

Chapter 7: Frequently Asked Questions (FAQs)

Refugees

(1) Refugee Documentation: Do refugees receive Employment Authorization Documents (EAD)?

Refugees who arrived since November 2002 receive Form I-766 (Employment Authorization cards) as part of their processing on arrival in the United States as a result of legislation included in the Patriot Act in 2002. Remember that all refugees (and asylees) must get a Refugee Travel Document prior to travel outside the United States, even with the EAD.

(2) Refugee Children: Do refugee children also receive the I-766 since it is an employment authorization card?

Yes, all newly arriving refugees, including children, receive the EAD (I-766) in order that they will have a government-issued identification with biometric identification, that is, a photo and a fingerprint.

(3) Expiration of Refugee I-94: Does the I-94 issued to a refugee expire within a certain period after issuance?

No, Form I-94's issued to refugees do not expire as with visas and paroles. Refugees must apply for permanent residence after one year, however, and may surrender their original Form I-94 as part of the application process. In addition, a refugee traveling outside the country would have his/her original Form I-94 taken and be issued a new Form I-94 with the date of the current entry on return to the United States.

(4) Refugee Adjustment of Status: If a refugee is denied adjustment of status, is s/he still eligible for refugee services and authorized to work?

Yes, unless the refugee status is also revoked, the client's denial for adjustment to permanent resident will not affect eligibility for services or work authorization. (The denial for adjustment may be based on an incomplete application or other technical issues having nothing to do with the refugee's claim.) Even if the EAD is expired, the client may show an unrestricted social security card and identification to satisfy I-9 requirements.

Asylees

(5) Services Available: What assistance and services are available to asylees?

Asylees are eligible for all of the assistance and services provided through the Office of Refugee Resettlement (ORR). States have varying programs and agencies, however, that offer similar, but not identical, types of assistance and services. Asylees should contact Florida's Refugee Services Program to learn about and to apply for the available assistance and services. Asylees will need to present proof of status and meet the eligibility criteria for specific benefit programs.

(6) Where to Apply: Where do asylees go to apply for refugee assistance and services?

Asylees should contact Florida's Refugee Services Program concerning the benefits office that serves their home area. ORR has additional information available about benefits in

other states. ORR's Web site address is www.acf.dhhs.gov/programs/orr; the Florida Refugee Services Program website is www.state.fl.us/programs/refugee/

(7) Applying for Services: What should asylees bring when they go to apply for assistance and services?

Asylees should bring DHS documentation of their identity, status, "eligibility" date (see Chapter 2), and nationality. ORR recommends that asylees bring their social security card or proof that they have applied for a social security number. This proof may include a letter from the Social Security Administration (SSA) or some type of receipt from the SSA.

(8) Recommended for Asylum: Is a Recommended Approval from an USCIS Asylum Office an acceptable document proving asylee status?

No, recommended approvals are not acceptable proof of asylee status. If an applicant brings an approval letter from an Asylum Office, it must be an actual Approval Letter, not a Recommended Approval.

(9) Order from an Immigration Judge: Is an Order from an Immigration Judge granting asylum under § 208 of the INA acceptable proof of asylee status?

(a) DHS Waives Appeal. If, on the Order from the Immigration Judge granting asylum, the DHS waives the right to appeal the immigration judge's decision, then an Order from an Immigration Judge is acceptable proof of asylee status. An asylee's eligibility period for ORR assistance and services will begin on the date of the immigration judge's order granting asylum.

(b) DHS Reserves Appeal. If, on the Order from the immigration judge granting asylum, the DHS has reserved the right to appeal the immigration judge's decision, the order will **not**, on its own, verify asylee status.

If the DHS has reserved the right to appeal, eligibility workers must wait 30 days from the date on the Immigration Judge Order. On or after the 31st day,** the eligibility worker will need to call the EOIR case status line at (800) 898-7180 to find out whether the DHS has appealed the case. If the DHS has appealed the case, the individual is not yet an asylee and is not eligible for benefits. If the DHS has not appealed the case and 30 days have passed since the date on the immigration judge order, the individual is an asylee and is eligible for ORR assistance and services. Thirty days after the date on the immigration judge order will serve as the "entry" date (i.e., the date the individual was granted asylum).

**Although the EOIR case status line is updated every 24 hours, ORR cautions that, on occasion, eligibility workers may find that the case status line does not contain the needed appeal information on the 31st day. The EOIR reports that it may take up to 5 days after the appeal deadline for the information to be relayed to the case status line.

(10) Spouse and Children of Asylee:

(a) What is the "entry" date (i.e., date of asylum grant) for an asylee's spouse and children who are in the United States and who were included on the principal asylee's asylum application—in other words, the spouse and children who applied with the principal asylee?

The spouse and children have the same “entry” date (i.e., date of asylum grant) as the principal asylee.

(b) Do the spouse and child get asylum letters from the USCIS or only the principal asylee?

When asylum is granted by USCIS, only the principal applicant is sent a letter by the USCIS (former INS) asylum office, but the letter includes the names and A-numbers of all properly included dependents. Both principal applicants and dependents receive a Form I-94 in their own name and now are issued a Form I-766 (employment authorization document).

(c) What is the “entry” date for an asylee’s spouse and children who were not included on the principal asylee’s application and who are in the U.S. when the principal asylee files the Form I-730 Refugee/Asylee Relative Petition?

If an asylee's spouse and children are already in the United States, the “entry” date of the spouse and children will be the approval date of the Form I-730. The DHS should issue a Form I-94 Arrival/Departure Card for the derivatives noting their “entry” date and their status as asylees. I-730 Approval Letters also will be acceptable proof of asylee status. For more information about the admission of an asylee’s spouse and children, please see 8 CFR §208.20 or the USCIS Final Rule on Procedures for Filing a Derivative Petition (Form I-730) at 63 FR 3792 (1/27/98).

(d) What is the “entry” date for an asylee’s spouse and children who are outside of the United States when the asylee is granted asylum?

If the principal asylee completes a Form I-730 for his or her spouse and children, the derivatives’ “entry” date will be the date that they physically enter the United States. This date will be noted on their Form I-94 Arrival/Departure Cards. (Note that the filing locations for Form I-730 petitions for asylee family members outside the United States are being changed on a phased-in basis. See the USCIS website for up-to-date filing instructions.) For more information about the admission of an asylee’s spouse and children, please see 8 CFR §208.20 or the USCIS Final Rule on Procedures for Filing a Derivative Petition (Form I-730) at 63 FR 3792 (1/27/98).

(11) Adjustment of Status: Does ORR’s interpretation of an asylee’s “entry” date (i.e., date of asylum grant) have any effect on the date that an asylee may apply for adjustment of status or citizenship?

No, ORR’s interpretation of an asylee’s “entry” date (i.e., date of asylum grant) has no effect on the date that an asylee may apply for adjustment of status or citizenship. Please see INA §209 and 8 CFR §209.2 for information about adjustment of status for asylees.

(12) Board of Immigration Appeals: What if an individual is granted asylum by the Board of Immigration Appeals (BIA)?

A written decision by the Board of Immigration Appeals granting asylum will serve as proof that an individual has asylee status. The date on the written decision will begin the eligibility period for refugee assistance and services. Most individuals who are granted asylum by the BIA will need to apply to the USCIS for documentation evidencing their status. Eligibility workers most likely will be familiar with the DHS documentation, which may include the I-94 Arrival/Departure Card. However, the written decision by the BIA will continue to serve as proof of asylee status for ORR purposes.

(13) Reception and Placement Eligibility: Are asylees eligible to receive Reception and Placement benefits from the State Department?

No, asylees are not eligible to receive Reception and Placement benefits from the State Department. ORR's policy on the date of eligibility does not affect the procedures or benefits of other departments of the U.S. government, such as the Department of Justice or the Department of State.

(14) Alternative Program Eligibility: Are asylees eligible for alternative ORR programs, such as Match Grant and Wilson-Fish?

Yes, asylees are eligible for all ORR program benefits and services.

(15) Match Grant:

(a) Do asylees need to be enrolled in Match Grant programs within 31 days of their grant of asylum?

Yes, asylees generally need to be enrolled in Match Grant programs within 31 days of their grant of asylum. In general, the rules that apply to refugees in the Match Grant programs also apply to asylees (for exceptions, see FAQs #13b and #14).

(b) Are there any exceptions to the requirement to enroll clients within 31 days of their grant of asylum?

If you feel a client has been unfairly disadvantaged because of circumstances beyond his or her control, for instance, an asylum letter sent two months after the grant of asylum was effective, the VOLAG National Office can contact ORR the ORR Matching Grant Coordinator at ORR for authorization to enroll the client beyond the 31-day enrollment period.

(c) How can voluntary agencies enroll asylees in Match Grant programs if the agencies do not have established relationships with asylees through the Department of State's Reception and Placement Cooperative Agreement or a Reception and Placement Cooperative Agreement with another federal agency?

The requirement that a voluntary agency must have an established relationship with a refugee through the Department of State's Reception and Placement Cooperative Agreement or a Reception and Placement Cooperative Agreement with another federal agency does not apply to asylees. Asylees are exempt from this requirement. Without association to a resettlement agency, there is a potential for asylees to approach more than one agency for services. Therefore, ORR asks that agencies make every effort to avoid duplication of services.

(16) Medical Benefits: Do asylees need to be associated with a resettlement agency in order to receive refugee medical assistance (RMA)?

No, asylees are exempt from the requirement at 45 CFR §400.100(a)(4) to provide the name of the resettlement agency that resettled them. Asylees are eligible for RMA beginning on the date that they are granted asylum and do not need to be associated with a resettlement agency.

(17) Asylum Applicants: Are asylum applicants eligible for refugee services?

No, only Cuban or Haitian nationals are eligible for services while they are asylum applicants. Persons of other nationalities are eligible only if their application for asylum has been approved.

(18) Unrestricted Social Security Cards: Do asylees qualify for unrestricted Social Security cards and what documents can be shown as evidence of status?

Social Security issues unrestricted Social Security cards to asylees since they are eligible to work based on their asylum status. The documents accepted for evidence include the Form I-94 with an asylum stamp, an employment card showing the asylum status code, or the original order of an Immigration Judge granting asylum. While ORR accepts the USCIS asylum letter as evidence of status for refugee program benefits, the asylum letter is not among the documents accepted by the Social Security Administration in their current regulations.

(19) Restricted Social Security Cards: What should an asylee client do if s/he has been issued a restricted Social Security card in error?

If an asylee has been issued a restricted Social Security card (that is, a card marked "not valid for employment without DHS authorization"), the individual should go back to Social Security and request an unrestricted card. As above, s/he will have to show one of the documents mentioned in the previous question.

(20) ORR PL 16-01 states that an order from an immigration judge (IJ) will serve as proof of asylee status if DHS has waived the right to appeal the case. What is the eligibility date for an individual who was granted asylum by an IJ where DHS waives the right to appeal?

The eligibility date for an individual who was granted asylum by an IJ, where DHS waived the right to appeal, is the date on the IJ's order.

Example 1: On April 4, 2018, Ms. Niongou arrived to the U.S. on a student visa. Shortly after arriving, she applied for asylum. On August 13, 2020, an IJ granted Ms. Niongou's application for asylum. The IJ order noted that DHS waived its right to appeal. According to ORR's PL 16-01, Ms. Niongou is eligible for ORR benefits and services. Her eligibility date is August 13, 2020.

(21) What is the eligibility date for an individual who was granted asylum by an immigration judge (IJ) but DHS has not waived the right to appeal in the case?

Footnote 11 of ORR PL 16-01 states:

If DHS has reserved its right to appeal, an Immigration Judge Order will not serve, on its own, as proof of asylee status. If an asylee brings an Immigration Judge Order that shows DHS has reserved its right to appeal, eligibility workers must wait 30 days from the date on the Immigration Judge Order. On or after the 31st day, the eligibility worker will need to call the Executive Office for Immigration Review (EOIR) Automated Case Information Hotline at (800) 898-7180 to find out whether the DHS has appealed the case. (The EOIR reports that it may take up to 5 days after the appeal deadline for the information to be relayed to the case status line.) If the DHS has appealed the case, the individual is not yet an asylee and is not eligible for benefits. If DHS has not appealed the case and 30 days have passed since the date on the immigration Judge Order, the individual is an asylee and is eligible for ORR assistance and services.

As stated in the footnote, the eligibility worker must confirm the disposition of the case by calling the EOIR Automated Case Information Hotline. Where the IJ establishes a deadline for

appeals (typically 30 days), or DHS has reserved its right to appeal, but subsequently does not appeal, the eligibility date should be the next business day after the deadline passes.

Example: On May 11, 2018, Mr. Shevchenko arrived to the U.S. on a tourist visa. Shortly after arriving, he applied for asylum. On November 24, 2020, an IJ granted Mr. Shevchenko's application for asylum. The IJ noted on the order that appeals were due by December 24, 2020. On January 4, 2021, Mr. Shevchenko presented himself to and requested benefits from the local resettlement agency in Illinois. The eligibility worker called the EOIR Automated Case Information Hotline to find out whether DHS appealed the case. DHS did not appeal the case. According to ORR's PL 16-01, Mr. Shevchenko is eligible for ORR benefits and services. In accordance with ORR's PL 16-01, footnote 11, his eligibility date is December 28, 2020, since the appeal period ended on December 24, 2020, and the next business day was a holiday.

Cuban/Haitian Entrants

(22) Cuban/Haitian Entrant Definition: If a Cuban or Haitian client meets more than one of the criteria for a Cuban/Haitian entrant, what should be considered their basis of eligibility?

Applicants must show only that they hold a status that is eligible. If an individual demonstrates that s/he meets any of the criteria for Cuban/Haitian entrant, that is, parolee, asylum applicant, or person in removal proceedings, that is the basis of their eligibility for refugee program services. If an applicant has been paroled, however, in addition to another status, the parole should generally be documented as well since ORR has said that the expiration of parole does not affect the applicant's eligibility for services. See also questions below on the date of eligibility.

(23) Cuban/Haitian Date of Status - First Qualifying Status: What date of entry should be used for Cuban or Haitian nationals who meet more than one part of the definition of a Cuban-Haitian entrant?

Many Cuban or Haitian nationals in the state may fulfill more than one part of the definition of a Cuban-Haitian entrant. An individual may, for instance, be granted parole and have a pending application for asylum. In that circumstance, the date on which the individual *first* meets the definition of entrant is the effective date of "entry" or eligibility for refugee program services.

(24) Cuban/Haitian Asylees: Will a Cuban or Haitian entrant, who has been receiving refugee assistance and services and who is granted asylum, be able to access an additional eight months of refugee cash and medical assistance and an additional five years of social services beginning on the date that he or she is granted asylum?

No, a Cuban or Haitian entrant who previously was eligible for refugee services will not be able to access additional services by beginning a second eligibility period on the date asylum is granted. For more information about benefits for Cuban and Haitian entrants, please see 45 CFR, Part 401.

(25) Effect of Dual Citizenship: If a Cuban (or Haitian) national has another nationality on his/her immigration documentation, is s/he eligible for refugee services?

If a person of Cuban or Haitian nationality has a second nationality, the eligibility determination depends on what is recorded on his or her immigration documentation. If

the documentation fails to show the individual is a Cuban or Haitian national, the individual must show another type of immigration document to establish eligibility as a Cuban/Haitian entrant. See ORR SL#00-17 and SL#07-14 for further guidance on allowable immigration documentation. If you still have questions after reviewing ORR's guidance, contact Refugee Services for advice.

(26) Cuban/Haitian Date of Status: Since Cuban or Haitian nationals who are admitted to the United States as visitors or students, for instance, are not considered Cuban-Haitian entrants, what date would be used for their date of entry if they later applied for asylum or were put into removal proceedings?

If a person of Cuban or Haitian nationality changes status after entering the United States so that he/she later meets the definition of a Cuban-Haitian entrant, the “date of entry” for refugee services would be the date the DHS first issued documentation making the person an “entrant.” An example of this would be if DHS issued a notice of removal proceedings, such as Form I-862 (Notice to Appear), to someone who overstayed their visa. Another example would be the date on which a person of Cuban or Haitian nationality already in the United States first filed an application with the USCIS or the Immigration Court requesting asylum.

(27) Effect of Detention on Cuban/Haitian Entrant Date of Status: If a Cuban or Haitian national is detained by the DHS on entering the United States and not released for a long period of time, will they still be able to qualify for refugee program cash and medical benefits?

If DHS detained a person of Cuban or Haitian nationality on or after arrival and first issued documentation on release, such as the Form I-862 (Notice to Appear) or Form I-220A (Order of Release on Recognizance), the date of the Form I-862 or Form I-220A is the effective “date of entry” to be used for calculating refugee program benefits. These forms show that the person is in removal proceedings and therefore has status as a Cuban-Haitian entrant,

Note: In many cases, the actual date of entry and the date DHS releases the entrant with documentation will be the same. If the individual is detained for a significant period, however, the date the DHS first issues documentation to the person as a Cuban-Haitian entrant would be the “date of entry,” even if not the actual date of entering the United States.

(28) Haitian Final Order of Removal (Deportation or Exclusion): How long are Cuban or Haitian clients in removal proceedings eligible for benefits?

A Cuban or Haitian client who has been eligible for refugee services while in removal proceedings loses that eligibility once an immigration judge issues a final, non-appealable, and legally enforceable order of removal. Providers must periodically check the current status of clients in removal proceedings to verify continued eligibility. Note that this does not apply if the entrant has ever been paroled. If a client’s eligibility remains unclear after checking the current status, ask the Refugee Services Program before terminating services to ensure that the final order of removal is considered non-appealable and legally enforceable. Be prepared to give information on the name, date of birth, nationality, alien number, as well as any other details available, to assist in inquiries with DHS.

(29) Order of Supervision: If Cuban or Haitian applicants get an Order of Supervision from DHS after they receive a Final Order of Deportation, does that suspend the deportation and make them eligible for refugee services again?

Persons holding DHS Orders of Supervision have already received final orders of removal (deportation) and may therefore be ineligible for refugee program services or have lost eligibility. The Immigration and Customs Enforcement (ICE) may have issued the Order of Supervision because DHS does not plan to execute the removal order at present and the person has applied for work authorization. The delay in execution of the removal order does not, however, reverse the final order of removal.

(30) Expedited Order of Removal: Are Cuban or Haitian clients holding a "Notice and Order of Expedited Removal" eligible for benefits?

An individual with Cuban or Haitian nationality who presents an Order of Expedited Removal does not meet the definition of a Cuban/Haitian entrant. The individual has been ordered removed after being apprehended at or near the border and was not remanded to the immigration court after a credible fear hearing. The order is not appealable to the courts. If the individual shows later documents that are confusing, such as evidence of parole or immigration hearings, contact Refugee Services.

(31) Cubans with "V" Visas: Is a Cuban who holds a "V" visa under the Life Act eligible for refugee program services?

No, the "V" visa is a non-immigrant visa for relatives waiting for immigrant visas. Like other Cubans in non-immigrant statuses such as visitor or student, Cubans with a "V" visa are not eligible for refugee program services unless they can also show evidence that they meet the definition of a Cuban/Haitian entrant, that is, they were paroled by DHS, applied for asylum, or were placed into removal proceedings.

(32) HRIFA Spouse and Child: Is the Haitian spouse or child of a Haitian asylum applicant or parolee who adjusted under the Haitian Refugee Immigration and Fairness Act (HRIFA) eligible for refugee services?

As with all permanent residents, a Haitian spouse or child who adjusted under HRIFA must show that he or she held a status previously eligible for refugee program services. Spouses and children of a Cuban/Haitian entrant do not receive, or "derive," eligibility from their relative. No matter what the status of their relative, the Haitian spouse and child must show that they themselves were paroled or applied for asylum or put into removal proceedings (that is, meet the definition of a Cuban/Haitian entrant) to receive refugee program services. They may, however, be eligible for all other services open to permanent residents.

(33) Termination of Eligibility: When does an order of deportation or removal end the eligibility of a Cuban/Haitian client?

Cuban/Haitian entrants who have never been paroled and receive a final order of deportation that is legally enforceable and cannot be appealed lose eligibility for refugee program services. Because of the complex legal issues related to order of removal and the hearing process, consult with the Refugee Services Program and with the Office of Refugee Resettlement regarding clients who appear to meet these conditions. Be prepared to give information on the name, date of birth, nationality, alien number, as well as any other details available, to assist in inquiries with DHS.

(34) For a Cuban or Haitian entrant who is eligible for ORR benefits and services, what should the eligibility date be if the entrant was immediately detained after being placed into removal proceedings?

ORR PL 16-01, footnote 3 states:

Eligibility workers should determine the date on which the Cuban or Haitian first became a Cuban or Haitian Entrant. For example, a Cuban presenting with evidence of a recent parole might have been granted parole previously. In such a scenario, the date of grant of the initial parole and not the date of the subsequent parole is the entry date for eligibility for ORR benefits and services. Or in a case where the Cuban or Haitian was initially paroled, then later placed in removal proceedings, the date of the initial parole and not the date of placement in removal proceedings is the entry date for eligibility for ORR benefits and services.

While ORR PL 16-01's footnote 3 remains valid, in terms of this question, ORR interprets the eligibility or "entry date" as the date the Cuban or Haitian entrant entered into the community. If (a) the U.S. Department of Homeland Security (DHS) detains a Cuban or Haitian entrant, then (b) subsequently releases the entrant into the community, and (c) there is DHS documentation that shows the release date into the community, the eligibility date would be that date of release into the community.

Example 1: Ms. Romero is a citizen of Cuba. Ms. Romero presented herself at a port of entry in California on March 1, 2019. DHS granted Ms. Romero parole into the United States and issued her an I-94. Ms. Romero applied for long-term immigration relief but had not received any special status. In July 2019, she returned to Cuba due to a family emergency. Ms. Romero returned to the U.S. on January 1, 2021. DHS placed Ms. Romero into removal proceedings and issued her an I-862, Notice to Appear. She does not have a final, non-appealable, and legally enforceable order of removal, deportation or exclusion entered in her case. According to ORR's PL 16-01, Ms. Romero is eligible for ORR benefits and services. However, according to ORR PL 16-01 footnote 3, Ms. Romero's eligibility date is the date DHS granted her initial parole, March 1, 2019, the first date she entered into the community.

Example 2: Mr. Baptiste is a citizen of Haiti. Mr. Baptiste presented himself at a port of entry in Texas on August 27, 2019. DHS placed Mr. Baptiste in removal proceedings, detained him, and issued him an I-862, Notice to Appear. On July 1, 2020, an Immigration Judge continued Mr. Baptiste's immigration case. On July 2, 2020, DHS released Mr. Baptiste into the community and issued him an I-220A, Order of Release on Recognizance. Mr. Baptiste is still in removal proceedings, but he does not have a final, non-appealable, and legally enforceable order of removal, deportation, or exclusion entered in his case. According to ORR's PL 16-01, Mr. Baptiste is eligible for ORR benefits and services. His eligibility date is July 2, 2020, the first date he entered into the community.

(35) For a Cuban or Haitian entrant who is eligible for ORR benefits and services, what should the eligibility date be if the entrant was placed in the Migrant Protection Protocols (MPP) program and subsequently released into the community by DHS?

While ORR PL 16-01's footnote 3 remains valid, in terms of this question, ORR interprets the eligibility or "entry date" as the date the Cuban or Haitian entrant entered into the

community. Therefore, if (a) DHS places a Cuban or Haitian in the MPP program and the entrant is not initially released into a community in the U.S. (but detained or forced to remain in Mexico), then (b) DHS subsequently releases the entrant into the community, and (c) there is DHS paperwork to confirm this date of release, the date of release into the community would count as the eligibility date for the Cuban or Haitian entrant.

Example: Mr. Pierre is a citizen of Haiti. Mr. Pierre presented himself at a port of entry in Texas on January 1, 2020. DHS placed Mr. Pierre in removal proceedings and issued him an I-862, Notice to Appear. DHS also placed Mr. Pierre in the MPP program and instructed him to remain in Mexico, until his next immigration court hearing, when he should present himself at the port of entry. Mr. Pierre remained in Mexico, until he attended his immigration court hearing on February 1, 2021. On February 1, 2021, DHS issued Mr. Pierre an I-94 documenting his admission into the U.S. on parole. Mr. Pierre's immigration case is still proceeding, but he does not have a final, non-appealable, and legally enforceable order of removal, deportation or exclusion entered in his case. According to ORR's PL 16-01, Mr. Pierre is eligible for ORR benefits and services. His eligibility date is February 1, 2021, the first date he entered into the community.

(36) For a Cuban or Haitian entrant who is eligible for ORR benefits and services, what should the eligibility date be if the entrant was placed in the MPP program and subsequently entered into the U.S. without inspection?

The eligibility date would be the date that the Cuban or Haitian was initially determined to be a Cuban or Haitian entrant (e.g., date on the I-862, Notice to Appear). The entrant's date of entry without inspection would not apply, since there is no DHS paperwork to confirm that date.

Example: Ms. Aguilar is a citizen of Cuba. Ms. Aguilar presented herself at a port of entry in Arizona on February 3, 2020. DHS placed Ms. Aguilar in removal proceedings and issued her an I-862, Notice to Appear. DHS also placed Ms. Aguilar in the MPP program and instructed her to remain in Mexico, except for her immigration court hearings when she should present herself at the port of entry. Ms. Aguilar remained in Mexico, except for immigration court hearings, for six months. After an Immigration Judge postponed her case during an immigration court hearing, Ms. Aguilar decided not to return to Mexico, and instead entered into the United States. Ms. Aguilar presented herself to and requested benefits from the local resettlement agency in Arizona. Ms. Aguilar is still in removal proceedings, but she does not have a final, non-appealable, and legally enforceable order of removal, deportation, or exclusion entered in her case. According to ORR's PL 16-01, Ms. Aguilar is eligible for ORR benefits and services. However, since Ms. Aguilar entered the U.S. without inspection and does not have DHS documentation to validate her entry date into the community, her eligibility date is February 3, 2020, the date on her I-862.

(37) If a Cuban or Haitian entrant who is eligible for ORR benefits and services has a baby of another nationality, would the baby be eligible for ORR benefits and services?

Yes. According to 45 C.F.R. § 401.12, cash and medical assistance shall be provided to Cuban and Haitian entrants under the same conditions and to the same extent as such assistance is provided under 45 C.F.R. part 400. Therefore, 45 C.F.R. § 400.208, which

permits federal funding to be available for family units which include both refugees and non-refugees, would also apply to Cuban and Haitian entrants. Specifically, if a family unit has only one Cuban or Haitian entrant parent or two Cuban or Haitian entrant parents, the baby or child would be eligible for ORR assistance and services. However, if one parent in the family unit is not a Cuban or Haitian entrant, then the baby or child would not be eligible for ORR assistance and services.

Example 1: Ms. Jean is a citizen of Haiti. Ms. Jean and her baby girl Gaby presented themselves at a port of entry in Florida on September 15, 2020. DHS placed Ms. Jean and Gaby in removal proceedings and issued both of them an I-862, Notice to Appear. According to ORR's PL 16-01, Ms. Jean is eligible for ORR benefits and services because she is a citizen of Haiti, she is currently in removal proceedings, and she does not have a final, non-appealable, and legally enforceable order of removal, deportation, or exclusion entered in her case. Gaby was born in and is a citizen of Peru. Gaby is also eligible for ORR benefits and services in accordance with 45 C.F.R. §§ 401.12 and 400.208. Ms. Jean and Gaby's eligibility date is September 15, 2020, the date on their NTA forms.

Example 2: Mr. Garcia is a citizen of Cuba. Mr. Garcia, his wife, Ms. De La Rosa, and their baby Adriana, who was born in Mexico, presented themselves at a port of entry in Arizona on October 2, 2019. DHS placed all three individuals in removal proceedings and issued each of them an I-862, Notice to Appear. According to ORR's PL 16-01, Mr. Garcia is eligible for ORR benefits and services because he is a citizen of Cuba, he is currently in removal proceedings, and he does not have a final, non-appealable, and legally enforceable order of removal, deportation, or exclusion entered in his case. Mr. Garcia's eligibility date is October 2, 2019, the date on his NTA. Ms. De La Rosa is from Mexico. She is not eligible for ORR benefits and services. Adriana is also not eligible for ORR benefits and services under 45 C.F.R. §§ 401.12 and 400.208, since one of her parents is not a refugee or a Cuban or Haitian entrant.

Parolees

(38) Parolee Eligibility: Are parolees eligible for refugee services? Does it matter which kind of parole an applicant has?

Under current laws only Cuban and Haitian parolees are eligible for refugee services; there is no restriction on the type of parole. Parolees of other nationalities are ineligible for all services, regardless of the type of parole or the nationality. The one exception are those few persons of any nationality who are paroled into the United States with the specific notation "Paroled as a Refugee" or "Paroled as an Asylee" on their I-94 or other documentation. A person paroled specifically as a refugee or asylee is eligible for refugee program benefits.

(39) Paroled under "212.5 (b)(5): Are Cubans and Haitians paroled under "212.5(b)(5)" instead of "212(d)(5)" eligible?

As noted in the previous question, the language regarding Cuban and Haitian parolees does not specify the section of the Immigration and Nationality Act (INA). The "212.5(b)(5)" is actually a subsection of 8 CFR. 212.5 that delegates the authority to parole and provides the justification for release. When an applicant presents

documentation of a parole under this section, determine if s/he has Cuban or Haitian nationality. If Cuban or Haitian, the individual is eligible for refugee services as a Cuban/Haitian entrant.

(40) “Paroled as a Refugee”: Because Cubans and Haitian granted parole receive refugee program benefits, aren’t they “paroled as a refugee”?

No, the I-94 must specify “paroled as a refugee.” Cubans and Haitians receive humanitarian or public benefit parole, and the code used on their Work Authorization documents is “C11,” not “A04.”

(41) Cuban/Haitian Date of Entry - Parolees: What date of “entry” is used for a Cuban or Haitian national who is granted parole to determine the eligibility for refugee program benefits?

If a person of Cuban or Haitian nationality receives parole on entry to the United States, the date of eligibility for refugee services would be the actual date that person entered the United States for the first time in parole status. If the Cuban or Haitian national first receives parole sometime after entering the United States, the date of eligibility is the date of parole approval rather than the actual date of entry. The date of eligibility does not change if the individual is again granted parole status after a departure from the United States or any renewal of the status.

(42) Derivative Eligibility of Cuban-Haitian Parolees: Are the non-Cuban or non-Haitian family members of Cuban or Haitian parolees considered Cuban-Haitian entrants?

No, non-Cuban or non-Haitian spouses and children do not derive eligibility as Cuban-Haitian entrants. The definition in the Refugee Education Assistance Act granted eligibility for refugee program services only to certain categories of individuals with Cuban or Haitian nationality. DHS determines the nationality or citizenship by the documentation presented at time of entry. Any claim to Cuban or Haitian nationality must be resolved and documented by DHS in order to establish eligibility as a Cuban-Haitian entrant. See [ORR State Letter #07-14](#).

(43) Lautenberg Parolee Eligibility: If Lautenberg parolees come to the United States through the refugee admission process, are they eligible for refugee program benefits?

The Lautenberg Amendment allowed adjustment of status of certain Cambodian, Vietnamese, or Soviet nationals paroled into the United States in the company of relatives who were admitted as refugees or Amerasians. These individuals are not refugees themselves and are **not** eligible for refugee services. (The applicable code on Form I-551 is LA6.)

(44) Eligibility Retention: Do Cuban and Haitian parolees retain their eligibility for refugee services when their parole expires?

Yes, based on guidance from ORR, Cubans and Haitians who have been paroled retain eligibility even if their status expires.

(45) Length of Parole: If a Cuban or Haitian is granted parole for less than a year, on entering the United States via the Southwest border, for example, does that affect eligibility for refugee services?

No, the length of parole or the port of entry into the United States does not affect the eligibility of persons of Cuban or Haitian nationality granted parole.

Cuban Adjustment Act

(46) CU6 Code: Does the CU6 code on a document shown by a Cuban demonstrate eligibility for refugee program services?

According to [ORR State Letter #00-17](#) and later guidance (see Appendix A), DHS documentation with the CU6 code is not proof of eligibility for ORR benefits. The CU6 code shows that a person of Cuban nationality became a permanent resident under the Cuban Adjustment Act. The CU6 code therefore does not confirm that a person was previously a Cuban or Haitian entrant. Many people who adjusted under this law were admitted to the United States in statuses not eligible for refugee program benefits. Persons who are lawful permanent residents must establish that they held a previously eligible status.

(47) Interim Eligibility for CU6: If a Cuban applicant documented as a CU6 shows a photocopy of his or her Form I-94 showing a qualifying status, can the individual be served on an interim basis while waiting for secondary verification from DHS?

No, you must first document that the person was previously a Cuban/Haitian entrant. First, ask for other documentation. Many Cubans showing Form I-551 with the CU6 code will have other documents that show their earlier status, such as EAD's or passports that may have expired. If no other documentation exists, providers may submit a Freedom of Information Act (FOIA) request. Providers must document the earlier status before providing services.

(48) CU7 Spouse and Child: Is the spouse or child of a Cuban parolee who adjusted under the Cuban Adjustment Act (CAA) eligible for refugee services?

The code "CU7" on the Form I-551 (permanent resident card) reveals that the spouse or child is not a Cuban national. Spouses and children of a Cuban/Haitian entrant do not receive, or "derive," eligibility from their relative. The definition in the Refugee Education Assistance Act granted eligibility for refugee program services only to certain categories of individuals with Cuban or Haitian nationality. (See also FAQ 33.) These family members may, however, be eligible for mainstream services open to all permanent residents.

(49) Interim Eligibility with Self-Declaration of Eligible Immigration Status: If a Cuban applicant documented only as a CU6 signs a Self-Declaration of Eligible Immigration Status (see Exhibit 5-1), can the individual be served on an interim basis while waiting for verification of prior status from DHS?

No, the Self-Declaration does not replace documentation of an eligible status. If, however, the individual has an expired document showing a previously eligible status, such as an EAD with a code "C11" representing parole status, and your contract does not limit the period of eligibility, check with the Refugee Services Program about the use of the Self-Declaration to provide interim service.

Miscellaneous

(50) Surrender of Form I-94: How can an applicant show eligibility if he or she has surrendered the I-94 to USCIS in applying for adjustment of status to permanent resident?

Ask for other documents that show an eligible status. Sometimes, a person might have an expired passport or work authorization card that showed a previous status. If s/he has no other original documentation showing the earlier status, but has a photocopy of the information and adequate identity documentation, the Refugee Services Program may be able to verify the earlier status from its database. Otherwise, it may be necessary to request to file a Freedom of Information Act (FOIA) request with USCIS to verify the “class of admission.”

(51) How do you file a Freedom of Information Act (FOIA) request with USCIS to verify an applicant’s previous status?

See Chapter 5 for instructions on filing a FOIA request with USCIS or with the Executive Office of Immigration Review (EOIR). The request must be written. USCIS suggests using Form G-639 (see Chapter 5). Download the latest version of Form G-639 from the USCIS website (www.uscis.gov). EOIR requires a letter and will not accept Form G-639.

Be sure to have the client sign the FOIA request and have the signature notarized, as neither USCIS nor EOIR will provide the information unless the individual has given a release for you to be given the information. USCIS also suggests including your daytime phone number in case of questions.

(52) Interim Eligibility with Self-Declaration of Eligible Immigration Status: If an applicant signs a Self-Declaration of Eligible Immigration Status (see Exhibit 5-1), can the individual be served on an interim basis while waiting for further documentation of status from DHS?

No, the Self-Declaration does not replace documentation of an eligible status. The Declaration should be used only if status has been confirmed but other information is required. If you need to establish the continued eligibility of a Cuban or Haitian client in removal proceedings, for instance, the Self-Declaration could be used while checking the issuance of a final order of removal. The Declaration could also be used if you lacked other required information that would not affect eligibility, such as the nationality of a refugee or asylee. Check first with the Refugee Services Program about using the Self-Declaration to provide interim service in a particular situation.

(53) Application for Adjustment: If someone can show a Work Authorization document with a “C09” code, is he or she eligible for refugee program services?

No, since the “C09” code on a work authorization card shows only that the person has applied for permanent resident status. The person must show that he or she held a prior status that was eligible for services, just as people who are permanent residents.

(54) Deferred Inspection: Is someone with a “C14” code on the Work Authorization document eligible for refugee program services?

No, the “C14” code on the work authorization card does not demonstrate eligibility. Any of the DHS agencies (ICE, USCIS, CBP) can grant deferred action in unusual circumstances when an applicant has a pending application. For example, a battered

spouse might be granted deferred action while waiting for visa availability. The applicant should have some documentation related to the deferred action that may help providers determine if there is a basis for eligibility.

(55) How long should a case remain pending for secondary verification from USCIS?

Set a suspense date for follow up in two-three weeks. If responses are routinely delayed more than a month, alert the Refugee Services Program and the Office of Refugee Resettlement (ORR), especially if you cannot serve a significant number of clients pending a response.

(56) Alien Number: Can you tell where an applicant entered the United States by his or her alien number or other information about eligibility for refugee programs?

No, the alien number does not provide information on entry point or eligibility. Sometimes providers see a sequence of numbers, however, for refugees or others who are processed in the same place at the same time.

(57) Incorrect or Missing Alien Number: What should an applicant do if his or her alien number is missing, incorrect or appears to be the same as one assigned to someone else?

If an individual's alien number is missing, appears incorrect or to duplicate the number already assigned to someone else, s/he should contact the nearest DHS/CIS and request assistance. Some offices can resolve the error themselves; in other cases the individual will be instructed what to do next.

(58) Alien Number—Trafficking Victims: Do trafficking victims have to show an alien number?

Trafficking victims may show a certification or eligibility letter and not immigration documents so they may not have been issued an alien number. If an alien number is needed for data entry, contact Refugee Services. Family members who have T-visas usually have been issued an alien number.

(59) Second Alien Number: Which alien number should be used if an applicant has two alien numbers?

USCIS may have issued documentation with a second alien number to many applicants for adjustment to permanent resident in summer 2007 to facilitate the processing of receipts. In those cases, USCIS announced that the newly assigned A numbers would be reconciled with each person's previous A-numbers and the newly assigned A-number would be deleted. The temporary A number also appeared on the EAD card. If someone presents a document issued at that time, verify both numbers and document both numbers in the client's file. The reconciled number should be used in the Refugee Services Data System (RSDS) to identify the client.

If someone has two numbers for some other reason, such as use of different names or a second entry, the person should notify USCIS and ask help in reconciling their file number. Contact the Policy and Program Unit at Refugee Services if you need help in resolving the issue.

(60) Port of Entry Codes: What port of entry is designated by a "Z" code on the I-94?

The “Z,” in front of two other letters, designates an asylum office. For example, ZMI is Miami, ZNY is Rosedale, New York. A complete list of port of entry codes has been added to Chapter 8: Common Refugee Codes.

(61) Document Copies: Can a copy of a document be accepted for determining eligibility if the original is no longer available?

No, only original immigration documents may generally be used to show that a person has an eligible immigration status or class of admission. In case of questions about eligibility or documentation, consult with your Refugee Services Program contract manager.

(Note: If the document is current and no longer in that person’s possession or was lost or stolen, the individual may need to apply for a replacement from the Department of Homeland Security.)

(62) REAL ID Act Requirements: Are refugee service providers required to comply with the identification document standards of the REAL ID Act?

ORR serves many clients who initially possess no photo identification; their first photo ID is often the Employment Authorization Document (EAD). The USCIS-issued EAD meets REAL ID requirements for both identity and proof of lawful presence, but delays may occur in the processing of initial, replacement, or renewal EADs. According to [ORR State Letter #07-07](#) (April 12, 2007), refugee service providers may continue to accept driver's licenses and other proof of identity that fail to meet all of the security requirements of the REAL ID Act. The REAL ID Act set minimum identification security standards for federal agencies. Consult with the Refugee Services Program if you have questions about the acceptability of documentation.

(63) Temporary Protected Status: Do persons with Temporary Protected Status get refugee program benefits if they come from a refugee-producing country?

Because of conflict or natural disasters in their country of origin, some persons have been allowed to remain in the United States for a temporary period until conditions permit their return. Persons granted Temporary Protected Status by DHS are **not** eligible for refugee services, regardless of nationality. Note, however, that eligible clients do not lose eligibility because they also apply for or receive TPS.

(64) Tourists: Are Cubans who enter as tourists, temporary workers or in other non-immigrant visa categories, and request adjustment under the Cuban Adjustment Act eligible for refugee services?

Cubans who enter the U.S. as tourists are ineligible for refugee benefits. If a person later acquired a status, however, that confers eligibility, such as asylum applicant, determine the eligibility based on that status. Adjustment of status under the Cuban Adjustment Act does not in and of itself confer eligibility for refugee program services.

(65) U.S. Citizens: Can refugees and other eligible groups continue to get refugee services after they become U.S. citizens?

Under 45 CFR, Part 400, formerly eligible individuals who become U.S. citizens are no longer eligible for refugee services. Certain Amerasians are exempt from this regulation; these include those who present an I-94 stamped AM1, AM2, or AM3; an I-551 with codes AM1, AM2, AM3, AM6, AM7, or AM8; or a Vietnamese exit visa or passport stamped by DHS as AM1, AM2, or AM3.

(66) VISAS 91: Are persons admitted as V-91 eligible for refugee services?

V-91 inscriptions on the Form I-94 arrival/departure card indicates that the person is "following to join" a parent or spouse who was admitted to the United States as a parolee. Only Cuban or Haitian nationals paroled into the United States are eligible for refugee services under 45 CFR 501.2; the eligibility of a Cuban or Haitian national admitted as a V-91, therefore, is determined based on the parole stamp on his or her own Form I-94, not on the relative's status.

(67) Visa Lottery/Diversity Lottery: Are Cuban visa lottery immigrants eligible for refugee program benefits?

The worldwide visa diversity lottery is a regular immigration program and persons enter as legal permanent residents. Their documentation shows a permanent resident status associated with the code "DV." Visa diversity lottery immigrants are ineligible for refugee program benefits, even if Cuban or Haitian nationals. This status is not the same as "Cuban lottery parolees," who enter the United States in parole status and are unable to become permanent residents until they have been in the United States at least one year.

Employment Authorization

(68) Form I-9 Requirements: Must non-U.S. citizens provide a DHS-issued document, such as Form I-688B, to fulfill the Form I-9 document requirements?

No. An individual who is not a U.S. citizen does not have to submit a DHS-issued document if he or she can fulfill the Form I-9 requirements with other documents. For example, an asylee with a state driver's license (List B document) and an unrestricted Social Security card (List C document) fulfills the Form I-9 requirements and may not be required to present a DHS-issued document. If the employer did require a DHS-issued document after the asylee had submitted documents fulfilling the Form I-9 requirements, it would be considered document abuse.

(69) Employer Requirements: What should an individual do if an employer demands an USCIS employment authorization document but the employee has other documents that fulfill the Form I-9 requirements?

An individual should consider providing the requested document to safeguard his or her employment. An individual may also contact OSC's Worker Hotline at 1-800-255-7688 for assistance.

(70) Receipt Rule: What is the "receipt rule" for refugees?

Although an individual normally must submit a document from List A, or one document from List B and one document from List C, under the "receipt rule" for refugees, a refugee may meet the Form I-9 requirement by presenting to his or her employer the departure portion of the Form I-94, containing a refugee admission stamp. This submission only completes the Form I-9 temporarily. Within 90 days, the refugee must provide the employer with either (1) an unrestricted Social Security card and a List B document or (2) an employment authorization document issued by the USCIS.

(71) Unexpired Employment Authorization Document: Is a Form I-94 with a refugee or asylee stamp considered an "unexpired employment authorization document issued by the Service" (other than those listed under List A) in List C?

Yes. The Form I-94 with a refugee or asylee stamp is considered an “unexpired employment authorization document issued by the Service” (other than those listed under List A) in List C.

(72) Asylees and Receipt Rule: Does the “receipt rule” for refugees also apply to asylees?

No. This rule applies only to refugees. The rule does not apply to asylees.

(73) Reverification: Does an employee need to submit the same proof of identity and employment eligibility at reverification as he or she did on the initial Form I-9?

No. An employee may present a document that shows either an extension of his or her initial employment authorization or a new document evidencing work authorization, including an unrestricted Social Security card.

(74) Documents and Expiration Dates: Can an employer refuse to hire an individual because the individual’s document has an expiration date?

No. Consideration of a future employment authorization expiration date in determining whether an individual is qualified for a particular job could be an unfair immigration-related employment practice.

(75) Refugee and Asylee Work Authorization: Since a refugee or asylee is authorized to work indefinitely, how should he complete the box in Section 1 of the DHS Form I-9 to attest that he or she is authorized to work in the United States? (The box asks for the expiration of work authorization for individuals who are not U.S. citizens or lawful permanent residents.)

The Department of Justice Office of Special Counsel has indicated that it is acceptable for the individual to write, “N/A - asylee” or “N/A - refugee” on the line next to box 3 in Section 1 of the DHS Form I-9.

(76) Employment Eligibility Issues: Where can someone get help if other employment eligibility issues arise?

Contact the Department of Justice Office of Special Counsel in the Civil Rights Division for other questions regarding employment eligibility requirements or immigration-related unfair employment practices. The telephone numbers are: 202-616-5594, 1-800-255-8155 or 1-800-362-2735 (TDD).