

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At confluence with Salem Creek	*747	Maps available for inspection at the Hatfield Township Administration Building, 1950 School Road, Hatfield, Pennsylvania. Lansdale (Borough), Montgomery County (FEMA Docket No. 7219) <i>West Branch Neshaminy Creek Tributary No. 2 (previously Lansdale Tributary and Neshaminy Creek Branch):</i> Approximately 250 feet upstream of Schwab Road ... Approximately 650 feet upstream of West 5th Street Maps available for inspection at the Lansdale Borough Building, One Vine Street, Lansdale, Pennsylvania.		WISCONSIN Chetek (City), Barron County (FEMA Docket Nos. 7175 and 7247) <i>Lake Chetek:</i> Entire shoreline within corporate limits <i>Prairie Lake:</i> Entire shoreline within corporate limits <i>Chetek River:</i> Approximately 1,700 feet downstream of Chicago and North Railway (at corporate limits) Approximately 50 feet downstream of dam on Chetek River Maps available for inspection at the Chetek City Clerk's Office, 220 Stout Street, Chetek, Wisconsin.	
Approximately 250 feet upstream of Link Road	*747				
<i>Petree Creek:</i>					
At confluence with Mill Creek	*754				
Approximately 60 feet downstream of Petree Road	*754				
<i>Reynolda Commons Bypass:</i>					
At confluence with Mill Creek	*773				
Approximately 200 feet upstream of Reynolda Road	*776				
<i>Robbindale Branch:</i>					
At confluence with Fiddlers Creek	*813				
Approximately 200 feet upstream of confluence with Fiddlers Creek	*813	*301			
<i>St. Delight Branch:</i>					
At confluence with Kerners Mill Creek	*801				
Approximately 290 feet upstream of Fire Road	*801	*318			
<i>Salem Creek:</i>					
At Clemmonsville Road	*707				
At confluence with Kerners Mill Creek	*800				
<i>Silas Creek:</i>					
At confluence with Muddy Creek	*708	*409			
Approximately 1,400 feet upstream of Oldtown Club Road	*883	*432			
<i>Stadium Branch:</i>					
At confluence with Salem Creek	*766				
At Diggs Boulevard	*766				
<i>Terry Road Branch:</i>					
At confluence with Salem Lake	*801				
Approximately 80 feet downstream of Fire Road	*801				
Maps available for inspection at the City/County Planning Board Office, 101 North Main Street, Winston-Salem, North Carolina.					
OHIO		VERMONT			
Clark County (Unincorporated Areas) (FEMA Docket No. 7219)		Waterbury (Town), Washington County (FEMA Docket No. 7211)			
<i>Mad River:</i>		<i>Winooski River:</i>			
At CONRAIL	*888	At Bolton Falls Dam	*409		
Approximately 2,100 feet downstream of Snider Road	*856	Approximately 1,400 feet downstream of the most upstream corporate limits ..	*432		
Maps available for inspection at the Clark County Building Department, 25 West Pleasant Street, Springfield, Ohio.		Maps available for inspection at the Waterbury Municipal Office, 51 South Main Street, Waterbury, Vermont.			
PENNSYLVANIA		WEST VIRGINIA			
Hatfield (Township), Montgomery County (FEMA Docket No. 7219)		Berkeley County (Unincorporated Areas) (FEMA Docket No. 7247)			
<i>West Branch Neshaminy Creek Tributary No. 2:</i>		<i>Rockymarsh Run:</i>			
Approximately 600 feet upstream of confluence with West Branch Neshaminy Creek	*289	Approximately 80 feet downstream of Billmyer Mill Road	*418		
Approximately 600 feet upstream of Lansdale Tributary	*302	At confluence of Tributary to Rockymarsh Run	*427		
		<i>Tributary to Rockymarsh Run:</i>			
		At confluence with Rockymarsh Run	*427		
		Approximately 820 feet upstream of State Route 45 ..	*436		
		Maps available for inspection at the Berkeley County Planning Commission, 119 West King Street, Martinsburg, West Virginia.			

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: July 31, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98-21193 Filed 8-6-98; 8:45 am]

BILLING CODE 6718-04-U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Health Care Financing Administration

45 CFR Part 233

[HCFA-2106-FC]

RIN 0938-AH79

Medicaid and Title IV-E Programs; Revision to the Definition of an Unemployed Parent

AGENCY: Administration for Children and Families (ACF), and Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) transformed the nation's welfare system into one that requires work in exchange for time-limited assistance. The law eliminated the Aid to Families with Dependent Children (AFDC) program and replaced it with the Temporary Assistance for Needy Families (TANF) program. The law provides States flexibility to design their TANF programs in ways that

strengthen families and promote work, responsibility, and self-sufficiency while holding them accountable for results. Many States are using this flexibility to provide welfare to work assistance to two parent families, which was more difficult to do under the old welfare rules. However, pre-existing regulations regarding the definition of "unemployed parent" prevent some States from providing intact families with health insurance to help them stay employed. This rule will eliminate this vestige of the old welfare system in order to promote work, strengthen families, and simplify State program administration.

In general under PRWORA, States must ensure that families who would have qualified for Medicaid health benefits under the prior welfare law are still eligible.

While under the previous law receipt of AFDC qualified families for Medicaid, the new statute does not tie receipt of TANF to Medicaid. Instead, subject to some exceptions, Medicaid eligibility for families and children now depends upon whether a family would have qualified for AFDC under the rules in effect on July 16, 1996. Similarly, Federal foster care eligibility depends on whether the child would have qualified for AFDC under the rules in effect on July 16, 1996.

In order for a family to qualify for assistance under the pre-PRWORA AFDC rules, its child had to be deprived of parental support or care due to the death, absence, incapacity, or unemployment of a parent. Two parent families generally qualified only under the "unemployment" criterion which was narrowly defined in the AFDC regulations. In this final rule with comment, we are amending these regulations to provide States with additional flexibility to provide Medicaid coverage to two parent families, facilitate coordination among the TANF, Medicaid and foster care programs, increase incentives for full-time work, and allow States to eliminate inequitable rules that are a disincentive to family unity.

DATES: *Effective Date:* These regulations are effective on August 7, 1998.

Comments: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on October 6, 1998.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services,

Attention: HCFA-2106-FC, P.O. Box 7517, Baltimore, MD 21207-0517.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C., or Room C5-09-27, Central Building, 7500 Security Boulevard, Baltimore, Maryland.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA-2106-FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Phone: (202) 690-7890).

If you wish to submit written comments on the information collection requirements contained in this final rule with comment period, you may submit written comments to the following: Laura Oliven, HCFA Desk Officer, Office of Information and Regulatory Affairs, Room 3001, New Executive Office Building, Washington, D.C. 20503; and Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room C2-26-17, 7500 Security Boulevard, Baltimore, MD 21244-1850.

FOR FURTHER INFORMATION CONTACT: Judith Rhoades, (410) 786-4462 (Medicaid), Terry Lewis, (202) 205-8102 (title IV-E foster care).

SUPPLEMENTARY INFORMATION:

I. Background

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193 (commonly referred to as welfare reform), enacted on August 22, 1996, replaced the Federal/State program of Aid to Families With Dependent Children (AFDC) with a new program of block grants to States for Temporary Assistance for Needy Families (TANF). This change has substantial implications for Medicaid and title IV-E foster care eligibility. Prior to the enactment of Public Law 104-193, under section 1902(a)(10)(A)(i)(I) of the Social Security Act (the Act), individuals who received AFDC cash assistance or were deemed to have

received AFDC were automatically eligible for Medicaid. Section 114 of Public Law 104-193 amended the Act by redesignating section 1931 as section 1932 and inserting a new section 1931 which establishes a new Medicaid eligibility group for low-income families that is related to eligibility requirements of the AFDC program in effect on July 16, 1996. Section 108(d) of Public Law 104-193 amended title IV-E of the Act to provide for Federal foster care eligibility of children who would have been eligible for AFDC under the June 1, 1995 requirements. Section 5513(b) of the Balanced Budget Act of 1997 (Public Law 105-33) amended sections 472 and 473 of the Act to replace the reference to the June 1, 1995 AFDC requirements date (regarding title IV-E foster care eligibility), with a reference to July 16, 1996 AFDC requirements. This technical change makes the July 16, 1996 date consistent with the Medicaid AFDC eligibility provisions. In other words, the financial eligibility standards and deprivation requirements of the States' pre-welfare reform AFDC programs will be used to determine Medicaid and title IV-E foster care eligibility. One requirement in both programs is that a child in a family must be deprived of parental support or care by reason of the death, absence, incapacity, or unemployment of a parent (the pre-welfare reform AFDC deprivation provision).

Under the AFDC program, States were required to provide cash assistance to families in which the principal wage earner was unemployed. Unemployment of the principal wage earner constituted a type of dependency relationship under the AFDC program. Section 407(a) of the Act authorized the Secretary to prescribe standards for determining unemployment for purposes of this requirement. It did not specifically define unemployment. In accordance with this provision, the Secretary established an hour standard for determining unemployment, with an exception for certain intermittent work, under current regulations at 45 CFR 233.101(a)(1). Specifically, § 233.101(a)(1) provides that the definition of unemployed must include any such parent who is employed less than 100 hours a month; or exceeds that standard for a particular month, if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that the parent was under the 100-hour standard for the prior 2 months and is expected to be under the standard during the next month. These pre-welfare reform regulations apply for purposes of determining whether a

family would have qualified for AFDC under the statute in effect on July 16, 1996, which is part of the test for Medicaid eligibility.

Under TANF, States will no longer be mandated to provide cash assistance to intact families on the basis of unemployment but may choose to do so. Some States may establish more restrictive eligibility standards for cash assistance and some may provide more expansive ones, but all States must use the prior law AFDC standards in determining Medicaid eligibility. For administrative simplicity, a State may wish to align the eligibility requirements of the new Medicaid eligibility group with its requirements under TANF. In consultation with States, we have learned that many States believe the definition of unemployment established under § 233.101(a)(1) for the AFDC program is inequitable and excessively restrictive. They do not intend to continue using the definition under their TANF programs. Some States believe that this definition is anti-family and disadvantages intact families. Under the AFDC program, employment in excess of 100 hours per month was immaterial for single-parent families. Some States believe if they were to import the 100-hour rule into their TANF programs, families in which a principal wage earner is employed over 100 hours per month, but whose income is below the cash assistance standard, may actually break up in order to be eligible for cash assistance.

States have indicated they would like to align eligibility of TANF, foster care, and Medicaid programs for programmatic reasons (such as facilitating Medicaid eligibility) and administrative simplicity. However, the existing definition of unemployment in § 233.101(a)(1) will stand in the way of this alignment if a State chooses to apply a more liberal definition of employment under its TANF program.

We agree with States that the existing definition of unemployment is too restrictive. It imposes an impediment to administrative simplification particularly for those States that believe that the policy is inequitable and discourages family unity. For these reasons, we are revising the definition of unemployment to allow States the opportunity to adopt more flexible definitions of unemployment. This revision will allow States to align their TANF, foster care, and Medicaid programs and thereby allow administrative simplification. It will also allow States to eliminate policies they believe to be inequitable and a disincentive to family unity. We expect that some States will choose to consider

the principal wage earner to be unemployed if the family income is below the applicable cash assistance standard. Under welfare reform demonstration projects, 32 States have statewide title IV-A waivers that allow them to treat single-parent and two-parent recipient families the same. In these States, eligibility for cash assistance is not terminated solely on the basis of hours worked. It is expected that these States will use section 1931(d) authority to continue this policy under their TANF programs for purposes of Medicaid eligibility. However, it is expected that additional States may wish to adopt a similar policy under their TANF programs for purposes of Medicaid eligibility. (Six States have related title IV-A waivers in limited areas of the State. The section 1931(d) authority cannot be used to continue these waivers on a statewide basis under TANF.)

Section 1931(b) of the Act, as added by Public Law 104-193, provides that an individual must be treated as receiving aid or assistance under a State plan approved under title IV only if the individual meets the income and resources standards and methodologies and the eligibility requirements of the State's title IV-A plan under section 406(a) through (c) and section 407(a) of the Act as in effect as of July 16, 1996. Section 407(a) defined "dependent child" to include a needy child "who has been deprived of parental support or care by reason of the unemployment (as determined in accordance with standards prescribed by the Secretary) of the parent who is the principal wage earner." The regulations promulgated under the section 407(a) authority generally imposed a 100-hour test to determine unemployment of the principal wage earner (45 CFR 233.101(a)(1)). Nevertheless, we believe that the reference in section 1931(b) to the requirements of section 407(a) as in effect on July 16, 1996 does not freeze those regulations in place. Rather, it refers to the statutory test for unemployment, which is itself subject to regulation by the Secretary. In view of the new flexibility contained in the TANF statute and the desirability of coordinating Medicaid and foster care rules with expanded TANF criteria, we believe that section 1102 of the Act affords the Secretary with the authority to provide States with the discretion to liberalize their definitions of unemployment for purposes of Medicaid eligibility. Therefore, we are revising the regulations at 45 CFR 233.101(a)(1) to permit States to include families with unemployed parents who

would not have met the 100-hour rule contained in the existing regulation.

II. Provisions of the Final Rule With Comment Period

We are revising § 233.101(a)(1) to specify that a State's definition of unemployed, for purposes of Medicaid and title IV-E eligibility, must have a reasonable standard and, at a minimum, include any such parent who is employed less than 100 hours a month, or meets the exception for certain intermittent work specified in existing regulations.

Under the revised definition, States will not be allowed to define unemployment in any way that is more restrictive than the existing definition. This is because the intent of the welfare reform legislation was to protect Medicaid and title IV-E eligibility for any individuals who would have been eligible under the AFDC rules previously in effect. Furthermore, the revised regulation does not require States to adopt a broader definition of unemployment, since there is no indication that the Congress intended to mandate expanded eligibility beyond the statutory baseline.

In addition, States will be required to develop a reasonable standard as part of the definition of unemployment. That standard may be based on hours of work and/or dollar amounts and may include family size and/or time elements.

III. Regulatory Impact Statement

HCFA has examined the impact of this final rule with comment period as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96-354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulations are necessary, to select regulatory approaches that maximize net benefits (including potential economic environments, public health and safety, other advantages, distributive impacts, and equity). We believe that this final rule with comment period is consistent with the regulatory philosophy and principles identified in the Executive Order. The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of a RFA, individuals and States are not considered to be small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any final rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. With the

exception of hospitals located in certain rural counties adjacent to urban areas, for purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This final rule with comment period makes a change necessary to facilitate the coordination of Medicaid with TANF in cases where a State has expanded coverage under its TANF plan beyond the definition of unemployed parent that was contained in existing AFDC regulations. The rule revises the definition of unemployment of a principal wage earner for purpose of unifying families.

We estimate that this rule meets the threshold under Executive Order 12866 of an effect on the economy of \$100 million or more and thus requires a regulatory impact analysis as an economically significant rule. Therefore, we have developed the following analysis in combination with the remainder of this preamble.

Although this rule is considered an economically significant rule, we believe that the legislative intent of the Congress in passing the PRWORA was to encourage needy families to withdraw from welfare dependency over time, and at the same time provide them with temporary assistance. Therefore, we believe it is necessary to revise the definition of an unemployed parent to achieve these goals.

The table below shows estimates of Federal and State shares of Medicaid program costs that may be incurred as a result of this regulation. These

estimates are based on an initial simulation study conducted in 1996 by the Urban Institute to determine the impact of repealing the 100-hour rule in those States that did not have IV-A waivers at that time. This simulation produced an estimated increase of 1.275 million individuals who would meet AFDC eligibility requirements as a result of repeal of the 100-hour rule. Of these 1.275 million individuals, the Urban Institute estimated that .546 million—mostly adults—would gain Medicaid eligibility specifically because of the change; the balance would have been eligible for Medicaid already, under other Medicaid eligibility provisions. Of all the adults gaining AFDC eligibility as a result of the change, the Urban Institute estimated that 83 percent would also gain Medicaid eligibility as a result (that is, would not otherwise have been eligible for Medicaid).

Our estimate starts from the Urban Institute numbers of potential new Medicaid eligibles, and updates them using a corrected list of States that currently have statewide or substate IV-A waivers. (Over 30 States have approved IV-A waivers, either Statewide or substate.) We assumed no Medicaid effect in those States in which the 100-hour rule is already waived, and we assumed further that these waivers would remain in effect throughout the estimate period.

Then, for the remaining States, we projected population growth, Participation rates, and Medicaid per capita costs over the 5-year estimate period. We also assumed that only

adults would be affected by any broadening of the definition of unemployment, since children would most likely be covered already through other eligibility mechanisms. This methodology produced an estimate of Medicaid costs for implementation of this expansion of coverage.

Because this regulation provides States with an option, it is difficult to predict State behavior. On the one hand, it could be assumed that if a State had wanted to use an unemployment standard different from the 100-hour rule, it would have done so already, through the waiver mechanism; by that logic, the additional cost of this regulation would be minimal. On the other hand, the new TANF program, with its new eligibility requirements and its disconnection from Medicaid eligibility, provides new incentives that may not have been present before, and, conceivably all States may wish to immediately avail themselves of the option to change the 100-hour rule. This latter scenario would produce maximum costs. A poll of the States indicated that many had already dropped the 100 hour rule from their TANF program, and conceivably these States would be interested in doing the same for their Medicaid program. For the purposes of this estimate we assumed that expenditures in States that do not currently have waivers would increase so that the cost of this change would ultimately reach three-fourths of the estimated maximum possible amount. Accordingly, we expect this final rule to result in the following costs:

	1999	2000	2001	2002	2003
Federal	\$35	\$85	\$140	\$160	\$175
State	25	60	105	125	135

(\$ in millions, rounded to the nearest \$5 million).

A separate but similar analysis was conducted for the title IV-E foster care and adoption assistance programs. Because more than 90 percent of children who are eligible for foster care and adoption assistance would qualify for these programs according to other rules unaffected by this revision, we determined that this revision would have no cost impact on foster care or adoption assistance.

These final regulations affect only States and individuals, which are not defined as small entities. We have determined and certify that this final rule with comment period will not have a significant economic impact on small entities under the threshold criteria of

the RFA. However, we have provided an analysis of the impact on States and individuals under E.O. 12866. Further, we certify that this final rule with comment period does not have a significant impact on the operations of a substantial number of small rural hospitals.

The only alternative to implementing this provision is not to publish this regulation. However, not publishing this provision would impose additional barriers to family unity and administrative simplification of State Medicaid programs.

There will be an offset for the cost of these final regulations.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

IV. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, agencies are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved, section 3506(c)(2)(A) of the Paperwork

Reduction Act of 1995 requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Section 233.101 of this final rule with comment period contains requirements that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995. The rule requires States to amend their State plans to specify a reasonable standard for measuring unemployment. Public reporting burden for this collection of information is estimated to be 1 hour per State. A notice will be published in the **Federal Register** when approval is obtained. Organizations and individuals desiring to submit comments on the information collection and recordkeeping requirements should direct them to the OMB official and HCFA/OFHR whose names appear in the **ADDRESSES** section of this preamble.

V. Other Required Information

A. Waiver of Proposed Rule and 30-Day Delay in the Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** for a substantive rule to provide a period of public comment. However, pursuant to 5 U.S.C. (United States Code) 553(b)(B) we may waive that procedure if we find good cause that notice and comment are impractical, unnecessary, or contrary to the public interest. In addition, we also normally provide a delay of 30 days in the effective date. However, if adherence to this procedure would be impractical, unnecessary, or contrary to public interest, we may waive the delay in the effective date.

We are adopting this regulation as a final rule with comment period without publication of a notice of proposed rulemaking because we believe it would be impractical and contrary to public interest to delay allowing States flexibility in implementing the welfare reform legislation. The effective date for the TANF program depends on the date the State submits a State TANF plan to the Secretary. However, the limit on State funding under title IV-A is effective on October 1, 1996. We believe that it is imperative to allow States as

much flexibility as possible, and as soon as possible, to align the eligibility requirements of the Medicaid program with the TANF program to aid administrative simplification and eliminate any disincentive to family unity on the part of recipients. The sooner States have the flexibility to align these programs, the more likely it is that additional individuals will receive needed health coverage. Also, providing States with flexibility at the earliest possible time will minimize unnecessary systems changes they would otherwise incur in making the transition to the post-AFDC environment. Therefore, we find good cause to waive proposed rulemaking and issue these regulations as final.

For reasons discussed above, we also find good cause to waive the usual 30-day delay in the effective date so that the revisions to the definition may take effect upon publication of this final rule with comment period.

Although we are publishing this as a final rule, we are providing a 60-day period for public comment.

B. Effect of the Contract With America Advancement Act, Pub. L. 104-121

Normally, under 5 U.S.C. 801, as added by section 251 of Pub. L. 104-121, the effective date of a major rule is delayed 60 days for Congressional review. This has been determined to be a major rule under 5 U.S.C. 804(2). However, as discussed above, for good cause, we find that prior notice and comment procedures are impracticable and contrary to the public interest. Pursuant to 5 U.S.C. 808(2), a major rule shall take effect at such time as the Federal agency promulgating the rule determines if for good cause it finds that notice and public procedure is impracticable or contrary to the public interest. Accordingly, under the exemption provided under 5 U.S.C. 808(2), these regulations are effective August 7, 1998.

VI. Response to Comments

Because of the large number of items of correspondence we normally receive on Federal Register documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

List of Subjects in 45 CFR Part 233

Aliens, Grant Programs-Social Programs, Public Assistance Programs, Reporting and recordkeeping requirements.

45 CFR Part 233 is amended as follows:

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

1. The authority citation for part 233 continues to read as follows:

Authority: 42 U.S.C. 301, 602, 602 (note), 606, 607, 1202, 1302, 1352, and 1382 (note).

2. In § 233.101, the introductory text of paragraph (a) is republished and paragraph (a)(1) is revised to read as follows:

§ 233.101 Dependent children of unemployed parents.

(a) *Requirements for State plans.* Effective October 1, 1990 (for Puerto Rico, American Samoa, Guam, and the Virgin Islands, October 1, 1992), a State plan must provide for payment of AFDC for children of unemployed parents. A State plan under title IV-A for payment of such aid must:

(1) Include a definition of an unemployed parent who is the principal earner which shall apply only to families determined to be needy in accordance with the provisions in § 233.20 of this part. Such definition must have a reasonable standard for measuring unemployment and, at a minimum, include any such parent who:

(i) Is employed less than 100 hours a month; or

(ii) Exceeds that standard for a particular month, if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that he or she was under the 100-hour standard for the prior 2 months and is expected to be under the standard during the next month; except that at the option of the State, such definition need not include a principal earner who is unemployed because of participation in a labor dispute (other than a strike) or by reason of conduct or circumstances which result or would result in disqualification for unemployment compensation under the State's unemployment compensation law.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: October 14, 1997.

Nancy-Ann Min DeParle,

Deputy Administrator, Health Care Financing Administration.

Dated: October 23, 1997.

Olivia A. Golden,

Principal Deputy Assistant Secretary, Administration for Children and Families.

Dated: January 28, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98-21146 Filed 8-4-98; 1:23 pm]

BILLING CODE 4120-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chap. I

[CC Docket No. 97-134; FCC 98-163]

Treatment of the Guam Telephone Authority and Similarly Situated Carriers as Incumbent Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Report and Order released July 20, 1998 adopts a rule treating Guam Telephone Authority (GTA) as an incumbent local exchange carrier. Adoption of this rule will ensure that the Territory of Guam has the same opportunity as the rest of our Nation to benefit from pro-competitive, market-opening effects. In the Order, we decline to adopt the same rule with respect to a class or category of LECs situated similarly to GTA, because the record does not identify any members of such class or category.

EFFECTIVE DATE: September 8, 1998.

FOR FURTHER INFORMATION CONTACT: Alex Starr, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418-1580. For additional information concerning the information collections contained in this Order contact Judy Boley at (202) 418-0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order adopted July 15, 1998 and released July 20, 1998. The full text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M St., NW., Room 239, Washington, DC. The complete text also may be obtained through the World Wide Web, at <http://www.fcc.gov/Bureaus/CommonCarrier/Orders/fcc98163.wp>, or may be purchased from the Commission's copy contractor, International Transcription

Service, Inc., (202) 857-3800, 1231 20th St., NW., Washington, DC 20036.

Regulatory Flexibility Certification

In conformance with the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, we certify that the rule adopted herein will not have a significant economic impact on a substantial number of small entities. Our rule treating GTA as an incumbent LEC pursuant to section 251(h)(2) will affect only GTA and the limited number of entities that seek to interconnect with GTA's network or resell GTA's services. Even if all of these entities can be classified as small entities, we do not believe that they constitute a "substantial number of small entities" for purposes of the Regulatory Flexibility Act.

Synopsis of Report and Order

I. Introduction

Pursuant to our express rulemaking authority in section 251(h)(2) of the Communications Act of 1934, as amended (Act or Communications Act), we adopt in this Report and Order the rule proposed by the Commission in *Guam Public Utilities Commission Petition for Declaratory Ruling concerning Sections 3(37) and 251(h) of the Communications Act, Treatment of the Guam Telephone Authority and Similarly Situated Carriers as Incumbent Local Exchange Carriers under Section 251(h)(2) of the Communications Act*, 62 FR 29320, May 30, 1997 (*Guam Ruling/Notice*). In particular, we adopt a rule treating Guam Telephone Authority (GTA) as an incumbent local exchange carrier (LEC) for purposes of section 251. Adoption of this rule will ensure that the Territory of Guam (Guam) has the same opportunity as the rest of our Nation to benefit from the pro-competitive, market-opening effects of the Telecommunications Act of 1996. We decline at this time, however, to adopt the same rule with respect to a class or category of LECs situated similarly to GTA, because the record does not identify any members of such class or category.

II. Background

2. In the *Guam Ruling/Notice*, the Commission resolved a Petition for Declaratory Ruling filed by the Public Utilities Commission of the Territory of Guam (Guam Commission) regarding sections 251(h)(1) and 3(37) of the Communications Act. The Commission held that (i) GTA—the only LEC throughout Guam—is not an

"incumbent local exchange carrier" within the meaning of section 251(h)(1), and (ii) GTA is a "rural telephone company" within the meaning of section 3(37).

3. One effect of the Commission's holdings in the *Guam Ruling/Notice* was that GTA could permanently avoid the interconnection, unbundling, resale, and other obligations imposed on incumbent LECs by section 251(c) of the Communications Act. Imposing these obligations on incumbent LECs, including rural telephone companies in appropriate circumstances, is one of the 1996 Act's primary methods of fostering the development of competition in the local exchange market. As a result, in the *Guam Ruling/Notice*, the Commission also issued a Notice of Proposed Rulemaking proposing that the Commission adopt, pursuant to section 251(h)(2) of the Communications Act, a rule providing for the treatment of GTA as an incumbent LEC for purposes of section 251. Under section 251(h)(2), the Commission "may, by rule, provide for the treatment of a local exchange carrier (or class or category thereof) as an incumbent local exchange carrier for purposes of (section 251)" if:

(A) such carrier occupies a position in the market for telephone exchange service within an area that is comparable to the position occupied by a carrier described in paragraph (1); (B) such carrier has substantially replaced an incumbent local exchange carrier described in paragraph (1); and (C) such treatment is consistent with the public interest, convenience, and necessity and the purposes of this section. 47 U.S.C. 251 (h)(2).

4. In the *Guam Ruling/Notice*, the Commission sought comment on the proposal therein to adopt a rule pursuant to section 251(h)(2) treating GTA as an incumbent LEC for purposes of section 251. The Commission also sought comment regarding whether LECs situated similarly to GTA exist and, if so, whether the Commission should adopt the same rule with respect to such class or category of LECs.

III. Discussion

5. hereby adopt in this Report and Order the rule proposed by the Commission in the *Guam Ruling/Notice*. In particular, pursuant to our express rulemaking authority in section 251(h)(2) of the Act, we adopt a rule treating GTA as an incumbent LEC for purposes of section 251.

6. We decline at this time, however, to adopt a general rule under section 251(h)(2) treating as incumbent LECs all members of a class or category of LECs situated similarly to GTA. We so decline because the record does not indicate