§ 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-45 Maintain records; 13.533-45 (k) Records, in general; 13.533-70 Vacate court action(s). Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

In the Matter of Spiegel, Inc., a corporation.

Order requiring a Chicago, Ill., catalog retailer, among other things to bring collection law suits only in a court in the county where the defendant resides or the debt was incurred.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

The final order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

FINAL ORDER

This matter having been heard by the Commission upon the appeal of respondent from the initial decision, and upon briefs and oral argument in support thereof and opposition thereto, and the Commission for the reasons stated in the accompanying Opinion, having denied the appeal in principal part:

It is ordered, That the initial decision of the administrative law judge be, and it hereby is, adopted as the Findings of Fact and Conclusions of Law of the Commission, to the extent not inconsistent with the accompanying Opinion.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered, That the following Order to cease and desist be, and it hereby is, entered:

ORDER

I. For the purposes of this Order, the term "respondent" means "Spiegel, Inc., a corporation, and its successors, assigns, officers, agents, representatives and employee, acting directly or through any corporation, subsidiary, division, or other device, including any collection agency."

II. *It is ordered,* That respondent, in connection with the collection of retail credit accounts in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from instituting suits except in the county where the defendant resides at the commencement of the action, or in the county where the defendant signed the contract sued upon. This provision shall not preempt any rule of law which further limits choice of forum or which requires, in actions involving real property or fixtures attached to real property, that suit be instituted in a particular county.

III. *It is further ordered,* That, where respondent learns subsequent to institution of a suit that the preceding Paragraph (II) has not been complied with, it shall forthwith terminate the suit and vacate any default judgment entered thereunder. In lieu of such termination, respondent may effect a change of forum to a county permitted by the preceding paragraph, provided that respondent gives defendant notice of such action and opportunity to defend equivalent to that which defendant would receive if a new suit were being instituted. In all cases respondent shall provide defendants with a clear explanation of the action taken and of the defendants' right to appear, answer and defend in the new forum.

IV. *It is further ordered,* That where respondent terminates a suit or vacates a judgment pursuant to the preceding Paragraph (III) it shall give notice of such termination or vacation to each "consumer reporting agency," as such term is defined in the Fair Credit Reporting Act (15 U.S.C. Section 603), which it has been informed or has reason to know has recorded the suit or judgment in its files. Additionally, respondent shall furnish such notice to any other person or organization upon request of the defendant.

V. *It is further ordered,* That respondent prepare and maintain a summary of suits instituted, pending, terminated, or acted upon subsequent to judgment, involving the collection of retail credit accounts by respondent. This summary shall contain each defendant's name, address, and county or residence; county where the contract was signed by the defendant, if the suit was not instituted in the residence county; county where served; date served; date filed; docket number; name and location of court in which filed; name of plaintiff (if a collection agency suing in its own name); amount claimed; and disposition (including garnishment or execution, if any). Where a suit has been instituted in a county other than where defendant resides or signed the contract sued upon, the reason for this choice of forum shall be explained. This summary shall cover the two years immediately following effective date of this order. A copy of this summary shall be submitted to the Federal Trade Commission on a quarterly basis.

VI. *It is further ordered,* That Spiegel, Inc., shall forthwith deliver a copy of this order to each of its subsidiaries and operating divisions, to each collection agency currently collecting any of Spiegel's retail credit accounts, and to any other collection agency prior to referral to it of any of Spiegel's retail credit accounts. Spiegel, Inc., shall obtain and preserve signed and dated statements from each collection agency, acknowledging receipt of the order and willingness to comply with it.

It is further ordered, That respondent shall notify the Commission at least thirty days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondent shall, within sixty days and at the end of six months after the effective date of the order served upon it, file with the Commission a report, in writing, signed by respondent, setting forth in detail the manner and form of its compliance with the order to cease and desist.

Opinion of the Commission by Commissioner Dixon.

Concurring Statement by Commissioner Nye.

The Final Order was issued by the Commission August 18, 1975.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-25753 Filed 9-25-75;8:45 am]

[1] Copies of the Complaint, Decision, Opinion and Final Order filed with the original document.

[Docket No. C-2722]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

State Credit Association, Inc., et al.

Subpart—Coercing and intimidating: § 13.356 Delinquent debtors. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1370 Business methods, policies, and practices. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1895 Scientific or other relevant facts. Subpart—Threating suits, not in good faith: § 13.2264 Delinquent debt collection; § 13.2265 Threatening infringement suits, not in good faith.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

In the Matter of State Credit Association, Inc., a corporation, and D. Keith Lasswell, individually and as an officer of said corporation.

Consent order requiring a Seattle, Wash., debt collection agency, among other things to cease misrepresenting the attachment, garnishment or foreclosure of any assets, wages, or property without making various disclosures to the alleged debtor, and instituting suits in counties other than where the defendant resides or the debt was incurred. Further, respondent is required to comply with the F.T.C.'s "Guides Against Debt Collection Deception."

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

ORDER

I. *It is ordered,* That respondents State Credit Association, Inc., a corporation, its successors and assigns, and its officers, and D. Keith Lasswell, individually and as an officer of SCA, and respondents'

[1] Copies of the Complaint, Decision and Order, filed with the original document.

agents, representatives and employees, hereinafter collectively "respondents," directly or through any corporation, subsidiary, division or other device, in connection with the collection of money obligations or any other form of obligation or claim in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from representing in writing, orally, visually or in any other manner, directly or by implication, that:

A. Respondents can or will attach, garnish, foreclose, or in any manner take possession of any part of the assets, wages or other property of anyone, or initiate any legal action unless (a) at the time of such representation, respondents have a present legal right to take such action, (b) respondents specify truthfully, in immediate conjunction with such representation, how soon such action will be taken if payment of the obligation is not made, and (c) respondents regularly take such action within the specified time period when no payment is made.

B. Any allegedly unpaid obligation has been referred to an attorney unless such is the fact.

C. An attorney is actively involved in pursuing or reviewing a collection matter in preparation for initiation of legal action unless such is the fact.

D. Legal action on an allegedly unpaid obligation has been or is being initiated unless such is the fact.

E. Respondents engage in credit reporting activities of any kind or engage in providing information to credit-reporting agencies.

F. The existence of an allegedly unpaid obligation has impaired or will impair any person's credit standing or credit privileges or that only payment to respondents can correct or avoid any credit impairment.

II. *It is further ordered*, That respondents, in any communication with any person or firm during any part of collection activities, refrain from engaging in any representations which disguise, obscure, or detract from respondents' true identity or the true purpose of the communication.

III. *It is further ordered*, That respondents, when speaking to persons present in the alleged debtor's home other than the debtor himself or herself, do forthwith cease and desist from attempting to obtain any information other than (1) whether the caller may speak to the debtor and, if the debtor is not present, (2) when the debtor is expected to be home, and (3) whether there is a telephone number where the debtor can be reached. When speaking to persons under the age of twelve (which respondents may verify by direct question if necessary), respondents cannot attempt to obtain any information other than whether the caller may speak to an adult.

IV. *It is further ordered*, That respondents comply with all provisions of the Federal Trade Commission's "Guides Against Debt Collection Deception" existing at the time this Order is finally accepted.

V. *It is further ordered*, That respondents do forthwith cease and desist from instituting suits except in the county where the defendant resides at the commencement of the action, or in the county where the defendant signed the contract sued upon, or, if there was no written contract, where the obligation was incurred. This provision shall not preempt any rule of law which further limits choice of forum or which requires, in actions involving real property or fixtures attached to real property, that suit be instituted in a particular county.

VI. *It is further ordered*, That when respondents institute suit in any superior court in Washington state, they shall attach, to any summons served upon defendants, a notice which gives defendants adequate directions as to the proper procedure for responding to the suit and avoiding default. The notice shall use clear and unconfusing language, and shall appear clearly, conspicuously, and in type at least as large as typewriter pica type. Should superior court rules or procedures change respondents shall forthwith modify the notice accordingly. The initial form of the notice, and any modifications thereof, shall be subject to approval by authorized representatives of the Federal Trade Commission. Respondents shall not make any representation in writing, orally, visually or in any other manner, directly or by implication, which disguises, obscures, or detracts from the proper procedure for responding to the suit or for avoiding default.

VII. *It is further ordered*, That respondents shall forthwith deliver a copy of this order to each of their subsidiaries, operating divisions and employees engaged in collection activities.

VIII. *It is further ordered*, That respondents notify the Commission at least thirty days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

IX. *It is further ordered*, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment or of his affiliation with a new business or employment in the debt collection industry, in the event of such discontinuance or affiliation. Such notice shall include the respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

X. *It is further ordered*, That the respondents herein shall within sixty days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

The Decision and Order was issued by the Commission August 27, 1975.

CHARLES A. TOBIN,
Secretary.

[FR Doc. 75-25754 Filed 9-25-75; 8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 75-235]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Certificates of Registration

Customs Form 3329, formerly used as an importer's declaration for free entry of articles exported for exhibition purposes, has been abolished, having been consolidated with Customs Form 4455 into a revised Customs Form 4455, entitled Certificate of Registration. Consequently, §§ 10.66(a)(3) and 10.66(c) of the Customs Regulations (19 CFR 10.66 (a)(3), 10.66(c)), which provide that in connection with the entry of articles, including livestock or other animals, exported for temporary exhibition and returned and claimed to be exempt from duty under item 802.20 or item 802.30, Tariff Schedules of the United States (19 U.S.C. 1202), a declaration of the importer shall be filed on Customs Form 3329, must be amended to provide for the use of revised Customs Form 4455.

Accordingly, §§ 10.66 (a)(3) and (c) of the Customs Regulations (19 CFR 10.66 (a)(3), 10.66(c)) are revised to read as follows:

§ 10.66 Articles exported for temporary exhibition and returned; procedure on entry.

(a) * * *

(3) A declaration of the importer on Customs Form 4455 for articles of either domestic or foreign origin; and

* * * * *

(c) Articles claimed to be exempt from duty under item 802.20 or item 802.30, Tariff Schedules of the United States (19 U.S.C. 1202), may be returned free of duty without formal entry and without regard to the requirements of paragraphs (a) or (b) of this section if:

(1) Prior to the exportation of such articles, an application on Customs Form 4455 (accompanied by an appropriate inventory, when required by law or by the district director) is filed with a declaration thereon that:

(i) Any right to drawback of Customs duties with respect to that shipment was waived;

(ii) Any internal revenue tax due has been paid and no refund thereof will be sought; and

(iii) The merchandise was identified, registered, and exported in accordance with the regulations set forth in §§ 10.8 (d), (f), (g), and (h), governing the exportation of articles sent abroad for repairs, and

(2) Upon return, a duplicate Customs Form 4455 (with accompanying inventory where one was required) is filed.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

Because this amendment merely conforms the Customs Regulations with certain administrative changes, notice and public procedure thereon are found to be unnecessary, and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. This amendment shall become effective September 26, 1975.

VERNON D. ACREE,
Commissioner of Customs.

Approved: September 18, 1975.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.75-25782 Filed 9-25-75;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regs. No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED (1965.....)

Outpatient Physical Therapy and Speech Pathology Services

On January 6, 1975, there was published in the FEDERAL REGISTER (40 FR 1057) a notice of proposed rulemaking and proposed amendments to Regulations No. 5 relating to the coverage of outpatient physical therapy and speech pathology services under the Medicare program. The proposed amendments implement sections 251(b) and 283 of Public Law 92-603, the Social Security Amendments of 1972, to reflect the option available to patients under a home health plan to have speech pathology services reimbursed under either the home health benefit or outpatient speech pathology benefit, just as physical therapy services may be reimbursed under either the outpatient physical therapy benefit or the home health benefit, and set forth physician certification and plan of treatment requirements for outpatient physical therapy and speech pathology services.

Interested parties were given the opportunity to submit in writing on or before February 5, 1975, any data, views, or arguments pertaining to the proposed amendments. Comments were received from a variety of sources including representatives of national, state, and local organizations. The comments and suggestions subsequently received, responses thereto, and changes made in the regulations as proposed are discussed below.

A majority of the comments received object to the requirements that outpatient speech pathology services be furnished under a written plan established and periodically reviewed by a physician that prescribes the type, amount, frequency, and duration of the speech pathology services to be furnished the individual and that a physician periodically recertify as to the patient's continuing need for such services. The comments received state that patient referrals made by physicians to speech pathologists are on a nonprescription basis. It is indicated that the determination as to whether speech pathology services will contribute to the patient's improved communication skills is exclusively the speech pathologist's, as are decisions regarding the amount, type, frequency, and duration of the speech pathology services to be rendered, and to place such determinations with the physician misrepresents both the past and present common practice. The requirements in question derive their basis from the statute itself. Section 1861(p) of the Social Security Act, as amended (42 U.S.C. 1395x(p)), specifically requires that the patient be under the care of a physician and that the services required be furnished pursuant to a plan of treatment established and periodically reviewed by a physician which sets out the type, amount, and duration of the services to be provided. Similarly, section 1835(a)(2)(D) of the Act (42 U.S.C. 1395n(a)(2)(D)) specifically requires that the physician certify and periodically recertify that ". . . in the case of outpatient speech pathology services, (i) such services are or were required because the individual needed speech pathology services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician." Accordingly, legislative action would be required to effect a change in these requirements. However, it was felt it would be consistent with the law and meet some of the concerns expressed if the regulations provided that the required plan will be established by the physician after any necessary consultation with the speech pathologist or physical therapist, as appropriate, and the regulations have been so revised.

Comments were also received which suggested that the subject regulations were incomplete since, although they provide that outpatient physical therapy services include such services rendered by physical therapists in independent practice, they do not indicate that outpatient speech pathology services include the services of speech pathologists in independent practice. The services of speech pathologists in independent practice cannot be included under the regulations because section 1861(p) of the Social Security Act limits outpatient speech pathology services to such services furnished by or under arrangements with a provider of services, a clinic, rehabilitation agency, or a public health agency. A change in the law would be required to provide coverage under the Medicare program for outpatient speech pathology services rendered by a speech pathologist in independent practice.

Suggestions were made that the terminology used to describe "speech pathology services" and the professionals who provide them should be consistent throughout the regulations and that this phrase should be substituted for the term "speech therapy." The changes in section 1861(p) of the Act resulting from Public Law 92-603 which provided for the coverage of outpatient speech pathology services used the term "speech pathology" to describe the services. However, although the Senate Finance Committee in its report on H.R. 1, the Social Security Amendments of 1972, stated that its provision for outpatient speech pathology services covered "the same services now covered as speech therapy services . . .." Public Law 92-603 did not change other sections of the Act where the term "speech therapy" was used. Since the term "speech therapy" where used in these regulations relates to provisions of the law which use this term rather than the term "speech pathology" we believe the reference should be to the term used in the law.

Comments were also received that the provisions in § 405.1634(b), which added the specific requirements regarding physician certification and recertification of outpatient physical therapy and speech pathology services, including the requirement that the physician recertify at least once every 30 days that there is a continued need for such services, mark an abrupt departure from the previous regulatory position and are unnecessary. Section 405.1634(a) currently reflects the physician certification requirements for "medical and other health services" furnished by a provider of services as they apply to other than outpatient physical therapy and speech pathology services. The Social Security Amendments of 1967 (Public Law 90-248 enacted January 2, 1968), which provided for the outpatient physical therapy benefit, as well as the provisions of the Social Security Amendments of 1972 (Public Law 92-603 enacted October 30, 1972), which added the outpatient speech pathology benefit, established separate physician certification and recertification requirements for outpatient physical therapy and speech pathology services apart from medical and other health services. Since the new material being included in § 405.1634(b) reflects changes required by the statute, this comment cannot be adopted.

Similarly, the requirement that a physician recertify at least once every 30 days that there is a continued need for such services not only implements the authority contained in the law to provide for the frequency of physician recertifications by regulations when services are furnished over a period of time, but also complements the requirement in law that a physician periodically review the plan of treatment. Since the professional advice we have received is that at least a 30-day review is a reasonable period and appropriate for patients who continue to require these services, such requirement is being retained in the regulations despite the comments objecting thereto.

Comments were received that the word "frequency" should be deleted from § 405.250a(b) which provides that "the

plan must prescribe the type, amount, frequency, and duration of the physical therapy or speech pathology services that are to be furnished the individual. . . ." because the law does not specifically state that the frequency of services must be shown as part of the plan of treatment. While the word "frequency" does not appear in the law as one of the elements that must be included in the plan of treatment, it is felt that a natural by-product of "amount" and "duration" is "frequency." Therefore, this term was included in the regulations to make sure there is a proper understanding of the relationship of the terms "amount" and "duration."

Comments were received that the language in § 405.50a(b) was ambiguous because it permitted an interpretation that persons other than the physician could make changes in the plan of treatment if they were approved by the physician. The language in this section has been revised to make it clear that only a physician may order such changes, but other professional persons may receive and record the changes when the physician gives them orally.

Comments were received suggesting that the regulations be revised to reflect coverage of outpatient occupational therapy services and aural rehabilitation services by an audiologist on the same basis as outpatient physical therapy and speech pathology services. Since the law does not presently provide a basis for such coverage, it was not possible to adopt these suggestions.

Accordingly, with these changes and additions, the proposed amendments are adopted as set forth below.

(Sections 1102, 1835, 1861, and 1871 of the Social Security Act, as amended, 49 Stat. 647, as amended, 79 Stat. 303, as amended, 79 Stat. 313, as amended, 79 Stat. 331; 42 U.S.C. 1302, 1395n, 1395x, and 1395hh.)

Effective date. These amendments shall be effective October 28, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.801, Health Insurance of the Aged—Supplementary Medical Insurance.)

Dated: June 26, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: September 23, 1975.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

Regulations No. 5 of the Social Security Administration (20 CFR Part 405) are further amended as follows:

Subpart B—Supplementary Medical Insurance Benefits; Enrollment, Coverage, Exclusions, and Payment

1. Paragraphs (a)(2) and (a)(5) of § 405.230 are revised to read as follows:

§ 405.230 Supplementary medical insurance benefits.

(a) *Benefits provided.* Any individual who is enrolled under the supplementary medical insurance plan established by Part B of title XVIII of the Act is, subject to the conditions, limitations, and exclusions described in this Part 405, entitled to have:

* * * * *

(2) Payment made to him, or on his behalf, for medical and other health services other than outpatient physical therapy and speech pathology services (see § 405.231(l) and (m)) furnished by other than a participating provider of services (in the case of certain nonparticipating hospitals which have elected to claim payment with respect to emergency outpatient services—see § 405.249);

* * * * *

(5) Payment made on his behalf to a participating clinic, rehabilitation agency, public health agency, or other provider of services (see § 405.231 (l) and (m)) for outpatient physical therapy services furnished to him after June 30, 1968, and for outpatient speech pathology services furnished to him after December 31, 1972.

* * * * *

2. In § 405.231, paragraph (l) is revised and new paragraph (m) is added to read as follows:

§ 405.231 Medical and other health services; included items and services.

Subject to the conditions, limitations, and exclusions set forth in § 405.232, the term "medical and other health services" means the following items or services:

* * * * *

(l) Outpatient physical therapy services which are furnished:

(1) By or under arrangements made by a participating clinic, rehabilitation agency, public health agency (see Subpart Q of this part) or other provider of services (see Subparts J, K, and L of this part), or

(2) After June 30, 1973, by or under the direct supervision of a qualified physical therapist in independent practice in his office or in the individual's home (see § 405.232(e)(2)); or

(3) By or under arrangements made by a hospital or skilled nursing facility (see Subparts J and K of this part) to its inpatients (see § 405.232(e)(3)); and

(m) Outpatient speech pathology services which are furnished:

(1) By or under arrangements made by a participating clinic, rehabilitation agency, public health agency (see Subpart Q of this part), or other provider of services (see Subparts J, K, and L of this part) to an individual as an outpatient; and

(2) By or under arrangements made by a hospital or skilled nursing facility (see Subparts J and K of this part) to its inpatients (see § 405.232(j)).

3. In § 405.232, paragraph (e) is revised and new paragraph (j) is added to read as follows:

§ 405.232 Medical and other health services; conditions, limitations, and exclusions.

In addition to the general exclusions described in Subpart C of this part, the following conditions, limitations, and exclusions shall apply with respect to the "medical and other health services" described in § 405.231:

* * * * *

(e) *Outpatient physical therapy services.* (1) There shall be excluded from the outpatient physical therapy services described in § 405.231(l)(1) any item or service which:

(i) Is furnished before July 1, 1968 (with respect to services furnished before such date, see § 405.231(c)); or

(ii) Would not be included as inpatient hospital services if furnished to an inpatient of a hospital.

(2) The outpatient physical therapy services described in § 405.231(l)(2) shall include only those items and services:

(i) The incurred expenses for which do not exceed $100 in any calendar year; and

(ii) Furnished by a physical therapist in independent practice, i.e., he renders services on his own responsibility and free of the administrative and professional control of an employer; the individuals he treats are his own patients and he has the right to collect the fee or other compensation for the services he renders; he maintains at his own expense an office or office space and the necessary equipment to provide an adequate program of physical therapy; he is engaged in such practice on a regular basis; and

(iii) Furnished by a physical therapist licensed by the State in which the items and services were furnished and who meets the other qualifications set out in § 405.1720(e).

(3) There shall be excluded from the outpatient physical therapy services described in § 405.231(l)(3) any item or service which is furnished before October 30, 1972.

* * * * *

(j) *Outpatient speech pathology services.* There shall be excluded from the outpatient speech pathology services described in § 405.231(m) (1) and (2) any item or service which:

(1) Is furnished before January 1, 1973 (with respect to services furnished before such date—see § 405.231(c)); or

(2) Would not be included as inpatient hospital services if furnished to an inpatient of a hospital.

4. Paragraph (b) of § 405.236 is revised to read as follows:

§ 405.236 Home health services; items and services included.

Subject to the provisions described in § 405.237, "home health services" means the following items and services furnished to an individual in accordance with §§ 405.234 and 405.235:

* * * * *

(b) Physical, occupational, or speech therapy (see § 405.239);

* * * * *

5. Section 405.239 is revised to read as follows:

§ 405.239 Option available to patients under a home health plan who require physical therapy or speech therapy services.

A patient under a home health plan may elect to receive required physical or speech therapy services (also known as speech pathology services) as a "medical and other health service" (see § 405.231 (l) and (m)) rather than as a home health service (see § 405.236(b)) and thereby save home health visits for other covered home health services.

6. Paragraph (b)(3) of § 405.250 is revised to read as follows:

§ 405.250 Procedures for payment; medical and other health services furnished by participating provider; home health services.

Payment for medical and other health services (see §§ 405.230.(a)(3), 405.231, and 405.232), and for home health services (see §§ 405.230(a)(4), 405.233 through 405.236), furnished by a participating provider of services is made to such provider only if:

* * * * *

(b) A physician certifies, and recertifies (see Subpart P of his part) when required, that: * * *

(3) In the case of outpatient physical therapy and speech pathology services:

(i) Such services were required because the individual needed physical therapy or speech pathology services (and with respect to outpatient physical therapy services furnished before October 30, 1972, such services were required because the individual needed physical therapy services on an outpatient basis—see § 405.231(l)(1)); and

(ii) A written plan for furnishing such services has been established, and is periodically reviewed, by a physician (see § 405.250a); and

(iii) Such services were furnished while the individual was under the care of a physician.

7. Following § 405.250, a new § 405.250a is added to read as follows:

§ 405.250a Outpatient physical therapy and speech pathology services furnished by participating provider; plan of treatment requirements.

Outpatient physical therapy and speech pathology services furnished by a participating provider of services (see § 405.230(a)(5) and § 405.231(l)(1), (l)(3), and (m)), must be furnished under a written plan, established and periodically reviewed by a physician after any necessary consultation with the physical therapist or speech pathologist, as appropriate, which meets the following requirements:

(a) The plan must be established (i.e., put into writing) before treatment is begun and promptly signed by the ordering physician; and

(b) The plan must prescribe the type, amount, frequency, and duration of the physical therapy or speech pathology services that are to be furnished the individual and indicate the diagnosis and anticipated goals. Any changes to this plan must be made in writing and signed by the physician. Changes to the plan may also be made pursuant to the oral orders given by the physician to a qualified physical therapist, a qualified speech pathologist, a registered professional nurse, or a physician on the staff of the provider. Such changes must be immediately recorded in the patient's records and signed by the individual receiving the orders; and

(c) The plan must be reviewed by the physician, at such intervals as the severity of the individual's condition requires, but at least once every 30 days. Each review of the plan should contain the initials of the physician and the date performed.

Subpart P—Certification and Recertification; Requests for Payment

8. Section 405.1634 is revised to read as follows:

§ 405.1634 Medical and other health services covered by the supplementary medical insurance program furnished by a provider of services; certification and recertification.

(a) Except as provided in paragraphs (b) and (c) of this section, the certification statement should indicate that the medical and other health services furnished by, or under arrangements made by, the provider were medically required, and should be signed by a physician who has knowledge of the case. The certification may be made on a record retained by the provider, or a special form may be used; also a physician's written order designating the medical and other health services required would be acceptable. The certification statement should be obtained at the time covered medical and other health services are furnished, or as soon thereafter as is reasonable and practicable. No recertification of the continued need for covered services is required. Where covered services are provided on a continuing basis, the physician certification can be obtained either at the beginning or end of the series of visits.

(b) With respect to outpatient physical therapy and speech pathology services described in paragraphs (l)(1), (l)(3), and (m) of § 405.231:

(1) The required physician's statement should certify that:

(i) outpatient physical therapy or speech pathology services were required because the individual needed such services; (ii) a plan for furnishing such services was established and periodically reviewed by the physician; and (iii) such services were furnished while the patient was under the care of a physician. The certification statement should be obtained at the time the plan of treatment is established or as soon thereafter as possible, and should be signed by the same physician who establishes the plan of treatment (see § 405.250a).

(2) When outpatient physical therapy or speech pathology services are continued under the same plan of treatment for a period of time, a recertification of the continued need for such services is required. The recertification statement should contain the following information: (i) that there is a continuing need for such services; and (ii) an estimate of how long the services will be required. The physician must recertify at intervals of at least once every 30 days and the recertification should be made at the same time the plan of treatment is reviewed. The same physician who reviews the plan of treatment must sign the recertification.

(c) Certification with respect to the medical and other health services described in § 405.231(c) and (k) is not required for such services furnished on or after June 30, 1968.

[FR Doc.75-25772 Filed 9-25-75;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER E—PLANNING

PART 460—PUBLIC ROAD MILEAGE FOR APPORTIONMENT OF HIGHWAY SAFETY FUNDS

● **Purpose. The purpose of this amendment to the regulations of the Federal Highway Administration is to prescribe policies and procedures followed in identifying and reporting public road mileage for utilization in the statutory formula for the apportionment of highway safety funds under 23 U.S.C. 402(c).** ●

The Federal Highway Administration is amending Chapter I of Title 23, Code of Federal Regulations, by adding a new Part 460—Public Road Mileage for Apportionment of Highway Safety Funds. The new Part 460 codifies material formerly contained in Federal Highway Administration Instructional Memorandum 50-7-71, dated August 20, 1971, and now contained in Volume 4, Chapter 5, Section 3, of the Federal-Aid Highway Program Manual.

Since this amendment relates to grants and benefits within the purview of 5 U.S.C. 553(a)(2), notice and public procedure thereon are unnecessary, and it is effective on the date of issuance set forth below.

Effective Date: October 6, 1975.

Issued on September 18, 1975.

NORBERT T. TIEMANN,
Federal Highway Administrator.

23 CFR Chapter I is amended by adding a new Part 460, reading as follows:

Sec.
460.1 Purpose.
460.2 Definitions.
460.3 Procedures.

AUTHORITY: 23 U.S.C. § 315, 402(c); 49 CFR 1.48.

§ 460.1 Purpose.

The purpose of this part is to prescribe the policies and procedures followed in identifying and reporting public road mileage for utilization in the statutory