recovery of SHA costs is provided for under 23 CFR Part 140, Subpart E.

Therefore, based on a further review and with consideration given to the comments submitted to the public docket, the revisions as proposed and further modified to the extent discussed above are adopted in this final rule.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. As the changes being proposed constitute only a clarification of existing guidance, the FHWA has determined that the change reflected in this action will have only minimal impact on the affected States and public. No new requirements are imposed. In fact, the changes being proposed may have some positive effect on the States. Accordingly, for the foregoing reasons and under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant impact on a substantial number of small entities and that the preparation of a full regulatory evaluation is not required.

In consideration of the foregoing and under the authority of 23 U.S.C. 110, 120, 315, and 49 CFR 1.48(b), the FHWA hereby amends Part 635, Subpart A of Chapter I of Title 23, Code of Federal Regulations, by revising § 635.120 to read as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway, Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 635

Government contracts, Grant programs—Transportation, Highways and Roads, Claims and Claim Awards.

Issued on: October 9, 1985.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

PART 635—[AMENDED]

The FHWA hereby amends Part 635, Subpart A to Chapter 1 of Title 23, Code of Federal Regulations, as follows:

1. The authority citation for Part 635 continues to read as follows:

Authority: 23 U.S.C. 112, 113, 114, 117, 128 and 315; 42 U.S.C. 3334, 4231–4233, 4601 *et seq.*; 49 CFR 1.48(b).

2. Section 635.210 is revised to read as follows:

§ 635.210 Participation in contract claim awards and settlements.

(a) The eligibility for and extent of Federal-aid participation up to the Federal statutory share in a contract claim award made by a State to a Federal-aid contractor on the basis of an arbitration proceeding, administrative board determination, or court judgement, or a contract claim settlement entered into in lieu of such proceedings, shall be determined on a case-by-case basis. However, Federal funds will participate to the extent that any contract adjustments made are supported, and have a basis in terms of the contract and applicable State law, as fairly construed. Further, the basis for the adjustment and contractor compensation shall be in accord with prevailing principles of public contract law.

(b) The FHWA shall be made aware by the SHA of the details of the claim at an early stage so that coordination of efforts can be satisfactorily accomplished. Claims arising on projects handled under Certification Acceptance (C.A.) procedures should also be brought to the attention of the FHWA in those cases where the type of claim is unusual, controversial, or is not covered by C.A. procedures approved in the State.

(c) When requesting Federal participation, the SHA shall set forth in writing the legal and contractural basis for the claim, together with the cost data and other facts supporting the award or settlement. Federal-aid participation in such instances shall be supported by a SHA audit of the actual costs incurred by the contractor unless waived by the FHWA as unwarranted. Where difficult, complex, or novel legal issues appear in the claim, such that evaluation of legal controversies is critical to consideration of the award or settlement, the SHA shall include in its submissions a legal opinion from its counsel setting forth the basis for determining the extent of the liability under local law, with a level of detail commensurate with the magnitude and complexity of the issues involved.

(d) In those cases where the SHA receives an adverse decision in an amount more than can be justified by the SHA, the FHWA will participate up to the appropriate Federal matching share, to the extent that it involves a Federal-aid participating portion of the contract, provided that, (1) the FHWA was consulted and concurred in the proposed course of action, (2) all avenues of appeal have been considered, and (3) the SHA pursued the case diligently and in a professional manner.

(e) Federal funds will not participate, (1) if it has been determined that SHA employees, officers, or agents acted with gross negligence, or participated in intentional acts or omissions, fraud, or other acts not accepted within the standards of the profession in project design, plan prepation, contract administration or other activities which gave rise to the claim; (2) in such cost items as consequential or punitive damages, anticipated profit, or any award or payment of attorney's fees paid by a State to an opposing party in litigation; and (3) in tort, inverse condemnation, or other claims erroneously styled as claims "under a contract."

(f) Payment of interest associated with a claim will be eligible for participation provided that the payment to the contractor for interest is allowable by State statute or specification and the costs are not a result of delays caused by dilatory action of the State or the contractor. The interest rates must not exceed the rates provided for by the State statute or specification.

(g) In cases where SHAs affirmatively recover compensatory damages through contract claims, cross-claims, or counterclaims from contractors, subcontractors, or their agents on projects on which there was Federal-aid participation, the Federal share of such recovery shall be equivalent to the Federal share of the project or projects involved. Such recovery shall be credited to the project or projects from which the claim or claims arose.

[FR Doc. 85-24526 Filed 10-15-85; 8:45 am]

BILLING CODE 4910-22-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42031A; FRL-2871-5]

Toxic Substances; Biphenyl; Test Rule

Correction

In FR Doc. 85-21811 beginning on page 37182 in the issue of Thursday, September 12, 1985, make the following corrections:

1. On page 37183, in the first column, in the fourth line of the third paragraph from the bottom of the page, "(<1 to 15)" should read "(≤1 to 15)".

2. On the same page, in the third column, in the ninth line from the top of the page "(<1 to 5)" should read "(≤1 to 5)".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HSQ-108-CN]

42 CFR Parts 400, 405, 412, 420, 433, 462, 466, 473, 474 and 476

Medicare and Medicaid Programs; Utilization and Quality Control Peer Review Organization (PRO); Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rules.

SUMMARY: This document corrects technical errors that appeared in four final rules, published April 17, 1985, that implemented portions of the Peer Review Improvement Act of 1982.

FOR FURTHER INFORMATION CONTACT: Marc Thomas (301) 594-9778.

SUPPLEMENTARY INFORMATION:

I. In document 85-9000, beginning on 50 FR 15312, the following corrections are made.

§ 400.200 [Corrected]

A. Page 15326: (1) In § 400.200 in column one: line two of the definition of "Area" is corrected by inserting a comma after "State" to read "State,"; line three is corrected by inserting a comma after "jurisdiction" to read "jurisdiction,"; and line four is corrected by replacing "constitution" with "constituting".

§ 405.330 [Corrected]

(2) In column one, the section number "§ 405.300" is corrected to read "§ 405.330".

(3) In column one, § 405.330(b), third line, the comma in "post-hospital, SNF care" is deleted, so that the phrase is corrected to read "post-hospital SNF care".

(4) In column two, § 405.330(b)(2), the second line is corrected by deleting the comma after "services," to read "the services has been determined under".

§ 412.44 [Corrected]

(5) In column two, the authority citation for Part 412 is corrected by adding sections "1866(a)(1)(F)" and "1395cc(a)(1)(F)" to read as follows: "Secs. 1102, 1866(a)(1)(F), 1871 and 1886 of the Social Security Act (42 U.S.C. 1302, 1395cc(a)(1)(F), 1395hh, 1395ww)."

(6) In column three, the section number, "§ 142.44" is corrected to read "§ 412.44".

B. Page 15327: (1) In column one, the authority citation for Part 433 is corrected by deleting a parenthesis in the last line between the "6" and the "k" "1396(k)", to read "1396k)".

§ 462.12 [Corrected]

(2) In column three, the title of § 462.12 in the Table of Contents for Part 462 is corrected to read "Involuntary termination or nonrenewal of grants".

C. Page 15328, column one, the third line of the authority citation for Part 462 is corrected by insertng ", 42" before "U.S.C.". The last line of the authority citation for Part 462 is corrected by inserting "42" before "U.S.C.", by inserting a "-1" in "1320c" and inserting "c" in "1320-2" to read "42 U.S.C. 1320c-1 and 1320c-2.".

D. Page 15329, column two: (1) In lines three and four, 466.92 is removed from the Table of Contents for Subpart C of Part 466.

(2) In the fifth line of the authority citation for Part 466, "1868(a)" is corrected to read "1866(a)" and "c" is inserted in "1320c-1320-12" to read "1320c-1320c-12".

§ 466.3 [Corrected]

(3) In the amendatory language designated as "C", in the second line, "§ 466.3" is corrected to read "§ 466.2", correcting the amendatory language to read as follows: "C. Section 466.1 is redesignated as § 466.2 and § 466.2 is redesignated as § 466.1".

§ 466.1 [Corrected]

(4) In § 466.1, five stars are inserted in the line after the section heading, denoting that the existing introductory language remains unchanged.

§ 466.80 [Corrected]

E. Page 15332, column one: (1) In § 466.80(b)(1)(ii), line three is corrected by deleting the dash in the middle of the line, inserting a comma after the word "reconsideration", and deleting the word "and" and replacing it with the phrase "or reopening". Line five is corrected by inserting a comma after the word "review". As a result, lines three through five are corrected to read "result of reconsideration, or reopening all approvals and denials with respect to cases subject to preadmission review,".

(2) In the fourth line from the bottom, the word "and" is inserted between "intermediaries" and "carriers", and the phrase "and if an" is corrected to read "or if an".

§ 466.86 [Corrected]

(F) Page 15333, column one. In the second complete paragraph (§ 466.86(c)(1)), on the sixth line, the word "care." is added after "patient".

§ 466.102 [Corrected]

(G) Page 15335, column one. In the third line of § 466.102(a)(1), "under review of the PRO review care" is corrected to read "under review if the PRO reviews care".

II. In document 85-9001, beginning on 50 FR 15335, the following corrections are made.

PART 420—[CORRECTED]

(A) Page 15343, column three: The correct authority citation for Part 420, Subpart B is "Secs. 1102, 1128, 1862(d), 1862(e), 1866(b)(2) (D), (E), and (F), 1871, 1902(a)(39), and 1903(i)(2) of the Social Security Act (42 U.S.C. 1302, 1320a-7, 1395y(d), 1395y(e), 139i5cc(b)(2) (D), (E), and (F), 1395hh, 1396a(a)(39), and 1396a(i)(2))."

§ 474.0 [Corrected]

(B) Page 15344, column three, in § 474.0 delete the definitions "PRO area" and "PSRO area". Since "Area" is defined in 42 CFR 400.200, these definitions are not necessary and should not have been included in the Federal Register.

III. In document 85-9002, beginning on 50 FR 15347, the following corrections are made.

§ 476.101 [Corrected]

(A) Page 15359: (1) In column two, § 476.101(b), in the sixth line of the definition of "Patient representative", "or (2) and individual" is corrected to read "or (2) an individual".

(2) In column three, § 476.101(b), in the definition for "Sanction report", in line four, the word "PROs" is corrected to read "PRO's".

§ 476.103 [Corrected]

(B) Page 15360: (1) In column one, in § 476.103(b)(6), in the second to the last line, a comma is added after "geographical"; in the last line, the word "institution" is corrected to read "institutional".

§ 476.105 [Corrected]

(2) In column two, the title § 476.105 is corrected to read "§ 476.105 Notice of disclosures made by a PRO."

(3) In column two, in § 476.105(b), in the third line from the bottom, "requirements and expections" is corrected to read "requirements and exceptions".

§ 476.107 [Corrected]

(C) Page 15361: (1) In column one, § 476.107(k), in the second line, the word "out" is inserted between "carry" and "its", so that the line is corrected to read

"Inspector General to carry out its statutory".

§ 476.109 [Corrected]

(2) In column one, § 476.109, "21 U.S.S. 1175" is corrected to read "42 U.S.C. 290dd–3 and 290ee–3".

§ 476.111 [Corrected]

(3) In column two, the fifth line from the top of the page, in § 476.111(c), the phrase "who are not covered under a private review contract held by a PRO" is deleted to make this section consistent with § 466.88(b)(2). Disclosure for the purpose of conducting review under a private review contract is already addressed at §§ 466.88(b)(1) and 476.111(b).

§ 476.120 [Corrected]

(D) Page 15362.

(1) In column one, the second line from the top of the page, "—" is inserted after the word "disclose" and paragraph "a" begins on the next line.

§ 476.132 [Corrected]

(2) In column two, § 476.132(b)(1)(ii), in the last line of the paragraph, "§ 473.28" is corrected to "§ 473.24".

§ 476.134 [Corrected]

E. Page 15363: (1) In column one, § 476.134(c), line three, a comma is inserted after the first word, "request", so that the line is corrected to read "request, reasons for the request, and the".

§ 476.138 [Corrected]

(2) In column three, in § 476.138(a)(3), line three is corrected by deleting the comma after the word "PRO", so that the line is corrected to read "PRO are not subject to subpoena or".

IV. In document 85–9003, beginning on 50 FR 15364, the following corrections are made.

§ 473.10 [Corrected]

A. Page 15372: (1) In column one, § 473.10(a), in the fourth line, the word "denial" is inserted between "initial" and "determination" and the word "or" is changed to "of".

§ 473.14 [Corrected]

(2) In column two, § 473.14(a)(2) is corrected to read "Medical necessity of services".

(3) In column two, § 473.14(c)(2), the fifteenth line is corrected by inserting "should be read to" before the word "mean". The line is corrected to read "should be read to mean initial and reconsidered".

§ 473.15 [Corrected]

(4) In column two, § 473.15(b), the two lines at the bottom of the page are corrected to read "(b) *Procedures.* Procedures described in §§ 473.18 through 473.36,".

§ 473.38 [Corrected]

B. Page 15374, column one.

1. In § 473.38(a), the second and third lines are corrected to read "accordance with § 473.40 and a final decision rendered; or".

§ 473.40 [Corrected]

(2) In § 473.40(c), line eight is corrected by changing the comma after "subpart" to a period.

(Secs. 1102 of the Social Security Act; 42 U.S.C. 1302)

(Catalog of Federal Domestic Assistance Programs No. 13773, Medicare—Hospital Insurance Program, and No. 13774, Medicare—Supplementary Medical Insurance Program)

Dated: October 9, 1985.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85–24667 Filed 10–15–85; 8:45 am]

BILLING CODE 4120–01–M

Office of Child Support Enforcement

45 CFR Parts 302, 304, 305, and 306

Child Support Enforcement Program; Medical Support Enforcement

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

ACTION: Final rule.

SUMMARY: This regulation amends the Child Support Enforcement program regulations governing medical support enforcement activities and responds to comments made on the proposed regulations published in the Federal Register on August 4, 1983 (48 FR 35468). The regulation also implements section 16 of Pub. L. 98–378.

Under this regulation, the IV–D agency must obtain basic medical support information and provide this information to the State Medicaid agency. Also, if the custodial parent does not have satisfactory health insurance coverage, the IV–D agency must petition the court or administrative authority to include medical support in new or modified support orders and inform the State Medicaid agency of any new or modified support orders that include a medical support obligation. Finally, the IV–D agency must take steps to enforce medical support which has been ordered by a court or administrative process under State law by assuring that coverage is acquired as ordered. These activities increase the use of available third party resources in the form of private health insurance, thus increasing medical cost savings to State and Federal governments under the Medicaid program. Federal funding is available to IV–D agencies for required medical support activities. Prior to these regulations, medical support activities were pursued by IV–D agencies only under optional cooperative agreements with Medicaid agencies.

We also are amending Child Support Enforcement program final audit regulations (see 50 FR 40120, published October 1, 1985) to add State plan-related audit criteria for medical support enforcement. Sections 305.20(c) and 305.56 are being published as interim final regulations with a comment period.

DATES:

Comment period: Consideration will be given to comments received on the audit criteria in §§ 305.20(c) and 305.56 by December 16, 1985 and changes will be made to the regulations if necessary in response to these comments.

Effective: These regulations are effective December 2, 1985 except for §§ 305.20(c) and 305.56, which are effective October 16, 1985.

FOR FURTHER INFORMATION CONTACT: Carol Jordan, Policy Branch, OCSE, (301) 443–5350.

SUPPLEMENTARY INFORMATION:

Background

The Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (Pub. L. 95–142) added section 1912 to title XIX of the Social Security Act (the Act). This section of the Act permits the State Medicaid agency to establish a medical support enforcement program. The Conference Committee Report (H.Rep. 95–673, September 22, 1977) states that the Medicaid agency may use the IV–D agency to assist in the enforcement of medical support rights due from or through an absent parent, since it was not intended that the Medicaid agency establish a separate system for the enforcement of medical support obligations.

On February 11, 1980, OCSE and the Health Care Financing Administration (HCFA) published joint regulations to implement section 1912 of the Act through optional cooperative agreements between the State Medicaid agency and the State IV–D agency. (See 45 CFR 306.0 through 306.40 for OCSE regulations and 42 CFR 433.151 through 433.154 for HCFA regulations.) Under these agreements, the Medicaid agency reimburses the IV–D agency for medical support enforcement activities

conducted. However, most State have not entered into agreements because of child support enforcement program priorities and because Federal funding for Medicaid activities is at a lower rate than for child support activities under title IV–D of the Act.

Providing for health care of children is an integral part of the general obligation that parents have to support their children. Assuring that children have available medical care is essential to their general welfare. We believe many parents have private health insurance or other type of health coverage such as Health Maintenance Organizations (HMO's) or Preferred Provider Organizations (PPO's) available through employers, unions or other groups which could be used, at reasonable cost to the parent, to pay for their dependents' medical expenses. A National Health Care Expenditures survey, conducted by the National Center for Health Services Research of the Public Health Service, indicated that 73 percent of low-wage employees can obtain employer-provided insurance at reasonable or no cost.

When employment-related or other group health insurance coverage is available to the parent and allows the parent to include the child(ren) in question, the parent should obtain this coverage. This includes situations where that parent has employment-related or other group health insurance coverage for himself, or himself and dependents living with him, and the coverage is available for dependents who are not living with him.

Private insurance provided by parents to cover their children who are eligible for Medicaid assistance reduces the public costs of supporting a child and results in significant cost savings to State and Federal governments under the Medicaid program. While we recognize that aggressive prosecution of medical support for children may have the effect of reducing potential incentive payments to IV–D agencies, we note that it may result in greater overall savings to the taxpayer.

Statutory Authority

These regulations were proposed under the authority of sections 1102 and 454(13) of the Act. Section 1102 authorizes the Secretary of HHS to publish regulations (not inconsistent with the Act) necessary to efficiently administer her functions under the Act. Under the title IV–D State plan requirement contained in section 454(13), the Secretary may prescribe, and the State must comply with, requirements and standards necessary to establish an effective title IV–D program.

Since the proposed regulation was published, Congress enacted section 16 of Pub. L. 98–378, the Child Support Enforcement Amendments of 1984. Section 16 adds a new section 452(f) to the Act that requires the Secretary to issue regulations to require State IV–D agencies to petition the court or administrative authority to include medical support as part of any child support order whenever health care coverage for a child is available to the absent parent at a reasonable cost. In addition, section 16 requires States to provide for improved information exchange between State IV–D and State Medicaid agencies with respect to the availability of health insurance coverage.

Regulatory Provisions

These regulations require IV–D agencies to gather specified medical support information regarding IV–D cases; submit the information to the Medicaid agency for use in its third party liability activities; petition the court or administrative authority to include employment-related or other group health insurance in new or modified support orders, unless the custodial parent has satisfactory coverage other than Medicaid; petition the court or administrative authority to include medical support as described above, whether or not it is actually available to the absent parent at the time the order is entered or modification of current coverage to include the child(ren) is immediately possible; inform the Medicaid agency when new or modified support orders include a medical support obligation; take steps to enforce the health insurance coverage required by a court or administrative order; and provide the Medicaid agency with health insurance policy information either at the time the order is entered or when the absent parent secures health insurance coverage under the order. These regulations do not require the IV–D agency to perform the actual collection of payments for medical services from liable third parties or to monitor Medicaid claims and payments. These activities remain the responsibility of the Medicaid agency.

These IV–D activities are in keeping with the Department's initiative to reduce medical costs to State and Federal governments. The IV–D agency already performs the functions of locating absent parents and establishing and enforcing the support obligations of absent parents. Requiring the IV–D agency to perform these medical support activities eliminates the duplication of effort, the unnecessary expense, and the administrative complexity that would result if the Medicaid agency had to establish enforcement systems to perform these activities. The administrative cost of performing the required medical support activities should be more than offset by substantial State and Federal Medicaid savings.

These regulations amend 45 CFR 302.80 by redesignating the current contents of the section as paragraph (a) and adding a new paragraph (b). In paragraph (a), the cross-reference to 45 CFR Part 306 is changed to refer to Subpart A of Part 306 for reasons explained below. Paragraph (b) specifies that the IV–D activities contained in 45 CFR Part 306, Subpart B, are requirements under the title IV–D State plan.

These regulations amend 45 CFR 304.20, Availability and rate of Federal financial participation, by adding a new paragraph (b)(11). Paragraph (b)(11) makes Federal funding available under the IV–D program for IV–D medical support activities required in Part 306, Subpart B, of these regulations.

These regulations also amend 45 CFR 304.23, "Expenditures for which Federal financial participation is not available," by revising the cross-references in paragraph (g). This change is required because 45 CFR Part 306 is redesignated as Part 306, Subpart A.

Two sections of the audit regulations at 45 CFR Part 305 are also being revised in this document. Section 305.20(c) is amended to include medical support criteria in the list of audit criteria OCSE will use to determine whether a State has an effective IV–D program. Medical support criteria were not included in § 305.20(c) previously because final medical support regulations had not been issued until now.

Section 305.56 is revised to specify the audit criteria that OCSE will use to determine whether a State is meeting the State plan requirement for medical support enforcement. Previously, § 305.56 specified that audit criteria would be published at the time final medical support regulations were published. These audit criteria parallel audit criteria used to assess State performance with respect to other State plan requirements. They require a State to have and use written procedures to meet the State plan requirements and to have personnel performing the necessary functions.

These changes of Part 305 are effective upon publication and are subject to public comment as noted earlier. We will make changes if

appropriate and republish any changes in the **Federal Register.**

The newly designated 45 CFR Part 306, Subpart A, entitled "Optional Cooperative Agreements," does not change current regulations at 45 CFR Part 306. Part 306, Subpart B, entitled "Required IV–D Activities," contains new § § 306.50 and 306.51.

The new § 306.50 is entitled "Securing medical support information." Section 306.50(a) lists the information a IV–D agency must secure for the Medicaid agency to assist with medical support enforcement activities. Under this paragraph, the IV–D agency must collect information if it is available or can be obtained on IV–D cases for which an assignment is in effect under title IV–A of IV–E of the Act if the IV–A or IV–E agency does not provide the information to the Medicaid agency. The information includes the name, address and social security number of the absent parent; the name and address of the absent parent's place of employment; the children's names and social security numbers; the AFDC or IV–E foster care case number, the Medicaid number or custodial parent's social security number; and the policy name(s) and number(s) and names of persons covered if the absent parent has any health insurance policies.

Section 306.50(b) requires the IV–D agency to inform individuals who apply for IV–D services under 45 CFR 302.23 that medical support enforcement services are available and to secure the information specified in paragraph (a) for certain individuals if the information is available or can be obtained. Under paragraph (b)(1), the IV–D agency is required to secure this information if the individual requesting services is a Medicaid applicant or recipient. Under paragraph (b)(2), the IV–D agency is required to secure this information with the consent of the individual requesting services, if the individual is not a Medicaid applicant or recipient.

Section 306.50(c) of the regulations requires the IV–D agency to submit the medical support information obtained under § 306.50 (a) and (b)(1) to the Medicaid agency. The IV–D agency may transmit the information manually or by automated system, but must transmit the information as specified in the State plan in a timely manner by the most efficient and cost-effective means available. We believe that requiring IV–D agencies to supply Medicaid agencies with medical support information that can be obtained with respect to a IV–D case is that simplest, least expensive way of securing the information necessary for medical support enforcement activities.

The new § 306.51 is entitled "Securing and enforcing medical support obligations." Paragraph (a) defines health insurance to be reasonable in cost if it is employment-related or other group health insurance. Paragraph (b) sets forth requirements with respect to AFDC and title IV-E foster care cases. Under paragraph (b)(1) the IV–D agency must petition the court or administrative authority to include in new or modified court or administrative orders health insurance that is available to the absent parent at reasonable cost, unless the custodial parent and children have satisfactory medical insurance other than Medicaid. Paragraph (b)(2) requires the IV–D agency to seek medical support in the order whether or not health insurance at reasonable cost is actually available to the absent parent at the time the order is entered or modification of current coverage to include the child(ren) in question is immediately possible.

The IV–D agency is not required to attempt to modify an existing order for the sole purpose of including medical support. The State is not limited to petitioning the court or administrative authority for medical support as specified in these regulations, but may petition for other forms of medical support if it seems reasonable to do so in the judgment of the IV–D agency.

Section 306.51(b)(3) requires the IV–D agency to inform the Medicaid agency of any new or modified orders that include medical support and to provide the information referred to in § 306.50(a) when this information is available.

Section 306.51(b)(4) requires the IV–D agency to take steps to enforce the medical support order if health insurance is available to the absent parent at reasonable cost but has not been secured at the time the order is issued. The State IV–D agency must take steps to ensure that the absent parent obtains the required medical insurance. For example, the coverage provided must name the dependents as insured persons on the policy. The State has discretion in determining what steps must be taken. The State may contact the employer or ask the court to require the absent parent to notify the court or IV–D agency when the ordered coverage has been obtained. The State may initiate contempt of court proceedings or other action under State law if the absent parent does not comply with the order. When the absent parent obtains the required medical insurance, paragraph (b)(4) requires the State to provide the Medicaid agency with the information referred to in § 306.50(a).

Paragraph(b)(5) requires the IV–D agency to communicate as specified in the State plan with the Medicaid agency to determine if there have been lapses in health insurance coverage for Medicaid applicants and recipients. This will enable the IV–D agency to actively enforce the medical support order.

Paragraph (b)(6) requires the IV–D agency to request employers and other groups offering health insurance coverage that is being enforced by the IV–D agency to notify the IV–D agency when the absent parent's health insurance coverage lapses.

Section 306.51(c) requires the IV–D agency to inform an individual who applies for IV–D services under 45 CFR 302.33 that medical support enforcement services are available and to provide the medical support services under paragraph (b) if the individual is a Medicaid applicant or recipient. If the individual who applies for IV–D services is not a Medicaid applicant or recipient the services must be provided with the individual's consent. The IV–D agency must provide information on the insurance policy and absent parent to the Medicaid agency as required under paragraphs (b)(3) and (4) only if the individual is a Medicaid applicant or recipient.

These regulations do not alter current regulations at 45 CFR 306.0 through 306.40 governing optional cooperative agreements between IV–D and Medicaid agencies under which IV–D agencies may provide medical support enforcement services additional to those required by this document and obtain reimbursement for these services from the Medicaid agency. These regulations are one step toward improving medical support enforcement and we solicit other recommendations to strengthen medical support enforcement efforts by both IV–D and Medicaid agencies.

States have 45 days from the date of publication to implement these regulations, except for §§ 305.20(c) and 305.56, which are effective upon publication. We have provided this time for States to establish procedures, develop any necessary forms, and disseminate operational policy throughout the State.

Changes to Proposed Regulations

This document amends several provisions of the proposed regulations as well as §§ 305.20 and 305.56 of the final OCSE audit regulations recently published in the **Federal Register** (50 FR 40120, October 1, 1985).

Section 302.80(b) is revised to require the State plan to provide that the IV–D agency shall establish and enforce medical support obligations in accordance with the requirements

contained in 45 CFR Part 306, Subpart B. This clarifies that the IV–D agency is responsible for medical support enforcement.

Section 305.20(c) is revised to include reference to medical support enforcement audit criteria at § 305.56.

Section 305.56 is revised to specify audit criteria for medical support enforcement based on the State plan provisions at § 302.80.

Section 306.50(a) is revised to include foster care cases for which there is an assignment under section 471(a)(17) of the Act when establishing and enforcing medical support obligations under 45 CFR Part 306, Subpart B. This change was made as a result of section 11 of Pub. L. 98–378 which requires IV–D agencies to provide services in title IV–E foster care cases.

Section 306.50 (a) and (b) are revised by deleting the phrase "during the regular processing of" a IV–D case. This revision was made to clarify that medical support enforcement is an integral part of IV–D case processing, which makes this reference unnecessary. Section 306.50(b) is also revised to specify that the IV–D agency shall inform applicants that medical support enforcement services are available and, in the case of individuals who are not Medicaid applicants or recipients, provide medical support enforcement services with the consent of the individual, rather than upon request. This emphasizes the responsibility of the IV–D agency to provide the services at their initiative, not only when asked.

Section 306.50(c) is revised to require the transmittal of medical support information to the Medicaid agency in a timely manner and only if the individual is a Medicaid applicant or recipient.

The title of § 306.51 is changed to "Securing and enforcing medical support obligations" to clarify that some enforcement activities are required under this section.

In response to comments asking for clarification of "reasonable cost", § 306.51(a) is added to specify that health insurance is considered reasonable in cost if it is employment-related or other group health insurance. Although the proposed regulations referred only to employer-based coverage, we believe that employment-related or other group health insurance should be sought because more families will be helped and costs to the absent parent will be no greater. Employment-related or other group health insurance includes all types of health insurance coverage related to employment or membership in a group which offers group plan insurance. Such benefits include, in addition to health insurance coverage provided by a parent's current employer, coverage provided in connection with a retirement, disability, or unemployment plan, by a union plan, or by some other similar group plan which offers comprehensive benefits.

Section 306.51(a), redesignated as § 306.51(b), is revised as a result of section 11 of Pub. L. 98–378 to include foster care cases for which there is an assignment under section 471(a)(17) of the Act. This provision in the proposed regulation specified when the IV–D agency must petition to include medical support in new or modified court or administrative orders for child support and referred to "employer-based" health insurance coverage. The final regulation at paragraph (b)(1) substitutes health insurance that is available at reasonable cost for employer-based coverage in order to correspond to the definition noted above. This paragraph also has been qualified in this final regulation to indicate that a petition for medical support need not be filed if the custodial parent has satisfactory health insurance coverage.

Section 306.51(b)(2) is added to require the State IV–D agency to petition for medical support whether or not health insurance at reasonable cost is actually available to the absent parent at the time the order is entered or modification of current coverage to include the children in question is immediately possible. This will expedite the enforcement of medical support that becomes available at a later date.

Sections 306.51(a) (2) and (3) of the proposed regulation are revised to specify that the information referred to in § 306.50(a) must be sent to the Medicaid agency when health insurance is obtained as the result of a medical support order. These paragraphs are redesignated as § 306.51(b) (3) and (4) in the final regulation.

Section 306.51(a)(3) of the proposed regulation required the State IV–D agency to ensure that the health insurance coverage required by the support order is obtained by the absent parent. We have amended this paragraph (now paragraph (b)(4)) to clarify that, if health insurance at reasonable cost is available to the absent parent at the time the order is entered, the State IV–D agency must take steps to enforce the medical support required by the order. The State has discretion in determining what steps will be taken as discussed earlier in the preamble.

A new § 306.51(b)(5) is added requiring the IV–D agency to communicate periodically with the Medicaid agency to determine if there have been lapses in health insurance coverage for Medicaid applicants and recipients.

A new § 306.51(b)(6) requires the IV–D agency to request employers and other groups offering health insurance that is being enforced by the IV–D agency to notify the IV–D agency of lapses in coverage.

Section 306.51(b) of the proposed regulation required the IV–D agency to provide the service specified in § 306.51(a) to non-AFDC applicants upon request. Section 306.51(b) is redesignated as paragraph (c) and is amended to clarify that the State IV–D agency must inform an individual who applies for IV–D services under 45 CFR 302.33 that medical support enforcement services are available and must provide the service specified in § 306.51(b) if the individual is a Medicaid applicant or recipient.

The State IV–D agency must provide these services with the consent of an individual who applies for services and who is not a Medicaid applicant or recipient. The IV–D agency must transmit health insurance policy information to the State Medicaid agency on individuals who are Medicaid applicants or recipients.

In addition to these changes, technical amendments changing certain references from singular to plural are made to § 306.50(a)(7). Finally, we decided to retain the section title "Medical support enforcement" for § 302.80, rather than the proposed "Medical support," in order to be consistent with the title of Part 306.

Response to Comments

We received thirty-six comments in response to the Notice of Proposed Rulemaking published in the Federal Register on August 4, 1983 (48 FR 35468). Thirty-one State agencies, two attorneys, two legal advocacy groups, and one governor submitted comments. A discussion of these comments and our responses follows:

1. *Comment:* One individual, one advocacy group, and one State agency recommended we expand the regulations to operate a full medical support enforcement program through the IV–D agency. The commentors suggested that we require States to include medical support in court orders as a condition of their participation in the IV–D program; allow the IV–D agency to recover past Medicaid payments; and amend regulations to permit third party recovery activity by the IV–D agency.

Response: Regulations do not have to be amended to permit third party

recovery activity by the IV–D agency. The regulations in this document do not replace current regulations now at Part 306, Subpart A governing optional cooperative agreements between IV–D and Medicaid agencies under which IV–D agencies may provide a full range of medical support enforcement services for which they receive full reimbursement from the Medicaid agency.

It is beyond the scope of Federal regulations to specify what a support order must contain. The provisions of a support order are determined on a case-by-case basis in accordance with State law and judicial descretion. The regulations require the IV–D State plan to provide that the IV–D agency petition the court or administrative body which establishes support orders to include medical support in the support order in appropriate cases.

2. *Comment:* Four State agencies commented that, when medical support is included in a support order, the amount of child support is often reduced by the amount ordered for medical support. This results in a reduction in the child support collection.

Response: The cost of employment-related medical insurance is estimated to be minimal. A study done in 1983 by the National Center for Health Services Research of the Public Health Service indicated that 73 percent of low-wage employees can obtain employer-provided insurance at reasonable or no cost. Based on these findings, employment-related insurance costs are not excessive. We also believe that other group insurance coverage may be available at reasonable or no cost. If this fact is made known to the court when seeking or modifying an order, any reduction in financial support may be avoided or reduced. We believe the benefits of medical support for dependent children in the form of health insurance coverage and medical care cost-savings to State and Federal governments offset the potential small reduction in child support collections.

3. *Comment:* Nine State agencies asked for clarification of the term "reasonable cost."

Response: We consider any employment-related or other group coverage "reasonable" under the assumption that most employment-related or other group health insurance is inexpensive to the employee/absent parent, as indicated by the study mentioned in response to the previous comment. These regulations do not require that absent parents be asked to purchase more expensive individual health coverage for their children.

In response to comments, we are specifying at § 306.51(a) of these regulations that health insurance is considered reasonable in cost if it is employment-related or other group health insurance.

4. *Comment:* Two State agencies asked if the State is required to petition for medical support only if health insurance coverage is available at the absent parent's place of employment.

Response: In response to this comment, we have expanded the regulations to clarify that the State must petition for medical support whether or not employment-related or other group insurance is currently available to the absent parent. We believe that this will result in fewer delays in obtaining coverage for dependents because the State will not always have to go back to court or use administrative procedures to have medical support included in the existing order once insurance becomes available to the absent parent.

5. *Comment:* One State agency asked, if health insurance coverage is not available from the employer, may the State be exempted from the requirement proposed at § 306.51(a)(1) to petition for medical support?

Response: States may not be exempted from the requirement in the final regulations at § 306.51(b)(1). Under § 306.51(b)(2), the IV–D agency must petition for medical support in IV–D cases whether or not employment-related or other group health insurance coverage is currently available to the absent parent. Therefore, the State must petition for medical support even when health insurance coverage is not available from the employer.

6. *Comment:* One State requested clarification regarding situations where the absent parent refuses to obtain health insurance coverage or the State office of support enforcement is not a party to the action, for example, when the parents are involved in a martial dissolution action.

Response: Under § 306.51(b)(1) the IV–D agency is required to petition the court or administrative authority to include medical support only when establishing or modifying a support order. The IV–D agency is not required to bring a case to court solely to establish a medical support obligation. If the absent parent refuses to obtain health insurance when it is available at reasonable cost after he or she is ordered to do so, the State must take whatever action it deems necessary to enforce the obligation, which may include citing the person for contempt of court.

If the parents are involved in a martial dissolution action it may be appropriate for the IV–D agency to intervene and request medical support if that is permitted under State law. Section 306.51(b) generally applies to petitions to establish paternity, URESA actions, and other State initiated proceedings to establish a support obligation.

7. *Comment:* Fourteen State agencies and one attorney for a State IV–D agency oppose the requirement that the IV–D agency ensure that the health insurance coverage required by the support order is obtained by the absent parent. One State agency commented that this requirement contradicts the statement in the preamble to the proposed regulation that the IV–D agency will not be responsible for medical support enforcement.

Response: We agree that a IV–D agency cannot ensure that medical coverage is obtained any more than it can ensure that child support is paid. Thus, in response to comments received, § 306.51(b)(4) requires States to take steps to enforce medical support ordered by a court or administrative process under State law. This means that, at a minimum, States must take action to determine whether the ordered health insurance coverage has been obtained and to notify the appropriate parties, such as the Medicaid agency and the court, if the absent parent has neglected to comply with the order. If the absent parent does not comply with the order by obtaining insurance that is available, the State may initiate contempt of court proceedings or other action under State law. Once the absent parent has obtained the health insurance coverage and the IV–D agency has notified the Medicaid agency, other enforcement activity such as monitoring Medicaid claims and payments, and pursuing third party medical support are the responsibility of the State Medicaid agency.

8. *Comment:* Three State agencies have questioned the purpose of providing information on non-AFDC applicants to the Medicaid agency.

Response: The purpose of providing third party liability (TPL) information to the Medicaid agency is to identify TPL and reduce Medicaid expenditures. Therefore, the State is not required to provide information to the Medicaid agency unless the individual is a Medicaid applicant or recipient. All AFDC recipients and title IV–E foster care recipients are eligible for Medicaid. Other individuals who apply for IV–D services under § 302.33 of this chapter may be Medicaid applicants or recipients. Regulations at § 306.50(e) and § 306.51(c) require the IV–D agency to transmit medical support information to

the Medicaid agency only if the person applying for IV–D services is a Medicaid applicant or recipient.

9. *Comment:* Four State agencies asked why child support programs should be required to perform medical support activities for which they receive no credit. Two State agencies suggested that the regulation include a mechanism for identifying and measuring the Medicaid costs which will be avoided as a result of the implementation of the regulation. Three State agencies recommended that State IV–D agencies receive an incentive for medical support collections or savings which result from IV–D medical support activities.

Response: Because we believe that providing for the medical needs of a child is an integral part of child support, the State IV–D agency must establish and enforce medical support as well as financial support. From a broad State and Federal perspective, these efforts will be as advantageous in terms of State and Federal savings as pursuit of cash support, if not more advantageous. We will assess the feasibility of providing incentives to IV–D agencies based on avoided Medicaid costs.

10. *Comment:* One State agency and one advocacy group recommended that we require the IV–D agency to provide health insurance policy information to the custodial parent.

Response: Although the final regulation does not require that policy information must be provided to the custodial parent, we encourage the State IV–D agency to provide health insurance policy information to the custodial parent, if the State Medicaid agency does not provide this information. It is our understanding that certain State Medicaid agencies do provide absent parent health insurance policy information to the custodial parent.

11. *Comment:* One State agency recommended we require the absent parent to assign rights to third party payments to the Medicaid agency for any Medicaid eligible dependents.

Response: Under the current Federal statute, we do not have authority to require the absent parent to execute an assignment.

12. *Comment:* One advocacy group expressed concern that the exchange of information from the IV–D agency to the Medicaid agency violates the privacy rights of non-AFDC "medically needy" recipients and is not authorized by statute.

Response: The transmittal of an absent parent's health insurance policy information and whether the absent parent has been ordered to obtain medical support for certain dependents is not a violation of the privacy rights of the non-AFDC "medically needy" recipient. Section 1912 of the Act permits the State Medicaid agency to establish a medical support enforcement program and the Conference Committee Report (H. Rep. 95–673, September 22, 1977) states that the Medicaid agency may use the IV–D agency to assist in the enforcement of medical support rights due from or through an absent parent.

In addition, section 16 of Pub. L. 98–378 requires the Secretary of HHS to issue regulations which provide for improved information exchange between State IV–D and State Medicaid agencies with respect to the availability of health insurance coverage.

13. *Comment:* One State agency recommends that the IV–D agency be relieved of the requirements of § 306.50(a) when they have been fulfilled by the IV–A agency.

Response: Sections 306.50 (a) and (c) require the IV–D agency to provide medical support information to the Medicaid agency only if the IV–A or IV–E agency does not provide the information. We agree with the commenter that the IV–D agency should not duplicate information already provided by the IV–A or IV–E agency.

14. *Comment:* One State agency suggested that, in county-administered programs, activities which do not qualify for Federal incentives should be eligible for State-funded incentives to supplement the county's reimbursement.

Response: The State may supplement the county costs which are not Federally matched. This would be at the discretion of the State.

15. *Comment:* One State agency asked if the State must verify the information it provides to the State Medicaid agency.

Response: The same verification policies and procedures developed by the State for verifying IV–D information should be applied to information provided to the Medicaid agency. Federal regulations do not specify verification requirements or procedures for information obtained on behalf of IV–D cases.

16. *Comment:* One State agency asked if there is a difference between "medical support" and "medical insurance."

Response: Provision of "medical support" generally implies obtaining "medical insurance", but medical support may take other forms in specific situations. The regulations at 45 CFR 306.51(a) specify certain types of medical support, i.e., employment-related or group health insurance coverage. Other forms of medical support may be ordered at the discretion of the judge or presiding officer of the court or administrative process.

17. *Comment:* One State agency has asked how IV–D collections that include medical should be distributed.

Response: These regulations do not affect current distribution policies. If an absent parent has employment-related or group health insurance available and the absent parent is ordered to obtain health insurance coverage, the medical support will be in the form of premiums paid to the insurance company, not payments made to the IV–D agency.

18. *Comment:* One State agency recommended that the absent parent be required either to maintain health insurance for dependent children or be responsible for an assessed medical and dental obligation in connection with the support order.

Response: These regulations implement section 16 of Pub. L. 98–378 which requires State IV–D agencies to petition for medical support. The court or presiding officer may determine what support is appropriate under the circumstances of the individual case.

19. *Comment:* One State agency recommended that the proposed regulations be modified to refer to instances where there is more than one health insurance policy.

Response: We agree with the commenter's recommendation and have amended the regulations at § 306.50(a)(7) to indicate there may be more than one policy.

20. *Comment:* One State agency has pointed out that section 462(b) of the Social Security Act which defines child support to include payments to provide for health care is an inappropriate authority because it only pertains to garnishment.

Response: Section 462(b) was used to indicate that there was some precedent under the Social Security Act for including health care in the definition of child support. In addition, section 16 of Pub. L. 98–378 requires States to petition for medical support and provide for information exchange between the State IV–D agency and State Medicaid agency.

21. *Comment:* One advocacy group recommended that the IV–D agency consult the custodial parent on the question of whether to seek child support or health insurance coverage.

Response: Given the high cost of health care and the relatively nominal cost of health insurance, OCSE considers medical support to be generally advantageous to custodial parents. Section 16 of Pub. Law 98–378 requires IV–D agency to petition for medical support in new or modified support orders where such support can be obtained "at reasonable cost." If the

custodial parent is a Medicaid applicant or recipient, the IV–D agency must petition the court or administrative authority to include medical support in the order. The State IV–D agency will seek medical support for non-Mediciad IV–D cases if consented to by the applicant. However, we are amending the regulation at § 306.51(b)(1) to provide that medical support need not be sought in AFDC or title IV–E foster care cases if the custodial parent has satisfactory health insurance coverage other than Medicaid for the child(ren) in question.

22. *Comment:* One commenter asked that we specify more clearly the activities for which Federal funding is available under the regulation.

Response: Under § 304.20(b)(11), Federal funding is available for medical support activities specified in Part 306, Subpart B. Under this subpart, certain medical support activities are required to be performed by the IV–D agency. For example, when an absent parent is being interviewed, the interviewer will gather information on health insurance and the information listed under § 306.50(a). Also, if the IV–D agency is attempting to establish a support order, it will petition the court or administrative authority to include medical support in the order. Administrative costs associated with enforcement of the support order and preparation and transmittal of information to the Medicaid agency are also examples of costs for which Federal funding is available under the IV–D program. Activities which are performed under Part 306, Subpart A, are not eligible for Federal funding under the IV–D program, as specified in § 304.23(g). The latter costs are paid under the Medicaid program.

23. *Comment:* Three State agencies recommended that States be given the option to include medical debts owed to the State when requesting judgments in IV–D cases.

Response: If the debt represents medical support, the Medicaid program has responsibility for collecting third party payments, which are normally pursued in the form of insurance payments, not collections from the absent parent directly. The IV–D agency may attempt to recover medical debts owed to the Medicaid agency if such enforcement activity is conducted under a cooperative agreement with the Medicaid agency and the amount collected will not reduce the absent parent's ability to pay child support (see 45 CFR 306.10(h)). For example, the IV–D agency may request reimbursement of such expenses as pre-natal and delivery fees in a particular case if permitted under State law and if recovery is incidental to other required IV–D services.

24. *Comment:* One advocacy group recommended that the regulations require States to include the custodial parent in petitions for medical support.

Response: The current statute and regulations do not permit the petition to include support for the custodial parent. Title IV–D of the Act authorizes the State IV–D agency to enforce medical support for the custodial parent if it is included in the court order. It is not permitted to seek medical support for the custodial parent.

25. *Comment:* Two State agencies have asked about the treatment of interstate cases in regard to the transfer of information.

Response: Section 306.51(b)(1) requires that a State petition the court or administrative authority to include medical support in new or modified court or administrative orders. Under this regulation, the initiating State must include a request for medical support in the petition sent to the responding State and the responding State must attempt to obtain the order. If medical support is ordered, the responding State must provide the information to the initiating State IV–D agency. We do not require a State IV–D agency to transmit medical support information to out-of-State Medicaid agencies. The initiating State IV–D agency receives the medical support information from the responding State and transmits it to the Medicaid agency in its State.

Waiver of Proposed Rulemaking

Because the final audit regulation was published before these final medical support enforcement regulations, the audit regulation did not contain specific audit criteria for medical support enforcement. Therefore, this document contains the specific audit criteria at §§ 305.20(c) and 305.56 a State must meet to be found in compliance with the State plan requirement for medical support enforcement.

We believe that under 5 U.S.C. 553(b)(B) good cause exists for waiver of Notice of Proposed Rulemaking since issuance of proposed regulations would be unnecessary. The changes made are not substantive and parallel exactly the other audit criteria for State plan-related functions which were published as proposed audit regulations. Comments were received on these proposed audit regulations and were responded to in the final audit regulation. These medical support enforcement audit criteria are the same as the other audit criteria which were published in the proposed audit regulation and do not impose any new kind of requirement on the States. Moreover, the final audit regulation already informed the public that medical support audit criteria would be published in the final regulations on medical support enforcement.

States are merely required to have and use written procedures to secure medical support information and to secure and enforce medical support obligations, and are required to have personnel performing these functions. While Notice of Proposed Rulemaking is being waived, we are interested in receiving comments on the revisions to §§ 305.20(c) and 305.56. We will review any comments on §§ 305.20(c) and 305.56 which we receive within 60 days of the publication of this rule and publish in the **Federal Register** any necessary changes to §§ 305.20(c) and 305.56 as a result of comments received.

Paperwork Reduction Act

These regulations at 45 CFR 305.56 (a) and (b), 306.50(c) and 306.51(b) (3) and (4) contain information collection requirements which are subject to OMB review under the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The public is not required to comply with these information collection requirements until OMB approves them under section 3507 of the Paperwork Reduction Act. Comments regarding the information collection requirements should be directed to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, DC 20503, Attention: Desk Officer for HHS. A notice will be published in the **Federal Register** when OMB approval is obtained.

Regulatory Impact Analysis

Section 1(b) of Executive Order 12291 states that a major rule is one that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Executive Order requires that, for major rules, we prepare a regulatory impact analysis which describes the potential benefits and costs of the rule, together with the potential benefits and costs of alternative approaches.

The Department estimates Federal Medicaid savings of $15 million in FY 86,

$60 million in FY 87, and $120 million in FY 88. The State Medicaid savings would be approximately 45% of Federal savings. The phase-in is gradual since inclusion of medical support will primarily occur in new child support cases, with a much more gradual inclusion in existing support cases. We have determined this is a major rule. The discussion below, together with the preamble as a whole, constitute the regulatory impact analysis.

The rule will not substantially change the total amount that will be spent on medical care for dependent children of absent parents. However, the financing of medical coverage will shift from the Medicaid program and taxpayers to parents, third party payors, and employers and employees who pay premiums. Therefore, this regulation results in a redistribution of resources with little or no net economic impact.

Alternatives to this rule have been examined and rejected. This rule implements the medical support activities required by section 16 of Pub. L. 98-378. The State IV-D agency is required to petition for medical support and transfer certain information to the State Medicaid agency. Prior to enactment of Pub. L. 98-378, we considered continuing to rely on the current system, in which medical support enforcement activities are pursued only through optional cooperative agreements between the State IV-D agency and the State Medicaid agency. However, as stated earlier in the preamble, most States have not elected to enter into such agreements and medical support enforcement efforts have been minimal. Another rejected option was to have the Medicaid agencies establish their own systems for these medical support activities. However, this would result in unnecessary expense and duplication of effort, since the IV-D agencies are already locating absent parents and collecting information from them. The alternative required in Pub. L. 98-378 and this regulation will provide great benefits to Federal and State governments at minimal burden to State IV-D agencies.

Under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), we are required to prepare a regulatory flexibility analysis for those rules which will have a significant economic impact on a substantial number of small entities. This rule will not have a significant economic impact on a substantial number of small entities. Its principal impact is on State IV-D agencies and third party payors. Although this rule can be expected to result in additional third party payments, these payments will represent a small fraction of costs (and premiums) for health insurance and will not have a significant economic impact. Therefore, a regulatory flexibility analysis is not required.

List of Subjects

45 CFR Parts 302 and 304

Child welfare, Grant programs/social programs.

45 CFR Part 305

Child welfare, Grant programs/social programs, Accounting.

45 CFR Part 306

Child welfare, Grant programs/social programs, Medicaid.

For the reason set out in the preamble, Chapter III of Title 45 of the Code of Federal Regulations is amended as follows:

PART 302—[AMENDED]

1. The authority citation for Part 302 is revised to read as set forth below, and the authority citations following all the sections in Part 302 are removed:

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

2. 45 CFR 302.80 is revised to read as follows:

§ 302.80 Medical support enforcement.

(a) The State plan may provide that the IV-D agency will secure and enforce medical support obligations under a cooperative agreement between the IV-D agency and the State Medicaid agency. Cooperative agreements must comply with the requirements contained in Subpart A of Part 306 of this chapter.

(b) The State plan must provide that the IV-D agency shall secure medical support information and establish and enforce medical support obligations in accordance with the requirements contained in Subpart B of Part 306 of this chapter.

PART 304—[AMENDED]

3. The authority citation for Part 304 is revised to read as set forth below, and the authority citations following all sections in Part 304 are removed:

Authority: 42 U.S.C. 651 through 654, 657, 660, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

4. Section 304.20 is amended by adding a new paragraph (b)(11) to read as follows:

§ 304.20 Availability and rate of Federal financial participation.

* * * * *

(b) * * *

(11) Required medical support activities as specified in Part 306, Subpart B, of this chapter.

5. Section 304.23 is amended by revising paragraph (g) to read as follows:

§ 304.23 Expenditures for which Federal financial participation is not available.

* * * * *

(g) Medical support enforcement activities performed under cooperative agreements in accordance with Part 306, Subpart A, of this chapter.

* * * * *

PART 305—[AMENDED]

6. The authority citation for Part 305 continues to read as follows, and the authority citation following all of the sections in Part 305 are removed:

Authority: Sec. 403(h), 404(d), 452(a)(1) and (4), and 1102 of the Social Security Act.; 42 U.S.C. 603(h), 604(d), 652(a)(1) and (4), and 1302.

7. Section 305.20(c)(1) is amended by replacing "Medical support. [To be determined]" with "Medical support. [45 CFR 305.56(a)]" and § 305.20(c)(2) is amended by replacing "Medical support. (To be determined)" with "Medical support. (45 CFR 305.56(b)".

8. 45 CFR 305.56 is revised to read as follows:

§ 305.56 Medical support enforcement.

For the purposes of this part, to be found in compliance with the State plan requirement for medical support enforcement (45 CFR 302.80), a State must:

(a) Have written procedures to secure medical support information and secure and enforce medical support obligations in accordance with 45 CFR Part 306, Subpart B of this chapter;

(b) Use of written procedures specified above; and

(c) Have personnel performing the functions specified above.

PART 306—[AMENDED]

9. The authority citation for Part 306 is revised to read as set forth below, and the authority citations following all sections in Part 306 are removed:

Authority: 42 U.S.C. 652, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

10. 45 CFR Part 306 is amended by revising § 306.0 to read as follows:

§ 306.0 Scope of this part.

Subpart A of this part defines the requirements for an optional cooperative agreement between the IV-

D agency and the Medicaid agency for the purpose of enforcing medical support obligations under section 1912 of the Act. Subpart B of this part prescribes the required medical support activities to be performed by the IV–D agency.

11. A new heading, Subpart A—Optional Cooperative Agreements, is added after § 306.1 to read as follows, and §§ 306.0 and 306.1 are designated as Subpart A.

12. Subpart B—Required IV–D Activities consisting of §§ 306.50 and 306.51 are added to read as follows:

Subpart B—Required IV–D Activities

Sec.
306.50 Securing medical support information.
306.51 Securing and enforcing medical support obligations.

Subpart B—Required IV–D Activities

§ 306.50 Securing medical support information.

(a) If the IV–A or IV–E agency does not provide the information specified in this paragraph to the Medicaid agency and if the information is available or can be obtained in a IV–D case for which an assignment is in effect under § 232.11 of this title or section 471(a)(17) of the Act, the IV–D agency shall obtain the following information on the case:

(1) AFDC case number, title IV–E foster care case number, Medicaid number or the individual's social security number;

(2) Name of absent parent;

(3) Social security number of absent parent;

(4) Name and social security number of child(ren);

(5) Home address of absent parent;

(6) Name and address of absent parent's place of employment;

(7) Whether the absent parent has a health insurance policy and, if so, the policy name(s) and number(s) and name(s) of person(s) covered.

(b) When an individual applies for services under § 302.33 of this chapter, the IV–D agency shall inform the individual that medical support enforcement services are available and shall secure the information specified in paragraph (a) of this section:

(1) If the individual is a Medicaid applicant or recipient; or

(2) With the consent of the individual, if the individual is not a Medicaid applicant or recipient.

(c) The IV–D agency shall provide the information obtained under paragraphs (a) and (b)(1) of this section to the Medicaid agency in a timely manner by the most efficient and cost-effective means available, using manual or automated systems.

§ 306.51 Securing and enforcing medical support obligations.

(a) For purposes of this section, health insurance is considered reasonable in cost if it is employment-related or other group health insurance.

(b) With respect to cases for which there is an assignment in effect under § 232.11 of this title or section 471(a)(17) of the Act, the IV–D agency shall:

(1) Unless the custodial parent and child(ren) have satisfactory health insurance other than Medicaid, petition the court or administrative authority to include health insurance that is available to the absent parent at reasonable cost in new or modified court or administrative orders for support.

(2) Petition the court or administrative authority to include medical support as required under paragraph (b)(1) of this section whether or not—

(i) Health insurance at reasonable cost is actually available to the absent parent at the time the order is entered; or

(ii) Modification of current coverage to include the child(ren) in question is immediately possible.

(3) Inform the Medicaid agency when a new or modified court or administrative order for child support includes medical support and provide the information referred to in § 306.50(a) of this part to the Medicaid agency when the information is available.

(4) If health insurance is available to the absent parent at reasonable cost and has not been obtained at the time the order is entered, take steps to enforce the health insurance coverage required by the support order and provide the Medicaid agency with the information referred to in § 306.50(a) of this part.

(5) Periodically communicate with the Medicaid agency to determine if there have been lapses in health insurance coverage for Medicaid applicants and recipients.

(6) Request employers and other groups offering health insurance coverage that is being enforced by the IV–D agency to notify the IV–D agency of lapses in coverage.

(c) The IV–D agency shall inform an individual who applies for services under § 302.33 of this chapter that medical support enforcement services are available and shall provide the services specified in paragraph (b) of this section if the individual is a Medicaid applicant or recipient. The IV–D agency shall provide the services specified in paragraph (b) of this section with the consent of the individual who applies for services and is not a Medicaid applicant or recipient, except that health insurance information shall not be transmitted to the Medicaid agency.

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: July 22, 1985.

Stephen Ritchie,

Director, Office of Child Support Enforcement.

Approved: August 6, 1985.

Margaret M. Heckler,

Secretary.

[FR Doc. 85–24638 Filed 10–15–85; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

[BC Docket No. 79–47; RM–2830; FCC 85–302]

Rebroadcasts of Transmissions of Nonbroadcast Radio Stations

Correction

In FR Doc. 85–14584 beginning on page 25241 in the issue of Tuesday, June 18, 1985, on page 25247, first column, in § 97.113, the paragraph designated as "(B)" should be designated as "(d)".

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM–166P; Amdt. No. 173–193]

Hazardous Materials; Radiation Level Limits for Exclusive Use Shipments of Radioactive Materials

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to amend the Hazardous Materials Regulations (HMR) to more clearly and completely specify external radiation level limitations for exclusive use shipments of radioactive materials and to specify the necessary capabilities for personnel who load and unload exclusive use shipments of radioactive materials. The changes are necessary to reduce misunderstandings of regulatory requirements and are intended to foster