

hearing to contest adverse determinations. States must ensure that hearings meet the due process standards in *Goldberg v. Kelly*, 397 U.S. 254 (1970).

(1) *Public/private RCA programs.* The State must specify in the public/private RCA plan the hearing procedures to be used in the RCA program. The plan may specify that the local resettlement agency(s) will refer all hearing requests to a State-administered hearing process. If the plan does not specify the use of a State-administered hearing process, then the procedures to be followed must include:

(i) The State or local resettlement agency(s) responsible for the provision of RCA must provide an applicant for or recipient of refugee cash assistance an opportunity for an oral hearing to contest adverse determinations. Hearings must be conducted by an impartial official or designee of the State or local resettlement agency who has not been involved directly in the initial determination of the action in question.

(ii) The State must ensure that procedures are established to provide refugees a right of final appeal for an in-person hearing provided by an impartial, independent entity outside of the local resettlement agency.

(iii) Final administrative action must be taken within 60 days from the date of a request for a hearing.

(2) *Publicly-administered RCA programs.* The State must specify in the State Plan referenced in §400.4 the public agency hearing procedures it intends to use in the RCA program.

(3) In both a public/private RCA program and a publicly-administered RCA program, the written notice of any hearing determination must adequately explain the basis for the decision and the refugee's right to request any further administrative or judicial review.

(4) In both a public/private RCA program and a publicly-administered RCA program, a refugee's benefits may not be terminated prior to completion of final administrative action, but are subject to recovery by the agency if the action is sustained.

(5) In both a public/private RCA program and a publicly-administered RCA program, a hearing need not be granted when Federal law requires automatic

grant adjustments for classes of recipients unless the reason for an individual appeal is an incorrect grant computation.

(6) In both a public/private RCA program and a publicly-administered RCA program, a hearing need not be granted when assistance is terminated because the eligibility time period imposed by law has been reached, unless there is a disputed issue of fact that is unresolved by the process in §400.23.

§ 400.55 Availability of agency policies.

A State, or the agency(s) responsible for the provision of RCA, must make available to refugees the written policies of the RCA program, including agency policies regarding eligibility standards, the duration and amount of cash assistance payments, the requirements for participation in services, the penalties for non-cooperation, and client rights and responsibilities to ensure that refugees understand what they are eligible for, what is expected of them, and what protections are available to them. The State, or the agency(s) responsible for the provision of RCA, must ensure that agency policy materials and all notices required in §§400.54, 400.82, and 400.83, are made available in written form in English and in appropriate languages where a significant number or proportion of the recipient population needs information in a particular language. In regard to refugee language groups that constitute a small number or proportion of the recipient population, the State, or the agency(s) responsible for the provision of RCA, at a minimum, must use an alternative method, such as verbal translation in the refugee's native language, to ensure that the content of the agency's policies is effectively communicated to each refugee.

PUBLIC/PRIVATE RCA PROGRAM

§ 400.56 Structure.

(a) States may choose to enter into a partnership agreement with local resettlement agencies for the operation of a public/private RCA program. Sections 400.56 through 400.63 apply to the public/private RCA program.

(b) The public/private RCA program must be administered by the State

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through contracts or grants with local resettlement agencies or a lead resettlement agency that provides initial resettlement services under the terms of the Department of State Cooperative Agreement for Reception and Placement.

(c) The public/private RCA program must be statewide, unless the State determines that it is not in the best interests of refugees to provide a public/private RCA program in a particular area of the State.

(d) Local resettlement agencies may be responsible for determining eligibility, and authorizing and providing payments to eligible refugees.

(e) States and local resettlement agencies may not propose to operate a public/private RCA program and a publicly-administered RCA program in the same geographic location.

(f) States must ensure the provision of RCA assistance to eligible refugees in the State who are sponsored by local resettlement agencies in bordering states, where applicable.

§ 400.57 Planning and consultation process.

A State that wishes to establish a public/private RCA program must engage in a planning and consultation process with the local agencies that resettle refugees in the State to develop a public/private RCA plan in accordance with the requirements under § 400.58.

(a) Primary participants in the planning process must include representatives of the State and each local agency that resettles refugees in the State. During the planning process, the State must fully consult with representatives of counties, refugee mutual assistance associations (MAAs), local community services agencies, national voluntary agencies that resettle refugees in the State, representatives of each refugee ethnic group, and other agencies that serve refugees.

(b) Each local resettlement agency that resettles refugees in the State must inform its national resettlement agency of the proposed public/private RCA program and must obtain a letter of agreement from the national agency that indicates that the national agency supports the public/private RCA plan

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and will continue to place refugees in the State under the public/private RCA program.

§ 400.58 Content and submission of public/private RCA plan.

(a) States and local resettlement agencies must develop a public/private RCA plan which describes how the State and local resettlement agencies will administer and provide refugee cash assistance to eligible refugees. The plan must describe the agreed-upon public/private RCA program including:

(1) The proposed income standard to be used to determine RCA eligibility;

(2) The proposed payment levels to be used to provide cash assistance to eligible refugees;

(3) Assurance that the payment levels established are not lower than the comparable State TANF amounts;

(4) A detailed description of how benefit payments will be structured, including a description of employment incentives and/or income disregards to be used, if any, as well as methods of payment to be used, such as direct cash or vendor payments;

(5) A description of how all RCA eligible refugees residing in the State will have reasonable access to cash assistance and services;

(6) A description of the procedures to be used to ensure appropriate protections and due process for refugees, such as the correction of underpayments, notice of adverse action and the right to mediation, a pre-determination hearing, and an appeal to an independent entity;

(7) A description of proposed exemptions from participation in employability services;

(8) A description of the employment and self-sufficiency services to be provided to RCA recipients by—

(i) Local resettlement agencies under contract or grant, and/or

(ii) Other refugee services providers;

(9) Procedures for providing RCA to eligible secondary migrants who move to the State, including secondary migrants who were sponsored by a local resettlement agency that does not have a presence in the receiving State;

(10) If applicable, provisions for providing assistance to refugees resettling