

**DEPARTMENT OF HUMAN RESOURCES
SOCIAL SERVICES ADMINISTRATION
311 WEST SARATOGA STREET
BALTIMORE, MARYLAND 21201**

DATE: November 18, 2014

POLICY #: SSA-CW # 15-11

TO: Directors, Local Department of Social Services
Assistant Directors of Services

FROM: Deborah Ramelmeier, Acting Executive Director
Social Services Administration

RE: Unaccompanied Refugee Minors

PROGRAMS AFFECTED: Child Protective Services & In-Home Services

ORIGINATING OFFICE: Office of Child Welfare Practice & Policy
Social Service Administration

ACTION REQUIRED OF: All Local Departments

REQUIRED ACTION: Implementation of Unaccompanied Refugee
Minors Policy

ACTION DUE DATE: December 1, 2014

CONTACT PERSONS: Steve Berry, Manager
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PURPOSE:

The purpose of this policy is to provide local departments with procedures and guidance for working with unaccompanied refugee children when presented with an alleged maltreatment report and/or the need for continued Child Welfare services.

BACKGROUND:

The Federal Government has responded to the influx of Central American children (El Salvador, Guatemala, and Honduras) seeking refuge (CSR). Since January 2014, the federal Office of Refugee Resettlement (ORR) in the U.S. Department of Health and Human Services estimated that Maryland has received in excess of 3,900 of the children, with concentration of placement in 7 jurisdictions (Anne Arundel County, Baltimore City, Baltimore County, Frederick County, Howard County, Montgomery County and Prince George's County). While Maryland does not have a direct role in the placement of CSR children, we are working to support the children in their communities. The Governor's Office for Children, Office for Community Initiatives and DHR have convened stakeholders to identify needs of the children and their communities as well as ways to connect them with resources, such as pro bono legal services, medical services and basic care needs.

Child Protective Services Response

It is possible that local DSSs will come in contact with children who are in immigration proceedings. It is important that all jurisdictions respond to any allegation of maltreatment of a child seeking refuge as they would any other maltreatment report. There are no exceptions to how the agency should respond to screening and service delivery. All SSA policies and regulations apply to Central American CSRs and any other foreign-born children regardless of immigration status or country of origin who are the alleged victims of child abuse or neglect having occurred in Maryland

Non-Child Protective Services: Health and Educational Needs

Cases may also present to LDSSs due to the inability of relatives and other caretakers with whom the children have been placed, by the Federal Government, to obtain health and educational care for the children. In these cases, LDSSs should assist the relative caretaker in seeking a health and/or educational affidavit, which can be obtained at the local departments of social services, the local health and/or education departments. Non-relative caretakers will need to obtain legal authority to consent to health care and education decision making via the Court.

Minors (*persons under the age of 18*) May Consent for Health Care Services

In Maryland there are certain health care services that minors, (*persons under the age of 18*) have the same capacity as an adult to consent to treatment. **Appendix (III) from the policy: Health Care Services that a Minor SSA-CW # 14-17 (i.e. person under age 18) Can Give Consent, is attached to this policy.**

Allegation of Child Maltreatment

In the event that a CSR is presented to a local department of social services with an allegation of child abuse or neglect, the department shall respond in accordance with COMAR 07.02.07.06 and 07.02.07.07. This response is what we currently do for all allegations of child abuse and/or neglect. The case is screened in as any other case (AR or IR).

If a foreign-born child (who may also be a CSR) presents themselves to Child Protective Services, the worker should:

- Secure the appropriate interpreter services if the child or family is limited English proficient,
- Contact the Family Investment Administration (FIA), Maryland Office for Refugees and Asylees (MORA) for assistance in identifying immigration legal services. Ann Flagg, MORA Director, 410-767-2346 (office) or 443-462-0780 (cell) or at ann.flagg@maryland.gov.
 - Note: MORA will assist with referrals for pro-bono legal services to help identify the immigration status of the child (Special Immigrant Juvenile Status, Temporary Protected Status, Pending asylum application, Victim of Trafficking)

In the event that a Child in Need of Assistance (CINA) hearing is required, the worker should facilitate coordination between the child's immigration attorney and CINA attorney IN-HOME SERVICES.

Local departments can and should work with the family/sponsor of the child in all cases where in-home services can assist the child and caretaker in the child safely remaining in the home.

OUT-OF-HOME SERVICES

ORR collaborates with other federal agencies, State agencies, voluntary agencies (volags), and others, to provide services to refugee children who have no parent or relative available and/or committed to providing for their long-term care. The Unaccompanied Refugee Minors (URM) program, operating under ORR, permits eligible refugee children to receive federal refugee foster

care services and benefits. ORR also identifies certain minors who may become eligible for the URM program after they have arrived in the United States and do not have a parent or relative available to provide care. The majorities of the minors identified by ORR, within the U.S., originate as unaccompanied alien children (UACs) and are referred to the URM program once they meet all eligibility requirements.

Children eligible for the URM program are under 18, are unaccompanied, and are:

- Refugees
- Entrants
- Asylees
- Victims of Trafficking
- Certain minors with Special Immigrant Juvenile Status
- U visa holders

Refugee children who enter the U.S. with family but experience a family breakdown may be eligible to participate in the URM program as well. ORR's State Letters on reclassification to URM status provide the standards used to determine if such a child may access the program.

It is important that the worker assess suitable placement and complete an Order of Shelter Care (OSC) if needed. Prior to the CINA adjudication hearing, the worker must attempt to determine if the child is eligible for URM, Federal Foster Care services. To determine eligibility, the worker must contact Maryland's State Refugee Coordinator and Director of MORA, Ann Flagg, 410-767-2346 or at ann.flagg@maryland.gov.

In the event that a reclassification of a minor to unaccompanied status is needed, information regarding the procedure to obtain reclassification is outlined below for both the worker's benefit as well as to allow the worker to inform the CINA court what is required to effectuate a placement.

ORR's Procedure for Reclassification

Placement in ORR's unaccompanied minors program is limited to 14 designated programs able to provide refugee-appropriate child welfare services. These specialized services are provided in Boston, Massachusetts; Tacoma and Seattle, Washington; Fargo, North Dakota; Philadelphia, Pennsylvania; Rochester and Syracuse, New York; Jackson, Mississippi; Richmond, Virginia; Newark, New Jersey; Washington, D.C.; Lansing and Grand Rapids, Michigan; and Phoenix, Arizona. If the Director of ORR approves the referral for reclassification from the State Refugee Coordinator administering one of the 14 sites, minors residing in other States may be transferred to an above-mentioned State.

When a refugee program official identifies a minor in need of culturally appropriate foster care services, the official should confer with the State Coordinator regarding the referral. The State Coordinator should then notify the children's services division of either of the two volags which coordinate URM services for ORR-the Lutheran Immigration and Refugee Services (LIRS) or the United States Conference of Catholic Bishops (USCCB). The volag will explore the suitability and appropriateness of placement with its affiliates. When an appropriate placement is found, the volag will notify the referring State Refugee Coordinator of the anticipated placement at the preferred site. If the placement is out of State, the volag will work with both the referring State Coordinator and the receiving State Coordinator to ensure that the needs of the minor are met during the transition to the new resettlement site.

When the volag has secured the verbal approval for the placement from both State Refugee Coordinators, the volag will notify the affiliate to send a letter to their State Refugee Coordinator to request reclassification of the child to unaccompanied minor status. The affiliate letter to the receiving State Refugee Coordinator should explain the background of the reclassification request, provide case summary information justifying the request, and address each of the six conditions of reclassification listed below. Voluntary agencies and affiliates may send copies of information to ORR to provide advance notification of a request, but the State agency must initiate requests for reclassification.

The receiving State Coordinator should then prepare a cover letter indicating the State's support of the reclassification request and mail the material to the Director of ORR, along with a copy addressed to the Unaccompanied Refugee Minors team. The State should also fax a copy of the letter to Loren Bussert at 202.401.5487. This is very important because mail delivery to ORR has been severely impacted by the need to irradiate mail addressed to Federal agencies. Currently, mail is delivered to ORR approximately 45 days after postmark.

ORR will reclassify a minor to unaccompanied status if the following conditions are met:

- The minor is eligible for ORR-funded benefits and services; that is, she must be a refugee, asylee, Amerasian, Cuban or Haitian entrant, or a victim of a severe form of trafficking, as determined by ORR.
- No parent of the minor has lived in the U.S. since the child's arrival here.
- No relative or non-related adult has ever had legal custody of the child in the U.S.
- With respect to a child who entered the U.S. accompanied by a non-parental relative or non-related adult, or who entered the U.S. for the purpose of joining a non-parental relative or non-related adult, the child is not currently living in the home of such a relative or adult.

- An appropriate court has placed legal responsibility for the child with the State or local public child welfare agency or with a licensed non-public agency under contract with the State to provide services to unaccompanied minors.
- The State has reported the child to ORR as an unaccompanied minor and as part of the official State program for unaccompanied minors, and the State meets all other program and reporting requirements.

The last two conditions are satisfied if the State includes a statement of assurance in its reclassification request that it will file a petition for custody and submit the proper forms to ORR when reclassification is approved.

Requests for reclassification are considered on a case-by-case basis. Once ORR receives all pertinent information, requests are evaluated and processed promptly. In some cases, the Director may waive one or more conditions of eligibility. For example, ORR has in the past waived the second condition for refugee children whose parents died shortly after arrival in the U.S.

If ORR approves the reclassification request, the determination is effective with the date of the State's request. The receiving State Coordinator is responsible for arranging transit of the minor to the receiving site, and may include the minor's cost of transportation to the new resettlement site in his financial reports.

Eligibility for Immigrant Populations in Maryland

Program	Lawful Permanent Residents (18+)	Lawful Permanent Residents (Under 18)	Lawful Permanent Residents (Pregnant Women)	Refugees, Asylees, Victims of Trafficking, Others ¹	Lawfully Present ²	Undocumented Immigrants (Includes Children and Pregnant Women)
If entered the U.S. on or after August 22, 1996:						
ACA (QHP & APTC)	Eligible	Eligible	Eligible	Eligible	Eligible	Not Eligible
SNAP	Not Eligible (Until after 5 year waiting period or have credit after 40 quarters work)	Eligible	Not Eligible (Until after 5 year waiting period or have credit after 40 quarters work)	Eligible	Not Eligible	Not Eligible
MA	Not Eligible (Until after 5 year waiting period) ³	Eligible	Eligible	Eligible	Children under 21 and pregnant women are eligible	Not Eligible (except for emergency MA)
CHP	Not Eligible (Until after 5 year waiting period) ³	Eligible	Eligible	Eligible	Children under 21 and pregnant women are eligible	Not Eligible
TANF	Not Eligible	LPR children living with their LPR parents are eligible for TCA under the Room & Board Payment Schedule	Pregnant LPR women (and spouse or father-to-be, individual) with no other children are eligible for State-funded TCA	Eligible	Not Eligible	Not Eligible
SSI	Not Eligible (Until after 5 year waiting period and have credit after 40 quarters work or meet another exception)	Not Eligible (Until after 5 year waiting period and have credit after 40 quarters work or meet another exception)	Not Eligible (Until after 5 year waiting period and have credit after 40 quarters work)	Only Eligible during first 7 years after status is granted	Not Eligible	Not Eligible

¹ Others includes Cuban/Haitian entrants, Amerasian immigrants, Iraqi or Afghan special immigrants, and individuals granted withholding deportation or removal.

² Persons over the age of 14 with pending applications for asylum and employment authorization; children under the age of 14 with applications for asylum pending at least 180 days; children with pending applications with Special Immigrant Juvenile Status; persons granted employment authorization; persons in temporary resident status; persons under Temporary Protected Status (TPS) and persons with pending applications for TPS and employment authorization; persons paroled into the U.S. for less than one year; family unity beneficiaries; persons currently under Deferred Enforced Departure; persons currently in Deferred Action Status with the exception of those granted this status through the Deferred Action for Childhood Arrivals (DACA) program; and non-immigrants who have not violated the terms of their immigrant status.

³ The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) gives states the option to furnish federal CHIP and MA to pregnant women and children who are lawful permanent residents with less than 5 years continuous residency in the U.S. Maryland has this option.

Appendix III From SSA-CW Policy Directive 14-17
Health Care Services that a Minor (i.e. person under age 18) Can Give Consent

Health Care Service	Law	Confidentiality and /or Informing Obligation of the Health Care Provider
General Medical or Dental Treatment	<p>A minor (<i>i.e. person under the age of 18</i>) has the same capacity as an adult to consent to medical or dental treatment if the minor:</p> <ol style="list-style-type: none"> 1) Is married; 2) Is parent of a child; 3) i. Is living separate & apart from minor's parents, or guardian, whether with or without consent of minor's parent, parents, or guardian; and ii. Is self-supporting, regardless of source of minor's income. <p>[Md. Code Ann., Health-Gen II §20-102(a)]</p>	<p>Without the consent of or over the express objection of a minor, the health care provider may, but need not, give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor, except information about an abortion</p> <p>[Md. Code Ann., Health-Gen II § 20-102(f)]</p>
Pregnancy	<p>A minor (<i>i.e. a person under the age of age 18</i>) has the capacity as an adult to consent to treatment for or advice about pregnancy other than sterilization.</p> <p>[Md. Code Ann., Health-Gen. II § 20-102(c)(1)-(5)]</p>	<p>Without the consent of or over the express objection of a minor, the health care provider may, but need not, give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor, except information about an abortion</p> <p>[Md. Code Ann., Health-Gen II § 20-102(f)]</p>
Diagnosis and/or Treatment For Sexually Transmitted Disease	<p>A minor (<i>i.e. a person under the age of 18</i>) has the same capacity as an adult to consent to treatment for or advice about venereal disease [Md. Code Ann., Health-Gen. II § 20-102 (c) (1)-(5)]</p>	<p>Without the consent of or over the express objection of a minor, the health care provider may, but need not, give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor, except information about an abortion</p> <p>[Md. Code Ann., Health-Gen II § 20-102(f)]</p>

<p>AIDS/HIV Testing and Treatment</p>	<p>A minor (<i>i.e., a person under the age of 18</i>) has the same capacity as an adult to consent to treatment for or advice about venereal disease [Md. Code Ann., Health-Gen. II § 20-102 (c) (1)-(5)]</p>	<p>Without the consent of or over the express objection of a minor, the health care provider may, but need not, give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor, except information an abortion [Md. Code Ann., Health-Gen II § 20-102(f)]</p>
<p>Abortion</p>	<p>A physician may not perform an abortion on an unmarried minor unless the physician first gives notice to a parent or guardian of the minor, except as provided with respect to “incomplete notice” and “waiver of notice”.</p> <p>Md. Code Ann., Health-Gen. II § 20-103(a)]</p>	<p><i>Waiver of Notice</i>- No notice required, if, in the professional judgment of the physician:</p> <ol style="list-style-type: none"> 1. Notice to the parent or guardian may lead to physical or emotional abuse of the minor; 2. The minor is mature and capable of giving informed consent to an abortion ; or 3. Notification would not be in the best interest of the minor. <p><i>Incomplete Notice</i>-No notice required if:</p> <ol style="list-style-type: none"> 1. The minor does not live with a parent or guardian; and 2. A reasonable effort to give notice to a parent or guardian is unsuccessful. <p>[Md. Code Ann., Health-Gen. II § 20-103(b)]</p> <p>A physician is not liable for civil damages or subject to criminal penalty for a decision under this subsection not to give notice.</p> <p>[Md. Code Ann., Health-Gen. II § 20-103 (c)]</p> <p><i>Notice Prohibited</i>- A physician may not provide notice to a parent or guardian if the minor decides not to have the abortion</p> <p>[Md. Code Ann., Health-Gen. II § 20-103 (e)]</p>

Emergency Medical Services	<p>A minor (<i>i.e. a person under the age of 18</i>) has the same capacity as an adult to consent to medical treatment if, in the judgment of the attending physician, the life or health of the minor would be affected adversely by delaying treatment to obtain the consent of another individual.</p> <p>[Md. Code Ann., Health-Gen. II § 20-102(b)]</p>	<p>The health care provider shall inform the minor's parent or guardian.</p> <p>The health care provider may treat a patient who is incapable of making an informed decision, without consent, if the treatment is of an emergency nature; the person who is authorized to give consent is not available immediately; and the attending physician determines that there is substantial risk of death or immediate and serious harm to the patient and that the life or health of the patient would be affected adversely by delaying treatment to obtain consent.</p> <p>[Md. Code Ann., Health-Gen. II § 5-607]</p>
Drug and Alcohol Abuse Treatment	<p>A minor (<i>i.e., a person under the age of 18</i>) has the same capacity as an adult to consent to treatment for advice about drug abuse and alcoholism [Md. Code Ann., Health-Gen. II § 20-102 (c) (1)&(5)]</p> <p><i>Psychological treatment for drug abuse or alcoholism</i></p> <p>A minor has the capacity to consent to psychological treatment for drug abuse or alcoholism if, in the judgment of the attending physician or a psychologist, the life or health of the minor would be affected adversely by delaying treatment to obtain the consent of another individual [Md. Code Ann., Health-Gen. II § 20-102 (d)]</p> <p><i>Refusal of treatment</i></p> <p>The capacity of a minor to consent to treatment for drug abuse or alcoholism does not include the capacity to refuse treatment in a certified inpatient alcohol or drug treatment program for which a parent /guardian has given consent [Md. Code Ann., Health-Gen. II § 20-102(c-1)]</p>	<p>Without the consent of or over the express objection of a minor, the health care provider may, but need not, give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor [Md. Code Ann., Health-Gen. II § 20-102(f)]</p>

<p>Outpatient Mental Health Services</p>	<p>A minor who is 16 years old or older has the same capacity as an adult to consent to consultation, diagnosis, and treatment of a mental or emotional disorder by a physician, or a clinic [Md. Code Ann., Health-Gen. II § 20-104(a)] The capacity of a minor to consent to consultation, diagnosis, and treatment of a mental or emotional disorder by a physician, psychologist, or a clinic does not include the capacity to refuse consultation, diagnosis, or treatment for a mental or emotional disorder for which a parent, guardian, or custodian of the minor has given consent</p>	<p>Without the consent of or over the express objection of a minor, the health care provider may, but need not, give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor [Md. Code Ann., Health-Gen. II § 20-102(f)]</p>
<p>Sexual Assault and Rape Services</p>	<p>A minor (<i>i.e., a person under the age of 18</i>) has the same capacity as an adult to consent to:</p> <ul style="list-style-type: none"> • Physical examination and treatment of injuries • Physical examination to obtain evidence from an alleged rape or sexual offense. <p>[Md. Code Ann., Health-Gen. II § 20-102 (c)(6)-(7)]</p>	<p>Without the consent of or over the express objection of a minor, the health care provider may, but need not, give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor [Md. Code Ann., Health-Gen. II § 20-102(f)]</p>
<p>Admission to Detention Center</p>	<p>A minor (<i>i.e. a person under the age of 18</i>) has the same capacity as an adult to consent to:</p> <ul style="list-style-type: none"> • Initial medical screening and physical examination on and after admission into a detention center <p>[Md. Code Ann., Health-Gen. II § 20-102 (c)(8)]</p>	<p>Without the consent of or over the express objection of a minor, the health care provider may, but need not, give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor [Md. Code Ann., Health-Gen. II § 20-102(f)]</p>