical Assistance Program. (6-1-81)

d. It is the responsibility of the Case Manager to determine when the “spend down” has been met. (7-1-99)

10. Issuing A Medical Card To A Refugee Who Must Meet A “Spend Down”. A Medical Card will not be issued until the applicant has met the “spend down”. The dates on the Medical Card under “Valid Only During” will be the date the applicant becomes eligible for Medicaid benefits “to” the last day of the last month in the quarter for which the “spend down” has been determined. (7-1-99)

11. Extended Medical. An assistance unit which becomes ineligible for refugee medical assistance because of increased earnings from employment of a member of the unit, is entitled to non-spend down refugee medical assistance through the refugee’s eighth month in the U.S. (7-1-99)

401. INCOME AND RESOURCES ON DATE OF APPLICATION. Eligibility is determined using income and resources on the date of application. Income is not averaged over the application processing period. (3-30-01)

402. TRANSITION TO REFUGEE MEDICAL ASSISTANCE. A refugee is transitioned from Medicaid to Refugee Medical Assistance, if he is within eight (8) months of entry to the United States, and loses Medicaid because of earnings from employment. The transition is made without a Refugee Medical Assistance eligibility determination. (3-30-01)

403. -- 599. (RESERVED).

600. RELATIONSHIP TO SSI. All refugee recipients who are sixty-five (65) or older, or aged, blind, or disabled, must be immediately referred to the Social Security Administration to apply for SSI benefits. (7-1-99)

601. -- 699. (RESERVED).

700. PRECEDENCE OF CATEGORICAL ASSISTANCE PROGRAMS. Eligibility for refugee medical assistance is limited to refugees who have been determined ineligible for TAFI, AABD, or Medicaid but who meet refugee medical assistance eligibility requirements. (7-1-99)

01. New Applicants. (7-1-93)

a. An applicant for medical assistance must first have his eligibility determined for TAFI, AABD and/ or Medicaid. To be eligible for TAFI, AABD and/or Medicaid, the refugee must meet all the eligibility criteria for the applicable category of assistance. (7-1-99)

b. If the applicant is determined ineligible for TAFI, AABD and/or Medicaid, his eligibility is then determined under the Refugee Medical Assistance Program. (7-1-99)

02. Transfer Of Cases. At the end of the eight (8) month time limit for Refugee Medical Assistance, a refugee who is determined eligible may be transferred to Medicaid. The transition is made without a Refugee Medical Assistance eligibility determination. (3-30-01)

701. -- 724. (RESERVED).

725. REPORTING CHANGES. Applicants for and recipients of Refugee Medical Assistance must inform the Field Office in person or in writing as soon as possible but in no event later than ten (10) calendar days of any changes in income, including receipt of new income, of commencement of employment, of changes in resources, changes in the amount of refugee cash assistance

or of any other changes in circumstances which affect the refugee's eligibility for refugee medical assistance. (7-1-99)

726. -- 729. (RESERVED).

730. OVERPAYMENTS AND RESTORATION OF BENEFITS.

Policy governing recovery of overpayments and restoration of benefits of Refugee Medical Assistance is contained in Idaho Department of Health and Welfare Rules, IDAPA 16.03.01, "Rules Governing Eligibility for Medicaid for Families and Children" in effect on June 30, 1997. (7-1-99)

731. -- 749. (RESERVED).

750. REDETERMINATIONS.

Redetermination must be required for refugee assistance recipients at least as frequently as for AFDC recipients. (4-1-83)

751. -- 799. (RESERVED).

800. CASE RECORD INFORMATION.

The following information must be recorded in case records of refugees in addition to documentation required by AFDC regulations: (6-1-81)

- 01. Registration Number.** Record the passport or alien registration number from INA Form I-94. (6-1-81)
- 02. Date Of Entry.** Record the month and year of entry into the United States. The receipt of benefits under the Refugee Medical Assistance Program will be limited to eight (8) months from the date of entry into the United States. (7-1-99)
- 03. Nationality.** Record the country in which the refugee was living and fled because of persecution or fear or persecution. (6-1-81)
- 04. Resettlement Agency.** Record the name of the resettlement agency. (10-1-82)
- 05. Sponsor.** Record the name and address of the sponsor. (6-1-81)
- 06. Initial Settlement.** If a refugee initially settled in another state or states prior to moving to Idaho, record the name(s) of the state(s) from which he moved and in which he initially settled. (10-1-84)

801. -- 994. (RESERVED).

995. PROVISIONS CONTINGENT UPON FEDERAL FUNDING.

The provisions in Sections 000 through 996 inclusive, are contingent upon availability and receipt of funds appropriated through federal legislation. When federal funds are not available to the State of Idaho, these provisions or any part therein shall be considered dormant and advance notice of termination or reduction of benefits may be disposed. When funding is not available to the State, affected persons shall be notified immediately in accordance with the adequate notice provisions discussed in Idaho Department of Health and Welfare Rules, IDAPA 16.03.03, "Rules Governing Temporary Assistance for Families in Idaho," Section 300. (7-1-98)

996. ADMINISTRATIVE PROVISIONS.

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 300, et seq., "Rules Governing Contested Case Proceedings and Declaratory Rulings". (12-31-91)

997. -- 999. (RESERVED).

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