

412(c) is not available or appropriate in the area in which the refugee resides, any other available and appropriate program in such area.

(5) Participate in any targeted assistance program in the area in which the refugee resides, which is funded under section 412(c) of the Act, and which is determined to be available and appropriate for that refugee.

(6)(i) Accept an offer of employment which is determined to be appropriate by the local resettlement agency which was responsible for the initial resettlement of the refugee or by the appropriate State or local employment service;

(ii) Go to a job interview which is arranged through such agency or service; and

(iii) Participate in a social service or targeted assistance program which such agency or service determines to be available or appropriate.

(b) The State agency or its designee must permit, but may not require, the voluntary registration for employment services of an applicant or recipient who is exempt under §400.76 of this part.

[54 FR 5477, Feb. 3, 1989, as amended at 60 FR 33602, June 28, 1995; 65 FR 15448, Mar. 22, 2000]

§ 400.76 Criteria for exemption from registration for employment services, participation in employability service programs, and acceptance of appropriate offers of employment.

States and local resettlement agencies operating a public/private RCA program, as well as States operating a publicly-administered RCA program, may determine what specific exemptions, if any, are appropriate for recipients of a time-limited RCA program in their State.

[65 FR 15448, Mar. 22, 2000]

§ 400.77 Effect of quitting employment or failing or refusing to participate in required services.

(a) As a condition of eligibility for refugee cash assistance, an employable applicant may not, without good cause, within 30 consecutive calendar days immediately prior to the application for assistance (or such longer period required by §400.82(c)(2), if applicable),

have voluntarily quit employment or have refused to accept an offer of employment determined to be appropriate by the State agency or its designee, using criteria set forth in §400.81.

(b) As a condition of continued receipt of refugee cash assistance, an employable recipient may not, without good cause, voluntarily quit employment or fail or refuse to meet the requirements of §400.75(a).

[54 FR 5477, Feb. 3, 1989, as amended at 65 FR 15448, Mar. 22, 2000]

§ 400.79 Development of an employability plan.

(a) An individual employability plan must be developed as part of a family self-sufficiency plan where applicable for each recipient of refugee cash assistance in a family unit who is not exempt under §400.76 of this part.

(b) If such a plan has been developed by the local resettlement agency which sponsored the refugee, or its designee, the State agency, or its designee, may accept this plan if it determines that the plan is appropriate for the refugee and meets the requirements of this subpart.

(c) The employability plan must—

(1) Be designed to lead to the earliest possible employment and not be structured in such a way as to discourage or delay employment or job-seeking; and

(2) Contain a definite employment goal, attainable in the shortest time period consistent with the employability of the refugee in relation to job openings in the area.

[54 FR 5477, Feb. 3, 1989, as amended at 60 FR 33602, June 28, 1995; 65 FR 15448, Mar. 22, 2000]

CRITERIA FOR APPROPRIATE EMPLOYABILITY SERVICES AND EMPLOYMENT

§ 400.81 Criteria for appropriate employability services and employment.

The State agency or its designee must determine if employability services and employment are appropriate in accordance with the following criteria:

(a) The services or employment must meet the following criteria, or, if approved by the Director, the comparable

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criteria applied by the State in an alternative program for TANF recipients:

(1) All assignments must be within the scope of the individual's employability plan. The plan may be modified to reflect changed services or employment conditions.

(2) The services or employment must be related to the capability of the individual to perform the task on a regular basis. Any claim of adverse effect on physical or mental health must be based on adequate medical testimony from a physician or licensed or certified psychologist indicating that participation would impair the individual's physical or mental health.

(3) The total daily commuting time to and from home to the service or employment site must not normally exceed 2 hours, not including the transporting of a child to and from a child care facility, unless a longer commuting distance or time is generally accepted in the community, in which case the round trip commuting time must not exceed the generally accepted community standards.

(4) When child care is required, the care must meet the standards normally required by the State in its work and training programs for TANF recipients.

(5) The service or work site to which the individual is assigned must not be in violation of applicable Federal, State, or local health and safety standards.

(6) Assignments must not be made which are discriminatory in terms of age, sex, race, creed, color, or national origin.

(7) Appropriate work may be temporary, permanent, full-time, part-time, or seasonal work if such work meets the other standards of this section.

(8) The wage shall meet or exceed the Federal or State minimum wage law, whichever is applicable, or if such laws are not applicable, the wage shall not be substantially less favorable than the wage normally paid for similar work in that labor market.

(9) The daily hours of work and the weekly hours of work shall not exceed those customary to the occupation. And

(10) No individual may be required to accept employment if:

(i) The position offered is vacant due to a strike, lockout, or other bona fide labor dispute; or

(ii) The individual would be required to work for an employer contrary to the conditions of his existing membership in the union governing that occupation. However, employment not governed by the rules of a union in which he or she has membership may be deemed appropriate.

(11) In addition to meeting the other criteria of this paragraph, the quality of training must meet local employers' requirements so that the individual will be in a competitive position within the local labor market. The training must also be likely to lead to employment which will meet the appropriate work criteria.

(b) If an individual is a professional in need of professional refresher training and other recertification services in order to qualify to practice his or her profession in the United States, the training may consist of full-time attendance in a college or professional training program, provided that such training: Is approved as part of the individual's employability plan by the State agency, or its designee; does not exceed one year's duration (including any time enrolled in such program in the United States prior to the refugee's application for assistance); is specifically intended to assist the professional in becoming relicensed in his or her profession; and, if completed, can realistically be expected to result in such relicensing. This training may only be made available to individuals who are employed.

(c) A job offered, if determined appropriate under the requirements of this subpart, is required to be accepted by the refugee without regard to whether such job would interrupt a program of services planned or in progress unless the refugee is currently participating in a program *in progress* of on-the-job training (as described in §400.154(c)) or vocational training (as described in §400.154(e)) which meets the requirements of this part and which is being

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carried out as part of an approved employability plan.

[54 FR 5477, Feb. 3, 1989, as amended at 65 FR 15448, Mar. 22, 2000]

FAILURE OR REFUSAL TO ACCEPT EMPLOYABILITY SERVICES OR EMPLOYMENT

§ 400.82 Failure or refusal to accept employability services or employment.

(a) *Termination of assistance.* When, without good cause, an employable non-exempt recipient of refugee cash assistance under the public/private RCA program or under a publicly-administered RCA program has failed or refused to meet the requirements of § 400.75(a) or has voluntarily quit a job, the State, or the agency(s) responsible for the provision of RCA, must terminate assistance in accordance with paragraphs (b) and (c) of this section.

(b) *Notice of intended termination*—(1) In cases of proposed action to reduce, suspend, or terminate assistance, the State or the agency(s) responsible for the provision of RCA, must give timely and adequate notice, in accordance with adverse action procedures required at § 400.54.

(2) The State, or the agency(s) responsible for the provision of RCA, must provide written procedures in English and in appropriate languages, in accordance with requirements in § 400.55, for the determination of good cause, the sanctioning of refugees who do not comply with the requirements of the program, and for the filing of appeals by refugees.

(3) In addition to the requirements in § 400.54, the written notice must include—

(i) An explanation of the reason for the action and the proposed adverse consequences; and

(ii) Notice of the recipient's right to mediation and a hearing under § 400.83.

(4) A written notice in English and a written translated notice, or a verbal translation of the notice, in accordance with the requirements in § 400.55, must be sent or provided to a refugee at least 10 days before the date upon which the action is to become effective.

(c) *Sanctions.* (1) If the sanctioned individual is the only member of the fil-

ing unit, the assistance shall be terminated. If the filing unit includes other members, the State shall not take into account the sanctioned individual's needs in determining the filing unit's need for assistance.

(2) The sanction applied in paragraph (b)(3)(i) of this section shall remain in effect for 3 payment months for the first such failure and 6 payment months for any subsequent such failure.

[54 FR 5477, Feb. 3, 1989, as amended at 60 FR 33602, June 28, 1995; 65 FR 15448, Mar. 22, 2000]

§ 400.83 Mediation and fair hearings.

(a) *Mediation*—(1) *Public/private RCA program.* The State must ensure that a mediation period prior to imposition of sanctions is provided to refugees by local resettlement agencies under the public/private RCA program. Mediation shall begin as soon as possible, but no later than 10 days following the date of failure or refusal to participate, and may continue for a period not to exceed 30 days. Either the State (or local resettlement agency(s) responsible for the provision of RCA) or the recipient may terminate this period sooner when either believes that the dispute cannot be resolved by mediation.

(2) *Publicly-administered RCA programs.* Under a publicly-administered RCA program, the State must use the same procedures for mediation/conciliation as those used in its TANF program, if available.

(b) *Hearings.* 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 a hearing, using the same procedures and standards set forth in § 400.54, to contest a determination concerning employability, or failure or refusal to carry out job search or to accept an appropriate offer of employability services or employment, resulting in denial or termination of assistance.

[65 FR 15448, Mar. 22, 2000]

Subpart G—Refugee Medical Assistance

SOURCE: 54 FR 5480, Feb. 3, 1989, unless otherwise noted.