Off. of Refugee Resettlement, ACF, HHS

§ 400.112 Child welfare services for refugee children.

(a) In providing child welfare services to refugee children in the State, a State must provide the same child welfare services and benefits to the same extent as are provided to other children of the same age in the State under a State’s title IV-B plan.

(b) A State must provide child welfare services to refugee children according to the State’s child welfare standards, practices, and procedures.

(c) Foster care maintenance payments must be provided under a State’s program under title IV-E of the Social Security Act if a child is eligible under that program.

§ 400.113 Duration of eligibility.

(a) Except as specified in paragraph (b), a refugee child may be eligible for services under § 400.112 of this part during the 36-month period beginning with the first month the child entered the United States.

(b) An unaccompanied minor continues to meet the definition of “unaccompanied minor” and is eligible for benefits and services under §§ 400.115 through 400.120 of this part until the minor—

(1) Is reunited with a parent; or

(2) Is united with a nonparental adult (relative or nonrelative) willing and able to care for the child to whom legal custody and/or guardianship is granted under State law; or

(3) Attains 18 years of age or such higher age as the State’s title IV-B plan prescribes for the availability of child welfare services to any other child in the State.

§ 400.114 [Reserved]

§ 400.115 Establishing legal responsibility.

(a) A State must ensure that legal responsibility is established, including legal custody and/or guardianship, as appropriate, in accordance with applicable State law, for each unaccompanied minor who resettles in the State. The State must initiate procedures for establishing legal responsibility for the minor, with an appropriate court (if action by a court is required by State law), within 30 days after the minor arrives at the location of resettlement.

(b) In establishing legal responsibility, including legal custody and/or guardianship under State law, as appropriate, the minor’s natural parents should not be contacted in their native country since contact could be dangerous to the parents.

(c) Unaccompanied minors are not generally eligible for adoption since family reunification is the objective of the program. In certain rare cases, adoption may be permitted pursuant to adoption laws in the State of resettlement, provided a court finds that: (1) Adoption would be in the best interest of the child; and (2) there is termination of parental rights (for example, in situations where the parents are dead or are missing and presumed dead) as determined by the appropriate State court. When adoption occurs, the child’s status as an unaccompanied minor terminates.

§ 400.116 Service for unaccompanied minors.

(a) A State must provide unaccompanied minors with the same range of child welfare benefits and services available in foster care cases to other
children in the State. Allowable benefits and services may include foster care maintenance (room, board, and clothing) payments; medical assistance; support services; services identified in the State’s plans under titles IV-B and IV-E of the Social Security Act; services permissible under title XX of the Social Security Act; and expenditures incurred in establishing legal responsibility.

(b) A State may provide additional services if the Director, or his or her designee, determines such services to be reasonable and necessary for a particular child or children and provides written notification of such determination to the State.

§ 400.117 Provision of care and services.

(a) A State may provide care and services to an unaccompanied minor directly or through arrangements with a public or private child welfare agency approved or licensed under State law.

(b) If a State arranges for the care and services through a public or private nonprofit child welfare agency, it must retain oversight responsibility for the appropriateness of the unaccompanied minor’s living arrangement and services no less frequently than every 6 months.

(Approved by the Office of Management and Budget under control number 0960–0418)

§ 400.119 Interstate movement.

After the initial placement of an unaccompanied minor, the same procedures that govern the movement of nonrefugee foster cases to other States apply to the movement of unaccompanied minors to other States.

§ 400.120 Reporting requirements.

A State must submit to ORR, on forms prescribed by the Director, the following reports on each unaccompanied minor:

(a) An initial report within 30 days of the date of the minor’s placement in the State;

(b) A progress report every 12 months beginning with 12 months from the date of the initial report in paragraph (a);

(c) A change of status report within 60 days of the date that—

(1) The minor’s placement is changed;

(2) Legal responsibility of any kind for the minor is established or transferred; or

(d) A final report within 60 days of the date of that the minor—

(1) Is reunited with a parent; or

(2) Is united with an adult, other than a parent, in accordance with §400.113(b) or §400.115(c) of this part.