**Section 120.560 Survivor Support and Trafficking Prevention**

a) Definitions

For the purpose of this Section:

1) "Foreign-born victim of trafficking, torture or other serious crimes" means a person who is:

A) a noncitizen victim of a severe form of trafficking in persons who have been subjected to an act or practice described in 22 USC 7102 or Section 10-9 of the Illinois Criminal Code of 2012 [720 ILCS 5];

B) a noncitizen victim of an act or practice described in 8 USC 1101(a)(15)(U)(iii); or

C) a noncitizen who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion as set forth in 8 USC 1101(a)(42)(A).

2) "Derivative Family Member" means a person who is the spouse, child, parent or sibling under age 18 of the principal victim who is eligible under this Section. The spousal relationship must exist prior to the date that the principal victim entered the United States. Derivative family members are limited to those who are included or will be included in the application made by the principal victim for T status made pursuant to 8 USC 1101(a)(15)(T), U status made pursuant to 8 USC 1101(a)(15)(U), or asylum status made pursuant to 8 USC 1158.

b) To be eligible for medical assistance services described in Section 140.3(b) or (c) as a foreign-born victim of trafficking, torture, or other serious crimes, an individual must be a person, or a derivative family member of a person, who:

1) has filed or is preparing to file an application for T nonimmigrant status with the appropriate federal agency pursuant to 8 USC 1101(a)(15)(T), or is otherwise taking steps to meet the conditions for federal benefits eligibility under 22 USC 7105;

2) has filed or is preparing to file an application with the appropriate federal agency for U nonimmigrant status pursuant to 8 USC 1101(a)(15)(U); or

3) has filed or is preparing to file an application with the appropriate federal agency for Asylum status under 8 USC 1158.

c) Evidence of Status

1) When an individual is attempting to establish eligibility under this Section by preparing to file one of the applications provided in subsection (b)(1), (b)(2) or (b)(3), the individual, or the representative of the individual if the individual is not competent, is also required to provide: a sworn written statement that he or she is a foreign-born victim of trafficking, torture or other serious crimes, including but not limited to rape, incest, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, being held hostage, involuntary servitude, debt servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, extortion or felonious assault, or is a witness to one of these crimes or manslaughter or murder and is cooperating with law enforcement authorities investigating or prosecuting these crimes.

2) Additionally, the individual or representative shall provide at least one item of additional credible evidence, including but not limited to any of the following:

A) police, government agency, or court records, or files;

B) news articles;

C) documentation from a social services, trafficking, domestic violence program or rape crisis center, or a legal, clinical medical professional, or other professional from whom the applicant or recipient has sought assistance in dealing with the crime;

D) a written statement from any other individual with knowledge of the circumstances that provided the basis for the claim;

E) physical evidence;

F) a copy of a completed visa application; or

G) a written notice from the federal agency of receipt of the visa application.

3) The individual attempting to establish eligibility under this subsection (c) may qualify for medical assistance under this Section in situations in which the individual is unable to provide additional evidence as set forth in subsection (c)(2), and the Department has determined that the individual is credible.

d) Additionally, an individual must meet all of the following eligibility requirements:

1) Cooperate in establishing eligibility as described in Section 120.308.

2) Be a resident of Illinois.

3) Assign rights to medical support and collection of payment as described in Section 120.319.

4) Have countable monthly income at or below 100 percent of the

Federal Poverty Level as described in Section 120.20.

5) Have nonexempt assets at or below the AABD MANG resource disregard level as described in Section 120.382. Certain resources shall be exempt from consideration in determining eligibility, as provided in Section 120.381.

e) An individual shall not be determined eligible under this Section if the individual is otherwise eligible for medical assistance under Articles 5 and 12 of the Public Aid Code, or otherwise eligible for benefits under the Children's Health Insurance Program Act [215 ILCS 106] or the Covering ALL KIDS Health Insurance Act [215 ILCS 170].

f) Individuals eligible under this Section are exempt from the requirements described in Section 120.310 pertaining to citizenship and eligible noncitizens.

g) Individuals shall not be denied eligibility under this Section for failure to provide a Social Security Number or proof of having applied for a Social Security Number as otherwise required in Section 120.327.

h) The earned and unearned income of the following persons shall be counted when determining eligibility, except as specified in subsections (i) and (j).

1) Income of the individual.

2) Income of the spouse.

3) Unearned income of a dependent child under the age of 18 years who is included in the income standard (see Section 120.20) because it is to the advantage of the individual.

i) Monthly earned and unearned income shall be considered as described in Sections 120.330 through 120.345, Sections 120.350 through 120.361, and Sections 120.371 through 120.376 as specified for AABD MANG.

j) The Department shall exempt earned income as provided in Section 120.362(a). In addition, work related expenses that are allowed, as deductions for AABD MANG, as described in Section 120.370, shall be deducted.

k) Application Process

1) The application must meet all requirements found at 89 Ill. Adm. Code 110.10.

2) The application date shall be the date a signed application is received at the address specified by the Department and can be no sooner than January 1, 2018.

l) Eligibility will be effective no earlier than the third month before the month of application if the applicant would have met the criteria of this Section had he or she applied.  In no case shall eligibility be effective prior to January 1, 2018.

m) Eligibility under this Section will be redetermined every 12 months, or when a change is reported.

n) Eligibility under this Section shall continue so long as an individual continues to satisfy the eligibility criteria of subsections (b) through (i).

o) An individual shall no longer be eligible under this Section if:

1) there is a final denial of the principal victim's visa or asylum application under 8 USC 1101(a)(15)(T), 1101(a)(15)(U), or 1158; or

2) the principal victim has not filed a formal application for status pursuant to 8 USC 1101(a)(15)(T), 1101(a)(15)(U), or 1158 within one year after the date of his or her application for medical benefits provided under this Section, unless the Department determines during the year of initial eligibility that the individual:

A) experienced a health crisis;

B) has been unable, after reasonable attempts, to obtain necessary information from a third party; or

C) has other extenuating circumstances that prevented the person from completing his or her application for status.

p) If the principal victim no longer meets the eligibility criteria of this Section, the principal victim and his or her derivative family members will be evaluated for medical eligibility under other Sections.

q) Persons applying or enrolled under this Section shall be entitled to the appeal rights described in 89 Ill. Adm. Code 102.80 through 102.83.

(Source: Added at 42 Ill. Reg. 8241, effective May 7, 2018)