

a CMP due to the calculated inflation adjustments shall apply only to violations which occur after the date the increase takes effect, *i.e.*, thirty (30) days after date of publication in the Federal Register, and shall not exceed ten percent of such penalty for the initial inflation adjustment. Under the Act, the inflation adjustment for each applicable CMP is determined by increasing the maximum CMP amount per violation by the cost-of-living adjustment. The "cost-of-living" adjustment is defined as the percentage of each CMP by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the calendar year in which the amount of the CMP was last set or adjusted in accordance with the law. Any calculated increase under this adjustment is subject to a specific rounding formula set forth in the Act.

II. The Program Fraud Civil Remedies Act of 1986

In 1986, sections 6103 and 6104 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99-501) set forth the Program Fraud Civil Remedies Act of 1986 (PFCRA). Specifically, this statute imposes a CMP and an assessment against any person who, with knowledge or reason to know, makes, submits, or presents a false, fictitious, or fraudulent claim or statement to the Government. The General Services Administration's regulations, published in the Federal Register (52 FR 45188, November 25, 1987) and codified at 41 CFR Part 105-70, set forth a CMP of up to \$5,000 for each false claim or statement made to the agency. Based on the penalty amount inflation factor calculation, derived from dividing the June 1995 CPI by the June 1986 CPI, after rounding and the ten percent maximum ceiling, we are adjusting the maximum penalty amount for this CMP to \$5,500 per violation.

III. Waiver of Proposed Rulemaking

In developing this final rule, we are waiving the usual notice of proposed rulemaking and public comment procedures set forth in the Administrative Procedure Act, 5 U.S.C. 553 (APA). The APA provides an exception to the notice and comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary or contrary to the public interest. We have determined that under 5 U.S.C. 553(b)(3)(B) good cause exists for dispensing with the notice of proposed rulemaking and public comment

procedures for this rule. Specifically, this rulemaking comports and is consistent with the statutory authority set forth in the Debt Collection Improvement Act of 1996, with no issues of policy discretion. Accordingly, we believe that opportunity for prior comment is unnecessary and contrary to the public interest, and we are issuing these revised regulations as a final rule that will apply to all future cases under this authority.

The Office of Management and Budget (OMB) has reviewed this final rule in accordance with the provisions of Executive Order 12866 and has determined that it does not meet the criteria for a significant regulatory action. As indicated above, the provisions contained in this final rulemaking set forth the inflation adjustments in compliance with the Debt Collection Improvement Act of 1996 for specific applicable CMPs. The great majority of individuals, organizations and entities addressed through these regulations do not engage in such prohibited conduct, and as a result, we believe that any aggregate economic impact of these revised regulations will be minimal, affecting only those limited few who may engage in prohibited conduct in violation of the statute. As such, this final rule and the inflation adjustment contained therein should have no effect on Federal or state expenditures.

The Administrator of General Services certifies that this final rule will not have a significant economic impact on a substantial number of small business entities. While some penalties may have an impact on small business entities, it is the nature of the violation and not the size of the entity that will result in an action by the agency, and the aggregate economic impact of this rulemaking on small business entities should be minimal, affecting only those few who have engaged in prohibited conduct in violation of statutory intent.

This final rule imposes no new reporting or recordkeeping requirements necessitating clearance by OMB.

List of Subjects in 41 CFR Part 105-70

Administrative hearing, Claims, Program fraud.

Accordingly, 41 CFR Part 105-70 is amended as set forth below:

PART 105-70—[AMENDED]

1. The authority citation for 41 CFR Part 105-70 continues to read as follows:

Authority: 40 U.S.C. 486(c); 31 U.S.C. 3809.

§ 105-70.003 [Amended]

2. Section 105-70.003 is amended in paragraph (a)(1)(iv) by removing the amount "5,000" and inserting in its place, the amount "5,500".

3. Section 105-70.003 is amended in paragraph (b)(1)(ii) by removing the amount "5,000" and inserting in its place, the amount "5,500".

Dated: November 4, 1996.

David J. Barram,

Acting Administrator of General Services.

[FR Doc. 96-32279 Filed 12-19-96; 8:45 am]

BILLING CODE 6820-38-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 301, 302, 303, 304, 306 and 307

RIN 0970-AB57

Child Support Enforcement Program; State Plan Approval and Grant Procedures, State Plan Requirements, Standards for Program Operations, Federal Financial Participation, Optional Cooperative Agreements for Medical Support Enforcement and Computerized Support Enforcement Systems

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: This final rule revises or removes regulations, in part or whole, in response to the President's Memorandum of March 4, 1995 to heads of Departments and Agencies which announced a government-wide Regulatory Reinvention Initiative to reduce or eliminate burdens on States, other governmental agencies or the private sector. This rule also implements Public Law 104-35 which extends the date from October 1, 1995 to October 1, 1997 by which States will have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system meeting all requirements of Federal law enacted on or before the date of enactment of the Family Support Act of 1988.

EFFECTIVE DATE: The final rule is effective December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Division of Policy and Planning, OCSE, specifically: Marilyn R. Cohen, (202) 401-5366.

SUPPLEMENTARY INFORMATION:**Paperwork Reduction Act**

This rule does not require information collection activities and, therefore, no approvals are necessary under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)).

Statutory Authority

This regulation is issued under the authority granted to the Secretary by section 1102 of the Social Security Act (The Act). Section 1102 of the Act requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which she is responsible under the Act. In accordance with the Presidential directive to executive branch regulatory agencies to identify existing regulations that are redundant or obsolete, OCSE has examined Chapter III of Title 45, Code of Federal Regulations to evaluate those areas where regulations should be removed.

Background

The Child Support Enforcement Amendments of 1984 (Pub. L. 98-378) featured provisions that required critical improvements in State and local child support enforcement programs. We are continuing this improvement by responding to the President's Memorandum of March 4, 1995 to heads of Departments and Agencies which announced a government-wide Regulatory Reinvention Initiative to reduce or eliminate mandated burdens on States, other governmental agencies or the private sector.

The Presidential Memorandum required Agencies, by June 1, 1995, to conduct a page-by-page review of all regulations to eliminate or revise those that are outdated or otherwise in need of reform. OCSE conducted such a review, resulting in the revisions set forth in this document. Both substantive and technical changes are made including recodification such as renumbering and terminology revisions. We consider the changes in this final rule as only the first part of our response to the President's Regulation Reinvention Initiative. We are working with our partners to identify additional regulations which should be reevaluated given the new direction of regulatory reinvention.

We deferred recommending any changes in existing rules which are impacted by enactment of the Personal Responsibility and Work Act Opportunity Reconciliation Act of 1996 (PRWORA). The deferred regulations will be reviewed in light of the PRWORA. At such time we will also

determine whether the new requirements will be implemented by regulation or by other means. Because of enactment of the PRWORA, we have withdrawn the proposed changes in the requirements on making information available to consumer reporting agencies. The requirements in PRWORA on consumer reporting agencies supersede those in the NPRM and will be implemented along with the other new requirements.

Description of Regulatory Provisions

This rule makes technical revisions, including recodification, to the various regulations, governing the child support program, as follows:

Section 301.1 General Definitions

We are removing the specified years for Applicable matching rate of "1983 through 1987, 70 percent, FY 1988 and FY 1989, 68%," referenced in section 301.1 as such dates have passed.

Section 301.15 Grants

We are making two technical revisions in this section. Part of the mailing address in paragraph (a)(1) is updated by replacing, "Social and Rehabilitation Service, Attention: Finance Division, Washington, DC 20201" with "Administration for Children and Families, Office of Program Support, Division of Formula, Entitlement and Block Grants, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447." In addition, we are replacing the phrase, "Subpart G Matching and Cost Sharing" with "45 CFR 74.23 Cost Sharing or Matching" and replacing the phrase "Subpart I Financial Reporting Requirements" with "45 CFR 74.52 Financial Reporting" in paragraph (e). This latter revision coincides with substantial revisions of 45 CFR Part 74 by DHHS August 25, 1994 (59 FR 43760).

Section 302.15 Reports and Maintenance of Records

This rule implements section 454(10) of the Act which does not specify use of microfilm for record retention. We are removing paragraph (b) "Conditions for Optional Use of Microfilm Copies," because microfilm use is obsolete due to automatic case tracking and electronic filing capability. This change results in the following: Paragraph (a) is without designation, paragraphs (a)(1) and (a)(2) are redesignated (a) and (b), and roman numerals (i) through (vii) are redesignated as arabic numbers (1) through (7), respectively. Removal of the microfilm reference does not preclude States from continuing to use microfilm as an information storage medium.

Section 302.33 Services to Individuals Not Receiving AFDC or Title IV-E Foster Care Assistance

We are removing paragraph (c)(1), Application Fee, as it refers to requirements in effect prior to October 1, 1985, which date has passed. Thus, paragraph (2) is renumbered as paragraph (1) and paragraph (3) is renumbered as paragraph (2). In addition, we are removing paragraph (e), Assignment, in order to eliminate unnecessary regulations. A State is not required to take an assignment but has discretion to do so. Removal of this subsection does not preclude a State from taking an assignment of rights from a non-AFDC recipient of IV-D services if necessary under State law or practice in order to deliver program service.

Section 302.34 Cooperative Arrangements

The authorities for this rule are sections 1102 and 454(7) of the Act. Paragraph (b) specifies that cooperative arrangements existing prior to October 1, 1989, or entered into on or after October 1, 1989, must meet the criteria prescribed under § 303.107 of this chapter by October 1, 1990. Therefore, we are removing paragraph (b) as the result of the passage of time. This revision leaves paragraph (a) without designation. We are also revising the first sentence of the remaining paragraph by adding "under § 303.107" after "cooperative arrangements."

Section 302.36 Provision of Services in Interstate IV-D Cases

The authorities for this rule are section 454(9) of the Act which addresses standards prescribed by the Secretary and section 1102 of the Act which addresses the Secretarial authority to issue regulations necessary for program administration. These requirements were originally placed in regulation to clarify that States are required to provide all necessary IV-D services in interstate cases. However, we are removing paragraphs (a)(1) through (a)(5), to eliminate repetition as § 303.7(c)(7) also provides explicit provisions which specify the various functional responsibilities by the responding State. This does not alter the requirement for provision of services; it merely removes unnecessary text referenced elsewhere. This revision also removes the word, "for:" at the end of paragraph (a), thus leaving paragraph (a) without designation and ending the paragraph with the word, "chapter."

Section 302.37 Distribution of Support Payments

This rule implements section 454(11) of the Act. We are removing this section in an effort to reduce unnecessary rules because it references §§ 302.32 and 302.51 which duplicate this section.

Section 302.54 Notice of Collection of Assigned Support

This rule implements section 454(5) of the Act which does not specify dates. We are removing paragraph (a) which is obsolete as it specifies requirements in effect until December 31, 1992, which date has now passed. Thus, paragraph (b) is redesignated paragraph (a) and paragraph (c) is redesignated paragraph (b), respectively.

We are also revising redesignated paragraph (a)(2) by adding the word, "collected" after the second mention of "support" to read as follows: "The monthly notice must list separately payments collected from each absent parent when more than one absent parent owes support to the family and must indicate the amount of current support collected, the amount of arrearages collected and the amount of support collected which was paid to the family." This addition is made to clarify that it is the amount actually collected, not the amount owed that must be included in the notice, and will be consistent with the statutory language at section 454(5)(A) of the Act.

Redesignated section 302.54(b)(1)(i) specifies one of the grounds upon which a State may be granted a waiver to permit the issuance of quarterly, rather than monthly, notices of the amount of support collected. Waivers granted under this criterion were based upon the State's lack of a computerized support enforcement system consistent with Federal requirements or the lack of an automated system that is able to generate monthly notices. Such waivers were valid through September 30, 1995.

On October 12, 1995, Public Law 104-35 was signed into law, which revised section 454(24) of the Social Security Act. The revised statute extends the date from October 1, 1995 to October 1, 1997 by which States will have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system meeting all requirements of Federal law enacted on or before the date of enactment of the Family Support Act of 1988. Because operating automated statewide systems are vital to a State's ability to issue monthly notices, we are revising the date clause to read "Until September 30, 1997," in recognition of the additional time needed for States to

have operational systems. Any automated system developed to meet the Federal requirements for a certified comprehensive Statewide system must produce mandated monthly notices of collections.

States with previous waivers that expired September 30, 1995 can apply for extension of the waiver if the State does not have a computerized support enforcement system consistent with Federal requirements or lacks an automated system that is able to generate monthly notices. Extension of waivers will be granted as part of the State plan approval process.

Section 302.80 Medical Support Enforcement

We are revising § 302.80 by removing the reference to "Part 306 of this chapter" in paragraph (a) and replacing it with "§§ 303.30 and 303.31 of this chapter". We are making this revision as Part 306 is being removed with this final regulation.

Section 302.85 Mandatory Computerized Support Enforcement System

On October 12, 1995, Public Law 104-35 was signed into law, which revises section 454(24) of the Social Security Act. The revised statute extends the date from October 1, 1995 to October 1, 1997 by which States must have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system meeting all requirements of Federal law enacted on or before the date of enactment of the Family Support Act of 1988. Because the deadline by which States must have operational automated systems has been changed, we are removing the date in paragraph (a)(2) "October 1, 1995" and replacing it with "October 1, 1997."

Section 303.10 Procedures for Case Assessment and Prioritization

This rule was issued under authority of section 1102 of the Act, as part of implementation of the Child Support Enforcement Amendments of 1984 (Pub.L. 98-378). We are removing this section because case assessment and prioritization procedures are permissive and standards for an effective program at 45 CFR Part 303 require the State to provide necessary IV-D services in all cases in an efficient and effective manner. Therefore, it is not necessary to place this information in regulation.

Section 303.31 Securing and Enforcing Medical Support Obligations

This rule implements section 452(f) of the Act. We are replacing references to

"§ 306.50(a)" with "§ 303.30(a)" in paragraphs (b)(6) and (b)(7). This technical change is required to correct a clerical error. Revisions to §§ 303.30 and 303.31 set forth in the final rule issued March 8, 1991 (56 FR 7988) did not make these technical changes.

Section 303.73 Applications To Use the Courts of the United States To Enforce Court Orders

This regulation is based on sections 452(a)(8) and 460 of the Act. We are significantly streamlining this section in order to remove unnecessary regulatory language. An Action Transmittal (AT) issued February 6, 1976 (OCSE-AT-76-1) and revised May 12, 1976 (OCSE-AT-76-8) covers paragraphs (a) and (b) of the regulation. Since the procedures in this regulation are infrequently used, and their use is discretionary, it is sufficient for users to follow guidance in the AT. The AT, widely available to State child support agencies, gives express instructions for submitting cases for consideration for referral to Federal court. It is unnecessary to place paragraph (c) in regulation as it merely specifies internal instructions to the Regional Office.

Therefore, we are revising the end of the introductory portion of paragraph (a) by removing, "to demonstrate that" and completing the paragraph by adding, "in accordance with instructions issued by the Office," thus deleting paragraphs (a)(1) through (c).

Section 303.100 Procedures for Wage or Income Withholding

In the administration of wage or income withholding, § 303.100(g)(3) requires that effective October 1, 1995, States must be capable of receiving withheld amounts and accounting information which are electronically transmitted by the employer to the State. This effective date for electronic funds transfer capability was directly linked to the date by which States are required to have operational automated child support enforcement systems. On October 12, 1995, Public Law 104-35 was signed into law, which revised section 454(24) of the Social Security Act. The revised statute extends the date from October 1, 1995 to October 1, 1997 by which States will have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system meeting all requirements of Federal law enacted on or before the date of enactment of the Family Support Act of 1988. Because the deadline by which States must have operational automated systems has been changed, we are revising the introductory clause in

paragraph (g)(3) to remove the phrase "Effective October 1, 1995," and replacing it with "Effective October 1, 1997,".

Section 304.10 General Administrative Requirements

We have replaced the parenthetical phrase, "(with the exception of Subpart G, Matching and Cost Sharing and Subpart I, Financial Reporting Requirements)" with "(with the exception of 45 CFR 74.23, Cost Sharing or Matching and 45 CFR 74.52, Financial Reporting)." This revision is being made to coincide with substantial revisions of 45 CFR Part 74 by DHHS August 25, 1994 (59 FR 43760).

Section 304.20 Availability and Rate of Federal Financial Participation

We have made several technical revisions to update and correct this section. In paragraph (b)(1)(iii), we are replacing the phrase "Subpart P" with "... in accordance with the Procurement Standards found in 45 CFR 74.40 et. seq." We are making this revision to coincide with substantial revisions of 45 CFR Part 74 by DHHS August 25, 1994 (59 FR 43760) because the regulation is applicable to the Child Support Enforcement program.

In paragraph (b)(1)(vi), we are changing the reference from "§ 302.16" to "§ 304.15." We are making this technical revision because § 304.15 is a cross-reference to the DHHS regulations on cost allocation at 45 CFR Part 95, Subpart E which replaced 45 CFR 302.16. In paragraph (b)(3)(iv), we are replacing "attachment" with "withholding", in order to make the terminology consistent with the enactment of the Child Support Enforcement Amendments of 1984 (Pub. L. 98-378).

In paragraph (b)(8), we are correcting a clerical error by replacing "§ 302.2" with "§ 303.2." Finally, in paragraph (b)(11), we are removing "Part 306, Subpart B, of this chapter" and replacing it with "§§ 303.30 and 303.31 of this chapter". We are making this technical fix to update this section to reflect the revision made in 1990 to redesignate Part 306 Subpart B as §§ 303.30 and 303.31.

Section 304.23 Expenditures for which Federal Financial Participation Is Not Available

In paragraph (g), we are removing "Part 306 of this chapter" and replacing it with "§§ 303.30 and 303.31 of this chapter".

Section 304.95 State Commissions on Child Support

This rule was required by section 15 of Public Law 98-378 to be implemented by December 1, 1984 with a report of findings and recommendations to the Governor by October 1, 1985. We are removing this section as the requirement for a State to have a Commission on Child Support as a condition of eligibility for Federal funding expired on October 1, 1985. Although it is no longer mandatory, nothing precludes a State from having such a Commission.

Part 306 Optional Cooperative Agreements for Medical Support Enforcement; Section 306.0 Scope of This Part, Section 306.2 Cooperative Agreement, Section 306.10 Functions To Be Performed Under a Cooperative Agreement, Section 306.11 Administrative Requirements of Cooperative Agreements, Section 306.20 Prior Approval of Cooperative Agreements, Section 306.21 Subsidiary Cooperative Agreements With Courts and Law Enforcement Officials, Section 306.22 Purchase of Service Agreements, and Section 306.30 Source of Funds

Cooperative agreements for medical support enforcement was first added to the IV-D regulations (Part 306) in the February 11, 1980 joint final rule by the Health Care Financing Administration (HCFA) and OCSE implementing section 11 of Public Law 95-142 which added a new section 1912 to the Social Security Act. Section 1912 authorized the Third Party Liability (TPL) program in the Medicaid agency and required the State to require Medicaid recipients, as a condition of Medicaid eligibility, to assign their support rights to any medical support and to cooperate with the State in establishing paternity and obtaining third party payments. Section 1912 also required the State plan to provide for the State Medicaid agency to make cooperative agreements with the State IV-D agency, and other appropriate agencies, courts, and law enforcement officials to assist in the TPL program, with an incentive payment to political subdivision, other State, or other entity that makes the TPL collection.

As a result of an increasing degree of responsibility for IV-D agencies to perform medical support functions, very few of the functions listed in § 306.10 continue to be optional. Many of the requirements listed as "optional" for IV-D agencies to perform under agreements with State Medicaid agencies have become mandatory under title IV-D (e.g., obtain sufficient health

insurance information, § 303.30; secure health insurance coverage, § 303.31). This leaves only two optional procedures in § 306.10 (f) file insurance claims and (h) take direct action to recover TPL).

We are removing and reserving Part 306. This will give States flexibility to enter into cooperative agreements with Medicaid agencies to perform activities which are beyond the mandatory medical support activities of the IV-D program. Cooperative agreements for medical support enforcement is a statutory requirement mandated on the Health Care Financing Administration (HCFA) which was placed in regulation at 42 CFR 433.152 but optional for IV-D. This removal will not affect the continuation of existing cooperative agreements or formulation of future agreements between State child support agencies and State Medicaid agencies.

Section 307.5 Mandatory Computerized Support Enforcement Systems

On October 12, 1995, Public Law 104-35 was signed into law, which revised section 454(24) of the Social Security Act. The revised statute extends the date from October 1, 1995 to October 1, 1997 by which States will have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system meeting all requirements of Federal law enacted on or before the date of enactment of the Family Support Act of 1988. Because the deadline by which States must have operational automated systems has been changed, we are removing the date in paragraph (a) "October 1, 1995" and replacing it with "October 1, 1997."

Section 307.15 Approval of Advance Planning Documents for Computerized Support Enforcement Systems

On October 12, 1995, Public Law 104-35 was signed into law, which revised section 454(24) of the Social Security Act. The revised statute extends the date from October 1, 1995 to October 1, 1997 by which States will have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system meeting all requirements of Federal law enacted on or before the date of enactment of the Family Support Act of 1988. Therefore, we are removing the date in paragraph (b)(2) "October 1, 1995" and replacing it with "October 1, 1997."

Response to Comments

We have received over 55 comments from representatives of State and local

agencies, national organizations, advocacy groups, and private citizens on the proposed rule published January 29, 1996 in the Federal Register (61 FR 2774). Comments received and our responses are as follows:

Services to Individuals Not Receiving AFDC or Title IV-E Foster Care Assistance (Assignment)—Section 302.33(e)

1. Comment: We received one comment supporting removal of this paragraph and a number of comments suggesting removal would allow States to require assignments from non-AFDC cases which would violate Federal policy. The commenters indicated that it would deter custodial parents from requesting help.

Response: Having non-AFDC cases assign their right to support is a State law issue, not a Federal issue. For non-AFDC cases, States cannot require the kind of assignment that gives them the authority to retain support, or any other assignment under State law as a condition of eligibility for IV-D services. The type of assignment that was specified in § 302.33(e) is used by some States as an administrative technique to provide services. In such States, legal authority must be given to them in order to collect money on behalf of the family. Assignment for this purpose is not the same as the usual definition of assignment set forth in Federal regulations at 45 CFR 301.1. We are not changing policy but merely removing the citation because it is unnecessary.

2. Comment: A number of commenters took the position that by deleting this paragraph, States would not be required to inform the custodial parents that assignments are not required.

Response: We encourage States to inform custodial parents when such assignment is required and clearly explain the reason for this type of assignment. However, as indicated above, this is an issue of State law and procedures, and this notice should not be a Federal mandate in the current environment of having as few Federal regulations as possible.

Notice of Collection of Assigned Support (Grant a Waiver)—302.54(b)(1)(i), Formerly (c)(1)(i)

1. Comment: One commenter supports us in extending the date for the waiver to use a quarterly notice rather than a monthly notice to October 1, 1997 and a number of commenters are against this extension.

Response: Congress provided authority for a waiver recognizing the

importance of an automated system to generate monthly notices. On October 12, 1995, Public Law 104-35 was signed into law which revised Section 454(24) of the Social Security Act. The revised statute extends the date from October 1, 1995 to October 1, 1997 by which States will have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system meeting all requirements of Federal law enacted on or before the date of enactment of the Family Support Act of 1988. Although most States have made significant progress in their Statewide systems development efforts, most States do not have certified systems and will be helped by this extension. Because waivers available under this paragraph are linked to the existence of an operational automated system, we extended this date accordingly.

2. Comment: A few commenters urged that States who already have a waiver should not have to reapply for a waiver but should have the waiver extended automatically.

Response: States with previous waivers that expired September 30, 1995 can apply for extension of the waiver if the State does not have a computerized support enforcement system consistent with Federal requirements or lacks an automated system that is able to generate monthly notices. Extension of waivers will be granted as part of the State plan approval process.

3. Comment: One commenter asked that we clarify that a waiver from monthly reporting will be available after October 1, 1997 for States that include an Automated Voice Response System with their Statewide system that provides the required notice information.

Response: We believe the regulation is clear at section 302.54(b)(1)(ii) that waivers may be granted indefinitely to provide quarterly notices if a State has a toll-free automated voice response system. In addition, as specified in the preamble to the final monthly notice regulation issued July 10, 1992 (57 FR 30666), indefinite waivers of the monthly notice requirement are allowed if States send quarterly notices and have an automated voice response system which provides all required information in § 302.54(b)(2).

4. Comment: Another commenter thought notices were unnecessary for former AFDC recipients when the State only has assigned arrears to collect as they have no interest in this information and are difficult to locate.

Response: Section 454(5) of the Act and the implementing regulations at 45

CFR 302.54(a)(1) require that notice must be given to any custodial parent who has made an assignment to the State under section 402(a)(26) of the Act, and a collection applied to assigned arrears was made during the month unless they cannot be located.

Procedures for Case Assessment and Prioritization—Section 303.10

1. Comment: We received several comments favoring removal of this section as it is difficult to implement and removal will give State programs the flexibility to manage their caseloads efficiently and effectively. Other commenters indicated that retaining this section would insure States know they can set priorities within the timeframes if they wish and allow IV-D agencies to operate more efficiently. One commenter indicated that removal would allow States to ignore cases in certain status/priorities regardless of staff limitations.

Response: States are allowed discretion in the management of their program and we do not believe that regulating such discretion offers a benefit. IV-D agencies may set priorities without specific reference to such discretion in Federal regulations. The Standards for Program operations at 45 CFR Part 303 require the States to work all cases within specified timeframes. States will continue to have discretion to prioritize their work providing these program standards are met.

Applications to Use the Courts of the United States To Enforce Court Order—303.73

1. Comment: A number of commenters indicated that removal of this section would limit further the number of cases using this enforcement technique as requestors would not have access to the Action Transmittal (AT) and that ATs are less easily accessed than CFRs.

Response: Program instructions for this enforcement technique are clearly laid out in Action Transmittals OCSE-AT-76-1 and OCSE-AT-76-8 which are accessible to the public on the Internet. AT-76-1 includes the application form with instructions on how to fill out each blank and AT-76-8 includes a corrected citation.

Procedures for Wage or Income Withholding—303.100

1. Comment: Several commenters requested that we do not extend the deadline for accepting wage withholding collections through Electronic Funds Transfer from October 1, 1995 to October 1, 1997 as wage

withholding is an important tool for collecting child support.

Response: Electronic Funds Transfer (EFT) is directly linked to automation. Extension of the deadline for EFT does not delay wage withholding, but rather delays the requirements for States to accept wage withholding collections from employers through EFT. Because Public Law 104-35 extends the date by which States must have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system by two years, this conforming change regarding the use of EFT is necessary.

Optional Cooperative Agreements for Medical Support Enforcement—Part 306

1. *Comment:* One commenter questioned where it would be stated in regulations that a State IV-D agency may enter into a cooperative agreement with a Medicaid agency to provide services not mandated by title IV-D if section 306.10 is removed. The commenter further questioned whether a IV-D agency may enter into cooperative agreements to perform functions beyond those now listed in section 306.10.

Response: Cooperative agreements were never required under title IV-D of the Act, and OCSE regulations. A IV-D agency may, at its discretion, enter into cooperative agreements with Medicaid agencies to perform functions beyond those mandated by title IV-D so long as the Medicaid agency pays for the costs of such activities. Since the optional cooperative agreements for medical support enforcement activities are not required by the statute, and few States have entered into these agreements, we are deleting these provisions from the regulations.

2. *Comment:* A commenter asked whether FFP will become available for all medical support enforcement services performed under a cooperative agreement with Medicaid when section 306.30 is removed.

Response: According to section 304.23(g), medical support services performed under cooperative agreement with title XIX Medicaid agencies are not eligible for FFP from OCSE. Activities performed by the IV-D agency under a cooperative agreement with the Medicaid agency must be funded by the Medicaid agency.

3. *Comment:* A number of commenters pointed out two additional references to be deleted with this removal (i.e. 45 CFR Part 306 from sections 302.80 and 304.23(g)) in addition to our proposed removal from section 304.20(b)(11).

Response: We appreciate this being brought to our attention and have deleted these references.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this final rule will not result in a significant impact on a substantial number of small entities. The primary impact is on State governments and individuals and results from restating the provisions of the statute. State governments are not considered small entities under the Act.

Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. No costs are associated with this rule as it merely ensures consistency between the statute and regulations.

List of Subjects

45 CFR Part 301

Child support, Grant programs/social programs.

45 CFR Part 302

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

45 CFR Parts 303 and 304

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

45 CFR Part 306

Child support, Grant programs/social programs, Medicaid.

45 CFR Part 307

Child support, Grant programs/social programs, Computerized support enforcement systems.

(Catalog of Federal Domestic Assistance Programs No. 93.563, Child Support Enforcement Program)

Dated: November 22, 1996.

Olivia A. Golden,

Acting Assistant Secretary for Children and Families.

For the reasons discussed above, title 45 chapter III of the Code of Federal Regulations is amended as follows:

PART 301—STATE PLAN APPROVAL AND GRANT PROCEDURES

1. The authority citation for Part 301 continues to read as set forth below:

Authority: 42 U.S.C. 651 through 658, 660, 664, 666, 667, 1301, and 1302.

2. Section 301.1 is amended by revising the definition for “applicable matching rate” to read as follows:

§ 301.1 [Amended]

* * * * *

Applicable matching rate means the rate of Federal funding of State IV-D programs’ administrative costs for the appropriate fiscal year. The applicable matching rate for FY 1990 and thereafter is 66 percent.

* * * * *

§ 301.15 [Amended]

3. In 301.15, paragraph (a)(1) is amended by revising “Social and Rehabilitation Service, Attention: Finance Division, Washington, DC 20201” to read “Administration for Children and Families, Office of Program Support, Division of Formula, Entitlement and Block Grants, 370 L’Enfant Promenade, S.W., Washington, DC 20447” and paragraph (e) is amended by revising “Subpart G Matching and Cost Sharing” with “45 CFR 74.23 Cost Sharing or Matching” and revising “Subpart I Financial Reporting Requirements” to read “45 CFR 74.52 Financial Reporting.”

PART 302—STATE PLAN REQUIREMENTS

4. The authority citation for Part 302 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), 1396(k).

§ 302.15 [Amended]

5. In § 302.15, paragraph (b) is removed and paragraphs (a), introductory text, (a)(1) introductory text, (a)(1) (i) through (vii) and (2) are redesignated as § 302.15, introductory text, (a) introductory text, (a)(1) through (7) and (b) respectively.

§ 302.33 [Amended]

6. In § 302.33, paragraph (c)(1) is removed, paragraphs (c)(2) and (c)(3) are redesignated as (c)(1) and (c)(2), and paragraph (e) is removed.

§ 302.34 [Amended]

7. In § 302.34, paragraph (b) is removed, paragraph (a) is amended by removing the paragraph designation and the first sentence is amended by adding “under § 303.107” after “cooperative arrangements” in the first sentence.

§ 302.36 [Amended]

8. In § 302.36, paragraph (a) introductory text is amended by removing “for:” and inserting a period

in its place at the end of the paragraph and removing paragraphs (a)(1) through (a)(5).

§ 302.37 [Removed and Reserved]

9. Section 302.37 is removed and reserved.

10. In § 302.54, paragraph (a) is removed, paragraphs (b) and (c) are redesignated (a) and (b), respectively, the reference to "Until September 30, 1995" in newly designated paragraph (b)(1)(i) is revised to read "Until September 30, 1997", and newly designated paragraph (a)(2) is revised to read as follows:

§ 302.54 Notice of collection of assigned support.

* * * * *

(a) * * *

(2) The monthly notice must list separately payments collected from each absent parent when more than one absent parent owes support to the family and must indicate the amount of current support collected, the amount of arrearages collected and the amount of support collected which was paid to the family.

* * * * *

§ 302.80 [Amended]

11. Section 302.80 is amended by revising the reference to "Part 306 of this chapter" in paragraph (a) to read "§§ 303.30 and 303.31 of this chapter."

§ 302.85 [Amended]

12. In section 302.85, reference to "October 1, 1995" in paragraph (a)(2) is revised to read "October 1, 1997."

PART 303—STANDARDS FOR PROGRAM OPERATIONS

13. The authority citation for Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

§ 303.10 [Removed and Reserved]

14. Section 303.10 is removed and reserved.

§ 303.31 [Amended]

15. In § 303.31, reference to "§ 306.50(a)" is revised to read "§ 303.30(a)" in paragraphs (b)(6) and (b)(7).

16. Section 303.73 is revised to read as follows:

§ 303.73 Applications to use the courts of the United States to enforce court orders.

The IV-D agency may apply to the Secretary for permission to use a United States district court to enforce a support order of a court of competent jurisdiction against an absent parent

who is present in another State if the IV-D agency can furnish evidence in accordance with instructions issued by the office.

§ 303.100 [Amended]

17. In § 303.100, reference to "October 1, 1995" in paragraph (g)(3) is revised to read "October 1, 1997."

PART 304—FEDERAL FINANCIAL PARTICIPATION

18. The authority citation for Part 304 continues to read as follows:

Authority: 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396(p), and 1396(k).

§ 304.10 [Amended]

19. In § 304.10, the parenthetical phrase "(with the exception of Subpart G, Matching and Cost Sharing and Subpart I, Financial Reporting Requirements)" is replaced with "(with the exception of 45 CFR 74.23, Cost Sharing or Matching and 45 CFR 74.52, Financial Reporting)."

§ 304.20 [Amended]

20. In § 304.20, paragraph (b)(1)(iii) introductory text is amended by replacing "Subpart P, Procurement Standards, 45 CFR Part 74" with "in accordance with the Procurement Standards found in 45 CFR 74.40 et seq.", paragraph (b)(1)(vi) is amended by revising reference to "§ 302.16 of this chapter" to read "§ 304.15", paragraph (b)(3)(iv) is amended by revising the term "attachment" to read "withholding"; paragraph (b)(8) is amended by revising the reference "§ 302.2" to read "§ 303.2" and, paragraph (b)(11) is amended by revising "Part 306, Subpart B, of this chapter" with "§§ 303.30 and 303.31 of this chapter".

§ 304.23 [Amended]

21. In § 304.23, paragraph (g) is amended by replacing "Part 306 of this chapter" with "§§ 303.30 and 303.31 of this chapter".

§ 304.95 [Removed and Reserved]

22. Section 304.95 is removed and reserved.

PART 306—OPTIONAL COOPERATIVE AGREEMENTS FOR MEDICAL SUPPORT ENFORCEMENT [REMOVED AND RESERVED]

23. Part 306 is removed and reserved.

PART 307—COMPUTERIZED SUPPORT ENFORCEMENT SYSTEMS

24. The authority citation for part 307 continues to read as follows:

Authority: 42 U.S.C. 652 through 658, 664, 666, 667, and 1302.

§ 307.5 [Amended]

25. In § 307.5, reference to "October 1, 1995" in paragraph (a) is revised to read "October 1, 1997."

§ 307.15 [Amended]

26. In § 307.15, reference to "October 1, 1995" in paragraph (b)(2) is revised to read "October 1, 1997."

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GENERAL SERVICES ADMINISTRATION

48 CFR Part 6104

RIN 3090-AG29

Board of Contract Appeals; Rules of Procedure for Travel and Relocation Expenses Cases

AGENCY: Board of Contract Appeals, General Services Administration.

ACTION: Interim rule.

SUMMARY: This document specifies the procedures the GSA Board of Contract Appeals will apply to the Board's review of a request from an agency disbursing or certifying official, or agency head, for a Board decision on a question involving a payment the official will make, or a voucher presented to a certifying official for certification, which concerns a claim against the agency for reimbursement of expenses incurred by a federal civilian employee while on official temporary duty or in connection with relocation to a new duty station.

DATES: This rule is effective December 20, 1996, and will expire on July 26, 1997. Comments must be submitted on or before January 22, 1997.

ADDRESSES: Written comments concerning this interim rule may be mailed to Margaret S. Pfunder, GSA Board of Contract Appeals, 18th & F Streets, N.W., Washington, DC 20405, or sent electronically by using the following Internet address: Margaret.Pfunder@gsa.gov.

FOR FURTHER INFORMATION CONTACT: Margaret S. Pfunder, Deputy Chief Counsel, GSA Board of Contract Appeals, (202) 501-0272.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The General Services Administration certifies that this revision will not have a significant economic impact on a substantial number of small entities