DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 308

RIN 0970–AB96

State Self-Assessment Review and Report

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

ACTION: Final rule.

SUMMARY: These regulations implement a provision of the Social Security Act added by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which requires each State to annually assess the performance of its child support enforcement program and to provide a report of the findings to the Secretary of the Department of Health and Human Services (DHHS).

EFFECTIVE DATE: December 12, 2000.

FOR FURTHER INFORMATION CONTACT: Jan Rothstein, OCSE Division of Policy and Planning, (202) 401–5073. Hearing impaired individuals may call the Federal Dual Party Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Statutory Authority

These regulations are published under the authority of the Social Security Act (the Act), as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193). Section 454(15)(A) of the Act (42 U.S.C. 654(15)(A)) contains a requirement for each State to annually assess the performance of the State's child support enforcement program under title IV–D of the Act in accordance with standards specified by the Secretary, and to provide a report of the findings to the Secretary.

These regulations are also published under the general authority of section 1102 of the Act (42 U.S.C. 1302) authorizing the Secretary to publish regulations necessary for the efficient administration of the title IV–D program.

Background

Prior to PRWORA, Federal law specified that States that had been audited and found not to be in substantial compliance with Federal requirements were subject to a financial penalty of between 1 and 5 percent of the State's funding under the title IV–A program. These audits were performed every 3 years. The penalty could be held in abeyance for up to one year to allow States the opportunity to implement corrective actions to remedy the program deficiency. At the end of the corrective action period, a follow-up audit was conducted. If the follow-up audit showed that the deficiency had been corrected, the penalty was rescinded. Section 342(b) of PRWORA revised section 452(a)(4) of the Act, changing Federal audit requirements to focus on data reliability and to assess performance outcomes instead of determining compliance with process steps.

At the same time, section 342(a) of PRWORA amended the Act by adding a new section 454(15)(A) of the Act to require each State to conduct an annual review of its Child Support Enforcement (IV–D) program to determine if Federal requirements are being met and to provide an annual report to the Secretary of DHHS on the findings. The changes to sections 452 and 454(a)(15) of the Act mean that the Federal government's audit responsibilities now focus primarily on results and fiscal accountability while States are to focus on the responsibilities for child support service delivery in accordance with Federal mandates. The annual self-assessment's purpose is to give a State the opportunity to assess whether it is meeting Federal requirements for providing child support services and providing the best services possible. There are no financial sanctions associated with a State's self-assessment. It is to be used as a management tool, to help a State evaluate its program and assess its performance.

Following the enactment of PRWORA and to ensure broad input, OCSE consulted with a wide variety of program stakeholders to get recommendations on how to proceed. These recommendations addressed: the criteria to be covered in annual reports to the Secretary; the methodology for reviewing the criteria; and an approach for reporting the results of these reviews. OCSE considered these recommendations in developing the proposed rule.

Prior to writing the proposed rule, OCSE received suggestions on self-assessment reviews at national and regional meetings, including meetings with the American Public Human Services Association, formerly known as the American Public Welfare Association (APWA) and the National Child Support Enforcement Association (NCSEA). In addition, several child support advocacy groups informally provided comments. Comments were also solicited from State IV–D directors.

Federal Role

The Federal role in the self-assessment review process includes receiving reports submitted pursuant to section 452(a)(4)(B) of the Act and, as appropriate, provide to the States comments, recommendations for additional or alternative corrective action, and any technical assistance that a State may need. The Federal involvement includes, but is not limited to: approving IV–D State plan amendments certifying that the State has a self-assessment review process; providing review requirements, guidelines, instructions and methodologies for the review to the State; responding to requests for help from the State; providing interpretation of compliance standards; developing continuing partnerships; reviewing and providing appropriate comments on self-assessment reports; developing a self-assessment review module; overseeing the implementation of the self-assessment process in the States; periodically analyzing self-assessment reports to identify ''best practices'' to be shared with other States and providing comments and recommendations regarding the appropriateness of proposed corrective action or alternative correction action.

Description of Regulatory Provisions

These regulations implement the statutory requirement that a State annually assess the performance of its IV–D program and submit a report of the findings to the Secretary by adding a new part 308, ''Annual State Self-Assessment Review and Report'' to existing rules in Chapter III governing the child support enforcement program under title IV–D of the Act.

Section 308.0 sets the scope of the regulation and specifies this is applicable only to the annual State self-assessment review and report process.

Section 308.1 provides the components of the self-assessment implementation methodology that States must use including: sampling, scope of review, the review period, and reporting.

Section 308.1(a) addresses the obligation of the IV–D agency to maintain the responsibility and control for all reviews, review findings and the content of the annual report. We have revised the regulatory language in this section since publication of the proposed rule to delete requirements on organizational placement and to clarify responsibilities in response to comments received that the requirement

could be read as IV–D responsibility for control of reviews only when the self-assessment is privatized.

Section 308.1(b) specifies that a State must either review all of its cases or conduct sampling which meets the criteria specified. Due to the differences in administrative structures in States, we did not prescribe a single sampling formula for universal use by all States. Instead, under paragraph (b), a State has discretion in designing its own sampling methodologies that could be tailored to meet individual State needs. However, under paragraphs (b)(2) and (3), each State must maintain a minimum confidence level of 90 percent for each criterion, select statistically valid samples, and assure that there are no portions of the IV–D case universe omitted from the sample selection process.

The following checklist has been developed to provide guidance in the form of a series of steps that should be taken during the development and application of a sampling methodology. This checklist is not intended as a definitive pronouncement or mandate from OCSE, but only as a guide outlining a generic sampling approach. We provide it for reference and guidance only.

1. Define the reason(s) for collecting and evaluating the data: i.e. each State must evaluate its performance with regard to each required program compliance criterion set forth in section 308.2.

2. Plan the data collection method(s):

a. Identify the criteria to be evaluated (refer to section 308.2).

b. Select a method of data collection/evaluation.

c. Establish a minimally acceptable level of performance.

d. Set a desired confidence level pursuant to Federal requirements.

e. Choose a method of random selection (e.g., simple random selection or systematic random selection).

3. Collect the required data: After selecting the sample cases, obtain the case files and/or the pertinent computer records containing the necessary data elements.

4. Process the collected data: Evaluate each case for each criterion to determine if an action was required, and if the required action was taken. Tabulate the results of the sample or samples.

5. Analyze the data. Quantify results and statistically evaluate the results obtained.

6. Present the results for each criterion in a tabular format and provide a narrative explanation of the results obtained.

Section 308.1(c) relates to the scope of the self-assessment review. This paragraph requires a State to review all required criteria articulated in section 308.2 on a yearly basis.

Section 308.1(d) provides for a 12-month review period, beginning no later than 12 months after the effective date of this final rule and occurring again each 12 month period thereafter. We revised this section in response to comments to clarify when the review period begins and ends. The 12-month review period is consistent with prior audit review periods and allows enough time to evaluate the case processing timeframes in part 303. States should continue to use the same review periods they used prior to publication of this final rule and should make no break in their reviewing processes. States need not match each other's review periods, provided that case samples selected are from the period that will be reviewed and reflected in their report. Self-assessment reviews can be conducted in one of two ways: historically or incrementally. Using the historical approach, a State begins its self-assessment review after the end of the period to be reviewed. We have made changes to the language in this section to explain and clarify what the duration of the review period is.

Using the incremental approach, a State selects cases from several periods during the review period and adds the results to provide a picture of performance for the entire period. The State would draw a separate sample for each incremental review period. The incremental approach enables the State to spread its review effort over time and make more efficient use of available resources because the sample size could be smaller, while allowing the State to identify problem areas and take corrective action prior to the end of the review period. For those States who review their case samples incrementally, the cases selected must be reviewed and evaluated for the actions required at the beginning of the incremental review period.

Section 308.1(e) addresses the contents of the annual reports and requires copies to be sent to the Commissioner, OCSE and the applicable Regional Office. The State must submit its written report no later than 6 months after the end of the review period. For example, if the review period ends September 30, 2000, the report would be due by March 31, 2001. We revised this section to clarify that States should submit a description of any corrective actions proposed and/or taken.

Section 308.2 lists and provides descriptions of the required program compliance criteria. In all cases, States must have the required procedures specified in the regulations. In this section we are requiring States to use benchmarks for performance that are identical to those that were required when previous Federal audit standards were in place. The benchmarks for determining the adequacy of performance continue to be appropriate under the new system of self-assessment reviews because States are being asked to measure themselves on the same performance criteria as under previous audit standards. States should use the benchmarks to determine when corrective action is necessary, i.e. if they fail to meet one or more benchmarks. Reviews of closed cases would need to demonstrate that appropriate action was taken in 90 percent of the cases reviewed. Further, reviews of the other required program criteria would need to show that appropriate action was taken in 75 percent of the cases reviewed.

Section 308.2(a) requires reviews of closed IV–D cases to determine whether the case met one or more Federal case closure criteria under section 303.11.

Section 308.2(b)(1) requires the review of State actions to establish paternity and support orders. A case would meet the review requirement if an order for support was required and established during the review period, notwithstanding the relevant timeframes. Section 308.2(b)(2) addresses the necessary procedures to follow when an order was required but not established during the review period.

Section 308.2(c) requires the review of State actions to enforce child support orders. If income withholding was appropriate, a case would meet the review requirement if it was received during the review period, notwithstanding the mandatory timeframes. A review of the enforcement of orders would include all cases in which an ongoing income withholding is in place, as well as those cases in which new or repeated enforcement actions were required during the review period. We made changes to this section to correct a typing mistake that appeared in the proposed rule, to clarify the locate sources that are appropriate to use, and to specify the timeframes for sending a notice to the employer to withhold income if information is obtained from the State Directory of New Hires or other recognized sources.

Section 308.2(d) describes reviews of the disbursement of collections. This review would include a determination of whether States are complying with the 2-day requirement for disbursing

certain collections. States that fail to meet the 2-day time frame but are under an alternative penalty for failure to meet the State disbursement unit (SDU) deadline should mention that fact in their self-assessment reports. Section 308.2(d) requires States to determine whether disbursements of collections were made in compliance with the Act. We made changes to this section based on a comment we received regarding review of payments received. The regulatory language now indicates that States must review the last payment received for each case. We also deleted language in this section to clarify the requirement.

Section 308.2(e) requires reviews of securing and enforcing medical support orders. This includes measuring whether the requirements were met for: including a medical support provision in all new orders; taking steps to determine whether reasonable health insurance is available when health insurance is included in the order; informing the Medicaid agency when coverage was obtained; determining whether the custodial parent was informed of policy information when coverage has been obtained; determining whether employers are informing the State of lapses in coverage; and determining whether the State transferred notice of the health care provision to a new employer when a noncustodial parent changed employment.

Section 308.2(f) addresses the review and adjustment of orders. A case meets the review requirement if it was reviewed and met the conditions for adjustment notwithstanding the applicable timeframes. An examination of the review and adjustment criterion includes reviews of assistance cases, review of cases where adjustments were not necessary, repeated location efforts, notices to the custodial and non-custodial parents informing them of their rights to request reviews within 180 days of determining that a review should be conducted, and reviews of whether both parties were given 30 days to contest adjustments if the cost-of-living or automated methods had been utilized. We have made minor revisions to the regulatory language in this section to clarify the actions required.

Section 308.2(g) addresses interstate services. The review criterion includes the initiating State's responsibility to refer cases to the responding State within 20 days of determining that the noncustodial parent is in another State pursuant to section 303.7(b)(2); providing responses to the responding State with requested additional information within 30 calendar days of the request pursuant to section 303.7(b)(4); notifying the responding State of new information within 10 working days pursuant to section 303.7(b)(5); and sending a request for review of a child support order within 20 calendar days after receiving a request for review and adjustment under the Uniform Interstate Family Support Act (UIFSA) pursuant to section 303.7(b)(6). In recognition of the fact that passage of UIFSA and other PRWORA administrative enforcement actions have changed the way interstate cases are processed, we encourage States to use one-state action to take any enforcement action they can on a case, rather than referring all cases for two-state action. We have revised the final rule to provide for the referral of interstate cases where appropriate.

Reviews must also include determining compliance with responsibilities of the responding State in interstate cases, including central registry requirements for review of submitted documentation for completeness, forwarding the case to the State Parent Locator Service for locate services, acknowledgment of the receipt of the case and requests for missing documentation from the initiating State, and whether the IV–D agency in the initiating State was informed of where the case was sent for action. The review would also determine whether the central registry responded to inquiries from other States within five working days of receipt of a request for a case status review pursuant to section 303.7(a)(4).

Section 308.2(b), (c), and (f) contain language that previously appeared in the former Federal audit regulations at section 305.20 relative to certain missed timeframes. As we stated in the preamble to the final Federal audit regulations in 1994 (59 FR 66204), the State should not be penalized when timeframes are missed in a case if a successful result is achieved (paternity or a support order is established, an order is adjusted, income is withheld, or a collection is made or distributed), since these results are the main goals of the child support enforcement program. We emphasize that all timeframes, including those for paternity establishment, support order establishment, review and adjustment, and income withholding, are still Federal requirements that States must meet.

Other timeframes that must be reviewed for compliance include: 10 days to forward the case upon locating the non-custodial parent in a different jurisdiction pursuant to section 303.7(c)(5) and (6); two business days to forward any support payments collected to the initiating State pursuant to section 303.7(c)(7)(iv); and 10 working days to notify the initiating State upon receipt of new information pursuant to section 303.7(c)(9).

Section 308.2(h) addresses the timeframes applicable to the expedited processes criterion pursuant to section 303.101(b)(2)(i) and in keeping with previous definitions of substantial compliance in former section 305.20, we are proposing a benchmark of 75 percent for the number of cases to be completed within 6 months and a benchmark of 90 percent for the number of cases to be completed within one year. The 75 and 90 percent benchmark standards apply to the establishment of orders from the date of service of process to the time of disposition.

Section 308.3 lists and describes the optional program areas of review, which include program direction and program service enhancements. Section 308.3(a) pertains to the review of State program direction.

The first optional category, Program Direction, should be an analysis of the relationships between case results relating to program compliance areas, and performance and program outcome indicators. While this review category is optional, by including the information, States have the opportunity to demonstrate how they are trying to manage their resources to achieve the best performance possible. This evaluation should explain the data and how the State adjusted its resources and processes to meet goals and improve performance. In this section, States are encouraged to discuss new laws and enforcement techniques, etc., that are contributing to increased performance. Barriers to success, such as State statutes, may also be discussed in this section.

Section 308.3(b) pertaining to the optional review of State program service enhancements is envisioned as a report of practices initiated by the State that are contributing to improving program performance and customer service.

Examples include improvement of client services through the use of expanded office hours, kiosks, internet, and voice response systems. This is an opportunity for a State to promote its programs and innovative practices. Some examples of innovative activities that a State may elect to discuss in the report include: steps taken to make the program more efficient and effective; efforts to improve client services; demonstration projects testing creative new ways of doing business; collaborative efforts being taken with partners and customers; innovative

practices which have resulted in improved program performance; actions taken to improve public image; and access/visitation projects initiated to improve non-custodial parents' involvement with the children. A State also could discuss in this review area whether the State has a process for timely dissemination of applications for IV–D services in cases that are not receiving public assistance, when requested, and child support program information to recipients referred to the IV–D program, as required by section 303.2(a).

Response to Comments

On October 8, 1999 we published a Notice of Proposed Rulemaking in the **Federal Register** with a 60 day comment period (64 FR 55102). We received 73 comments from 19 State and local IV–D agencies, national child support enforcement organizations, advocacy groups representing custodial parents and children, and the general public. Two commenters wrote solely to express their support for the notice of proposed rulemaking. A summary of the comments received and our responses follow.

General Comments

Comment: One commenter was concerned that States that modify the review standards by imposing a higher standard on themselves than required by the final rule would make themselves more susceptible to a Federal audit over substantial compliance issues.

Response: We welcome the idea that States will want to hold themselves to higher standards then those set by this final rule. Certainly, performance on the program compliance criteria that exceeds the standards would represent greater benefits for children and families. States should be assured that setting higher standards for themselves will not mean greater attention from OCSE or increase the likelihood of Federal audits. The Incentive Payments and Audit Penalties NPRM (64 FR 55074, October 8, 1999) proposed that OCSE would conduct audits for such purposes as OCSE may find necessary. This could include circumstances under which the results of two or more State self-assessments show evidence of sustained poor performance or indicate that the State has not corrected deficiencies identified in previous self-assessments. However, we would certainly not be more likely to audit a State because it failed to meet a self-imposed higher performance standard.

Comment: One commenter was concerned because the NPRM does not address penalties for a State's failure to produce an adequate self-assessment. They thought a Federal compliance audit should be triggered by a State's failure to audit its own compliance adequately.

Response: The statute requires States, as a condition of State plan approval, to provide for a process for annual reviews of and reports to the Secretary on the State IV–D program. Therefore, a State's failure to provide for the process in its State plan or to conduct such a review and submit the findings to the Secretary in accordance with Federal requirements would result in steps to initiate State plan disapproval and loss of all Federal IV–D funding.

Comment: Another commenter was concerned that the integrity of the self-assessment process would be threatened by the possibility of a Federal audit for accurately assessing a weak area.

Response: We expect States to use the self-assessment as a management tool and to be entirely accurate and objective when reporting their performance. To do otherwise would only harm the State and its future performance. PRWORA revised Federal audit requirements from a process-based system to a performance-based system. This means balancing the Federal government's oversight responsibilities with States' responsibilities for child support service delivery and fiscal accountability. However, we want to point out that the Secretary retains the right to conduct substantive compliance audits, but would likely assert that right only in the most egregious circumstances such as where the State fails to take steps to correct sustained poor performance.

Comment: Four commenters addressed what they think is an inconsistency between the incentive and penalty NPRM and this NPRM. They think this NPRM states that the self-assessment review is not tied to fiscal sanctions while section 305.60(c)(2)(i) of the incentive and penalty NPRM says self-reviews can lead to audits which may lead to penalties. These commenters think the final rule on self-assessments should state clearly that States would not be subject to a fiscal penalty as a result of self-assessment reviews.

Response: We want to be very clear on this point: States will not incur a fiscal penalty as a direct result of poor performance reported in a self-assessment review. We want to encourage States to report accurately and fully their actual performance in the self-assessment reviews. Self-assessment reviews are management tools for States to assess and improve their performance. However, section 452(a)(4)(C) of the Act established that the Secretary may conduct audits for such purposes as she may find necessary, including audits to determine substantial compliance. Financial penalties are potential consequences of these separate, Federal audits. Audits to determine substantial compliance could be triggered by: evidence of systemic problems with a State's child support program, on-going performance issues that are not addressed or corrected in more than one State self-assessment, and similar problems.

Self-Assessment Implementation Methodology—Section 308.1

Comment: One commenter thought the effective date of the NPRM was unclear. The commenter also thought the review date was unclear and wondered, if a State chooses to conduct a review with an incremental approach, how would the end of the review period be determined?

Response: This regulation is effective upon publication. Each self-assessment review period covers a 12-month period. For clarification, we revised the language in section 308.1(d). The regulatory standards would be applied beginning with the start of the first new review period occurring after publication. It is expected that States will continue to use the same review periods that they have been using for the past two years and that there will be no gaps. All subsequent self-assessment review periods would then immediately follow the time period of the previous review period. The report documenting and presenting the results of the review are due to OCSE no later than 6 months after the end of the review period. As stated previously, States may choose to use historical or incremental approaches to their self-assessment reviews. States have discretion in choosing the duration of their increments. If, for example, a State chooses a quarterly increment, it could start on October 1 and would then end December 31. Each subsequent quarterly incremental review period would then end 3-months later.

Comment: Several commenters suggest allowing States to apply for extensions of the self-assessment reporting deadline in recognition that States with more complicated review processes will need more time.

Response: We do not think extensions will be necessary. States are currently conducting reviews that are very similar in scope and content to the reviews required by this regulation and by and large, States are conducting the reviews with little or no problems. OCSE is available to assist States should they encounter any problems.

Comment: We received 10 comments on the requirement that the sampling

methodology for self-assessments must maintain a minimum confidence level of 90 percent for each criterion. Most commenters suggested using an overall confidence level of 90 percent for all criteria. Another commenter was concerned that their statewide system would be unable to pull cases by criterion and so would be unable to achieve a minimum confidence level of 90 percent for each criterion.

Response: For a self-assessment review to be a useful tool for management, it must provide accurate, and reliable information. Information provided should identify program strengths and weaknesses as well as provide meaningful estimates of current performance.

As we understand it, States that have raised the 90 percent confidence level issue are advocating the use of one sample selected from the IV–D caseload to review all eight required performance criteria. This approach would likely result in adequate representation for some of the reviewed criteria and inadequate representation for other reviewed criteria. This would occur because the action that needs to be reviewed for one or more of the criteria may occur infrequently in the population, while the action needed to be reviewed for other criteria may occur more frequently. Consequently, the likelihood that the sample will contain cases having the attribute being sought could potentially be quite low. As a result, small samples are selected, and the effect of detected errors on the sample estimate are magnified because the computed standard error associated with the estimate derived from the sample (point estimate or efficiency rate) will more than likely be large. This could result in relatively poor performance being accepted as possibly being in compliance with Federal requirements. It also appears that these States are suggesting that they then be allowed to combine the results for all eight criteria and compute an overall compliance rate and determine the confidence level attributable to that rate. This action would emphasize the performance of the criteria with the most representation, and mitigate or de-emphasize the performance of those criteria with minimal representation. This would not facilitate results that would be useful to States as a management tool to accurately assess their performance.

We used 90 percent confidence as the value for the confidence level variable in the sample size computation to reduce the sample sizes States would need to conduct their self-assessment reviews. Under previous audits, the OCSE Auditors used a 95 percent confidence level. In order to determine sample size for self-assessment purposes, one must consider: confidence level (the degree of confidence to place in the derived estimate), sampling error (the degree of error that can be accepted), and expected rate of occurrence of the attribute to be sampled. Varying these three factors influences the size of sample required. Varying the precision and desired confidence level can dramatically affect the sample size determination and overall benefit/impact of the effort. Sampling error has the largest effect on sample size. In other words, as the acceptable error percentage increases the sample size decreases. The converse is true in the case of a confidence level. An increase in the sampling error percentage from 5 percent to 10 percent, coupled with a decrease in the confidence level (i.e., from 95 percent to 90 percent) required, would significantly reduce the sample size required. The problem often encountered when the sample size has been reduced by changing both the confidence level and sampling error in opposite directions is a sample that produces a large standard error associated with the estimate derived. This can result in fairly poor performance being seen as compliance. For all of these reasons, we think it would be imprudent to take the commenters suggestion and we have retained the original confidence levels in the final rule.

In response to the commenter concerned about his statewide system's inability to meet the requirements, OCSE will provide any State the technical assistance it needs to meet these requirements. Statewide systems should be able to meet these requirements and need to be able to for Federal reporting requirements.

Comment: One commenter recommended the reference to a formal self-assessment ''unit'' be amended to permit the States flexibility to assign staff rather than create a formal unit. The commenter thinks PRWORA requires a process for self-assessment but not a unit. The commenter thinks this recommendation is consistent with the workgroup's recommendation.

Response: The commenter's point is well taken. PRWORA simply requires that a process be put in place. Although it would be preferable that a formal self-assessment unit be established, it is not required. However, we encourage States to establish a formal unit because of the following benefits: (1) Continuity—the possibility that the same staff would be conducting the annual reviews over the course of several years, and (2) Familiarity—the possibility that the staff will have experience with the Child Support Program and the review instrument used. We have deleted the provisions on organizational placement from the final rule. We have specified only that the IV–D agency must ensure that requirements are met and maintain responsibility for the review and report. States have the flexibility to establish a self-assessment unit within the IV–D agency, another State agency, or within the umbrella agency containing the IV–D agency or privatize the self-assessment.

Comment: Two commenters requested that we add language that appears to be missing from 308.1(a)(1) that appears in (a)(2) regarding a State's ability to privatize self-assessment functions as long as the IV–D agency maintains responsibility for and control of the results produced and the contents of the annual report.

Response: As discussed in the preceding comment, we have revised this section to increase clarity and removed the specific organizational requirements.

Comment: One commenter thought there was an inconsistency between the language in the preamble relating to organizational placement for the self-assessment unit and the requirements specified in section 308.1(a). The commenter was concerned that section 308.1(a) could be read to mean that the IV–D agency only had sole responsibility for the self-assessment when the self-assessment is privatized.

Response: We do not believe there was an inconsistency. The preamble state that it would be ideal if the organizational placement was within the IV–D agency because this would enable the IV–D agency to draw on the experience of IV–D staff who have the skills and qualifications needed to analyze the program. However, we recognized in the preamble that this is not always possible. We revised section 308.1(a) to read as follows: ''The agency must ensure the review meets Federal requirements and must maintain responsibility for and control of the results produced and contents of the annual report.''

Comment: One commenter suggested that the final rule should not stipulate a report format. It should only state that the report must contain the review methodology, the compliance findings and corrective action plan, if needed.

Response: We are stipulating a general report format. Section 308.1(e)(2) states that the report must include but is not limited to an executive summary; a description of optional program criteria

covered by the review; a description of sampling methodology used, if applicable; the results of the review; and description of any corrective action proposed and/or taken. We have specified this format because we need to be sure that we receive comparable information from all States. States are free to use any report format they choose that includes the required information. We want to be clear that we are not requiring a specific corrective action plan format. States must describe how they will change their programs to better achieve the goals of the child support program and meet the self-assessment benchmarks. We revised section 308.1(e)(iv) to indicate that the State must include a description of any corrective action proposed and/or taken.

Comment: One commenter suggested allowing States to submit a subsequent report 3 to 6 months following the initial report instead of including any corrective actions proposed and/or taken in the initial report.

Response: We believe 3 to 6 months is too short a period of time to expect to have significant results from corrective actions. The purpose of requiring States to report on corrective actions in their self-assessment reports is to ensure that States have explicit plans in place to address performance problems to ensure they do not continue to occur in subsequent years.

Comment: One commenter was concerned that the schedule of reporting would be an undue burden on States, causing them to evaluate and report on a different schedule than all other Federal reporting. The commenter was also concerned that requiring the review to begin immediately when the rule becomes effective does not allow States the ability to review any new rule changes and develop procedures, train staff, and implement reviews based on the new standards.

Response: We believe the regulation gives States flexibility in determining when to start their review periods. We revised section 308.1(d) to make it clear that each review period must cover a 12-month period, the first of which must begin no more than 12 months after the effective date of this final rule. The review requirements in this rule are consistent with the review components spelled out in program instructions issued two years ago in OCSE–AT–98–12.

Comment: Two commenters urged that the regulations require States to use comparable review periods and methodologies over time. The commenter thought that the assessments would lose their value as a way to analyze changes in performance over time if the framework shifts from year to year.

Response: We do not think it is necessary to place this restriction on States. We expect that States will make every effort to standardize the process using their statewide systems and that the annual self-assessments will be comparable to as great an extent as possible. Again, we wish to stress our overarching concern that these reviews be useful to States as management tools to assess their own performance.

Comment: Two commenters suggested additional steps be taken to ensure self-assessments are meaningful and useful. They thought the Secretary should ensure the reports are available to the public and other interested parties. In addition, they thought that the required elements should be described in detail including specific findings for each criteria. The commenters also thought the relationship between self-assessment and corrective action is not clear and that the final regulations should require corrective action plans if a self-assessment reveals substantial noncompliance.

Response: We believe that by following the directives in the final rule, States will design self-assessment reviews that serve them meaningfully as management tools to review their progress in serving families and children. States are free to make these reviews available to the public and they would be available through the Freedom of Information Act process if necessary. We do not agree that further detail is needed to describe the required elements of the self-assessment. States are required to include in their self-assessment reports a description of any corrective actions proposed and/or taken. This description is to be part of the management tool, designed to help the State achieve the benchmarks and improve its performance in the future. We believe States will propose corrective actions when needed.

Comment: One commenter noted that the NPRM requires that the self-assessment report contain ''any corrective actions proposed and/or taken.'' Based on the description of the Federal role in the self-assessment process, it appeared to the commenter that the corrective action plans are subject to Federal acceptance. Yet, the commenter noted, the proposed rule contains no detail about what a corrective action plan should contain. The commenter requested more clarification about corrective action plans.

Response: States are not required to request or receive Federal approval of any corrective action proposed or taken. Again, we want to be clear that we are not requiring a specific corrective action plan. As stated earlier, a State must describe how it will change its programs to better achieve the goals of the program and the benchmarks of the self-assessment. The action described should be clearly aimed at solving all the problems identified in the review. Since the main purpose of these reviews is to assist States in evaluating their own performance against a list of eight program criteria, we think the States are in the best position to determine what corrective action is needed to address program deficiencies. We are available to provide any needed technical assistance in this area.

Comment: One commenter thought it was not clear that the State must provide a corrective action plan to describe any corrective action proposed or taken as part of its self-assessment review if a self-assessment indicates serious program deficiencies. The commenter recommended changing the word ''any'' to ''the'' in section 308.1(e)(2)(v).

Response: We have made the suggested change.

Comment: One commenter thought the proposed regulation was unclear on what action OCSE will take if a State fails to file a corrective action plan as mentioned in section 308.1(e)(2)(v) or files one which does not meet the criteria established in the final rules. The commenter recommended adding a subsection (f) to section 308.1 indicating what OCSE will do if no report or an inadequate report is filed. The recommendation was that this subsection should make it clear that failure to submit a report or submission of an inadequate report would trigger the process for State plan disapproval.

Response: Section 454(15) of the Act requires States to have a process for annual reviews of and reports to the Secretary on the State IV–D program. Therefore, failure to have such a process would trigger the State plan disapproval process. However, that was not the intent of the reference to corrective action in section 308.1(e). The principal purpose of the self-assessment process is to serve as a management tool for the IV–D program. We wish States to use the process to determine, what, if any, deficiencies exist in their IV–D program so that these deficiencies can be addressed and corrected. If a State fails to submit a self-assessment report, OCSE would work with that State to try to resolve any issues that might be preventing the State from submitting a self-assessment report. However, if a State fails to make a good faith effort to

resolve any barriers and submit a self-assessment report, we would begin taking the steps necessary to disapprove the State plan pursuant to sections 452(a)(3) and 455(a) of the Act and sections 301.10 and 301.13 of this chapter.

Comment: One commenter noted that OCSE–AT–98–12 contained the suggestion that States submit a copy of their report to the OCSE Area Audit Office. They wondered if a copy of the self-assessment annual report should be sent to the OCSE Area Audit Office.

Response: Section 308.1(e) requires States to provide a report of the results of the self-assessment review to the appropriate OCSE Regional Office and to the Commissioner of OCSE. OCSE will share the self-assessment results with all interested parties within the Administration for Children and Families. If a State is concerned about a particular Area Audit Office receiving a copy of the review, it is free to send one to that office.

Required Program Compliance Criteria—Section 308.2

Comment: One commenter believes section 308.2(g) on interstate services should be revised to recognize the encouragement of direct enforcement across State lines that exists under the Uniform Interstate Family Support Act (UIFSA). Another commenter was concerned that section 308.2(g)(1)(i) fails to recognize long arm jurisdiction for instances other than paternity establishment as provided for under UIFSA. A third commenter thought that for purposes of self-assessment, cases should not be defined as interstate until the local IV–D agency has determined the assistance of another State must be engaged in the enforcement of the case.

Response: We recognize that the regulations on the processing of interstate cases do not take into account the direct enforcement activities that are authorized under UIFSA and PRWORA. OCSE has a workgroup made up of Federal and State staff and child support experts, called the Interstate Reform Initiative, which is working to make suggestions to revise the way interstate cases are processed and working to develop a consensus from which new interstate regulations can be written. We expect to be revising the interstate regulations in the next few years. At that time we will ensure full consistency between State self-assessments and interstate regulations. In the meantime, we have amended the final rule to take into account the fact that it may not be necessary to refer a case to another State in order to take appropriate enforcement actions by adding the words ''if referral is appropriate'' to section 308.2(g)(1)(i). Accordingly, the 20-day time period for referring a case to another State's central registry when it is determined that the non-custodial parent is in another State applies only where referral is necessary in order to take the appropriate action on the case.

Commenter: One commenter noted that the regulation at section 308.2(g) refers to current regulations on interstate case processing. The commenter thought it is important to note, however, that these regulations no longer reflect the reality of interstate case processing. Direct income withholding, direct lien filing and expanded jurisdiction for establishment of a support order have lessened the need for States to automatically refer a case to another jurisdiction simply upon finding the parent in another jurisdiction. The commenter thinks more accurate policy interpretations may be found in OCSE–AT–98–30. At a minimum, the commenter thinks comments and guidance in this regulation should acknowledge this deficiency and reference the work being done to update the regulations such as the work of the Interstate Reform Initiative.

Response: As noted in the previous response, we have amended the final rule to take into account these changes until revised interstate case processing regulations are issued.

Comment: One commenter believes that since implementation of a SDU is an administrative requirement, it is not a case level program criterion and should not be included in a self-assessment review. The commenter also questioned how the standard could be measured at the 75 percent standard and recommended that the requirement be deleted.

Response: We have revised the language in section 308.2(d) to make it clearer that the 75 percent requirement applies only to the timing of disbursements of collections. We also deleted 308.2(d)(1) which would have required the implementation of an SDU.

Comment: One commenter believed section 308.2(d)(2) required review of all payments received on a case during the previous quarter. Since some cases might have 12 payments this could increase the possibility of noncompliance and is not what the workgroup said in the OCSE–AT–98–12. The commenter suggests using either the workgroup recommendation or limiting the payments reviewed to the 3 most recent collections received within the last quarter of the review period.

Response: In accordance with the workgroup recommendation, we have revised section 308.2(d)(2) to indicate that States must review against the last payment received for each case.

Comment: One commenter believed it is inappropriate to allow States to treat a case as meeting the requirements if a result was achieved within the annual review period notwithstanding the timeframes. The commenter recommends requiring States to determine and report its actual level of performance and the associated 90 percent confidence intervals. The commenter wants the regulation to make clear that the compliance levels of 75 percent or 90 percent represent minimum performance levels that trigger a requirement of a corrective action plan.

Response: We agree that the compliance levels represent minimum performance levels and encourage States to perform beyond these levels. However, we are not requiring States to report their actual levels of performance to us because this is a State management tool. Additionally, while timeframes are important in ensuring the provision of effective and timely services, States' primary focus should be on whether bottom line results of providing child support services are being achieved. We would however expect States to address any problems they are having in meeting the required timeframes in the corrective action section of their reports.

Comment: One commenter recommended that the self-assessment also include review of State performance in other key areas such as effectiveness in providing services to families leaving TANF.

Response: We encourage States to go as far beyond the minimum standards stated in the regulation as they choose. Section 308.3 provides States the option to report on such performance.

Comment: One commenter thought the section of the preamble describing section 308.2(f) should be rewritten. The segment stating ''notices to the custodial and non-custodial parents informing them of their rights to request reviews within 180 days of determining that a review should be conducted'' appears to be a combination of two truncated phrases (one dealing with the notice of right to request review and the other dealing with the 180 day time frame for completing a review). Even after editing this sentence, the grammar in this entire paragraph needs to be reworked.

Response: We do not agree that substantial rewriting is needed of either the preamble or the regulatory language. We have made some minor changes to the regulatory language in section

308.2(f) which makes the section clearer.

Comment: One commenter wrote that section 308.2(c)(3)(i) regarding orders that were needed for enforcement during the review period should not include the phrase ''at a minimum, all of the,'' referring to locate sources since the regulations regarding locate in section 303.3 do not require all of the locate sources listed to be used.

Response: We agree and have made the requested change to section 308.2(c)(3)(i).

Comment: One commenter was concerned that the wording in section 308.2(b)(2) is not consistent with its subsection (iv), since the former refers to situations where an ''order was required, but not established'' and the latter lists ''establishing an order'' as a possible outcome.

Response: We do not agree that this language is inconsistent. Section 308.2(b)(2) states that ''if an order was required, but not established during the review period,'' subsections (i) through (iv) are a list of possible last required actions. If establishment of an order was the last required action on the case and the State failed to establish the order, section 308.2(b)(2)(iv) would apply. We do not think rewriting is necessary.

Comment: One commenter requested we define ''enforcement collection'' as used in section 308.2(c)(2).

Response: In section 308.2(c)(2) a typing mistake appeared in the NPRM. The first sentence should read ''If income withholding was not appropriate, and a collection was received. * * * The final rule corrects this error.

Comment: We received two comments about section 308.2(c)(3)(iv). The comments concerned the deadlines for actions to be taken. The commenters' understanding is that the requirement to send an income withholding order to the employer within two business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires applies only at the point in time when a statewide automated system is in place.

Response: The requirement to send an income withholding notice within two business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires is not tied to the implementation of a statewide automated System. Pursuant to sections 453A(f) and (g) of the Act, States were required to match the social security numbers of newly hired employees with those of individuals in the State case registry beginning not later than May 1, 1998. Notice of a match is required to be sent to the IV–D agency which in turn was required to send an income withholding order to the employer within two business days of the entry of the employee's name in the SDNH. In addition, section 454A(g)(1) of the Act requires transmission of withholding orders and notices to employers within two business days after receipt of notice of, and the income source subject to, such withholding from a court, another State, an employer, the Federal Parent Locator Service or another source recognized by the State. This requirement was effective not later than October 1, 1999. We revised section 308.2(c)(3)(iv) to specify and correct the timeframes for sending a notice to the employer to withhold income if information is obtained from the State Directory of New Hires or other recognized sources.

Comment: One commenter notes that section 308.2 fails to include a number of the general case evaluation rules set forth in Exhibit 1 of the OCSE–AT–98–12. For example, the Exhibit directs that certain cases should be excluded from further analysis because there was insufficient time to take the required case action or that the case documentation cannot be located or is inadequate. The commenter recommends amending the section to include the general case evaluation directions set forth in the exhibit.

Response: OCSE–AT–98–12 does not apply to this rule and therefore it would not be appropriate to attach the exhibit to the final rule. However, if insufficient time has elapsed during the review period to take the required action in the case, we would suggest they exclude the case from the sample as OCSE did when performing compliance audits. The State's failure to locate a case or the lack of documentation on the case is not a basis for case exclusion. If a case is lost or lacks documentation, we would question what, if any, service was provided to the IV–D client. It should be noted that the self-assessment process allows for a certain number of cases to be discounted as not meeting the requirements. We do not support broad exclusions of lost or non-documented cases, as that would not support the goals of the self-assessment process.

Comment: One commenter thought the final rule should require States to analyze and report on complaints filed as part of the self-assessment.

Response: While we recognize the importance of customer service in providing service to families and children, in writing this regulation we were trying to stay as close as possible to focusing on the responsibilities for child support service delivery in accordance with Federal mandates. We encourage States to report on customer service or other issues in the optional program direction or program service enhancement areas.

Comment: One commenter suggested we allow States to review cost of living adjustments (COLA) for purposes of adjusting orders instead of the review and adjustment processes.

Response: We think the regulation already allows States this flexibility. The regulation at section 308.2(f)(2)(iv) allows States to use COLA or automated methods to review and adjust support orders.

Comment: One commenter suggested renumbering subsections 308.2(f)(2)(iii) and (iv) because these subsections deal with ''notice of right to request review'' requirements which should stand apart from the review and adjustment process covered earlier in the subsection.

Response: We agree and have made revisions to this section in the regulation.

Optional Program Areas of Review—308.3

Comment: One commenter thought this section should be deleted from the regulations as it addresses optional areas of review and has no statutory basis.

Response: Under section 1102 of the Act, the Secretary has the authority to regulate beyond the statute if we think it is necessary for the efficient administration of the program. We believe the optional aspects are beneficial and add an extra dimension to the self-assessments. They are, as noted, optional.

Comment: Two commenters recommended that analysis of program direction and service enhancements be mandatory.

Response: While we appreciate that the commenters were concerned about adding to the breadth of the self-assessment review in this manner, we do not believe it is necessary to mandate these aspects of the self-assessments at this time. Should circumstances change over time we may revisit these regulations as warranted.

Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. The changes in this rule contain the Secretary's standards for State self-assessment reviews that largely replace previously required mandatory Federal audits. The

rule was determined to be significant and was reviewed by the Office of Management and Budget.

Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a policy or regulation may affect family well-being. If the agency's conclusion is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. These regulations will not have an impact on family well-being as defined in the legislation.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal government to anticipate and reduce the impact of regulations and paperwork requirements on small entities. The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities because the primary impact of these regulations is on State governments.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or recordkeeping requirements inherent in a final rule. This final rule contains reporting requirements in Part 308, which the Department submitted to OMB for its review. OMB filed comment on the collection, reporting it had concerns about the utility of the collection. OCSE understands OMB is concerned about balancing the value to OCSE of the information collection against the burden placed on State CSEs to collect the information. We would like to clarify that the requirement to have a process for annual reviews of and reports to the Secretary on the State's IV–D program, including such information as may be necessary to measure State compliance with Federal requirements for expedited procedures is a requirement of section 454(15) of the Act. The Act requires that States perform self-assessments using such standards and procedures as are required by the Secretary, under which the State IV–D agency will determine the extent to which the program is operated in compliance with the Act. In addition, as stated in several places in the NPRM and in this final rule, OCSE envisions the self-assessment as a management tool to enable States to improve their CSE programs.

Section 308.1(e) contains a requirement that a State report the results of annual self-assessment reviews to the appropriate OCSE Regional Office and to the Commissioner of OCSE. The information submitted must be sufficient to measure State compliance with title IV–D requirements and case processing timeframes. The results of the report will be disseminated via ''best practices'' to other States and also be used to determine if technical assistance is needed and the use of resources to meet goals. The State plan preprint page for this requirement (page 2.15, Federal and State Reviews and Audits) was approved by OMB July 7, 1997 under OMB Number 0970–0017.

The likely respondents to this information collection include State child support enforcement agencies of the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

We have resubmitted the information collection request to OMB. The information collection requirements in this final rule are not effective until approved by OMB.

Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 203 requires a plan for informing and advising any small government that may be significantly or uniquely impacted by the final rule.

We have determined that the final rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year. Accordingly, we have not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significantly or uniquely impacted small government.

Executive Order 13132 Federalism Assessment

Executive Order 13132 on Federalism applies to policies that have federalism implications, defined as ''regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distributions of power and responsibilities among the various levels of government.'' While this rule does not have federalism implications for State or local governments as defined in the executive order, we consulted with representatives of State IV–D programs in developing the rule and their input is reflected.

Congressional Review

This final rule is not a major rule as defined in 5 U.S.C., Chapter 8.

List of Subjects in 45 CFR Part 308

Auditing, Child support, Grant programs—social programs, Reporting and recordkeeping requirements.

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

Dated: June 26, 2000.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Dated: August 22, 2000.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, 45 CFR Chapter III is amended by adding a new part 308 as set forth below:

PART 308—ANNUAL STATE SELF-ASSESSMENT REVIEW AND REPORT

Sec.
308.0 Scope.
308.1 Self-assessment implementation methodology.
308.2 Required program compliance criteria.
308.3 Optional program areas of review.

Authority: 42 U.S.C. 654(15)(A) and 1302.

§ 308.0 Scope.

This part establishes standards and criteria for the State self-assessment review and report process required under section 454(15)(A) of the Act.

§ 308.1 Self-assessment implementation methodology.

(a) The IV–D agency must ensure the review meets Federal requirements and must maintain responsibility for and control of the results produced and contents of the annual report.

(b) *Sampling.* A State must either review all of its cases or conduct sampling which meets the following conditions:

(1) The sampling methodology maintains a minimum confidence level of 90 percent for each criterion;

(2) The State selects statistically valid samples of cases from the IV–D program universe of cases; and

(3) The State establishes a procedure for the design of samples and assures that no portions of the IV–D case universe are omitted from the sample selection process.

(c) *Scope of review.* A State must conduct an annual review covering all of the required criteria in Sec. 308.2.

(d) *Review period.* Each review period must cover a 12-month period. The first review period shall begin no later than 12 months after the effective date of the final rule and subsequent reviews shall each cover the same 12-month period thereafter.

(e) *Reporting.* (1) The State must provide a report of the results of the self-assessment review to the appropriate OCSE Regional Office, with a copy to the Commissioner of OCSE, no later than 6 months after the end of the review period.

(2) The report must include, but is not limited to:

(i) An executive summary, including a summary of the mandatory program criteria findings;

(ii) A description of optional program areas covered by the review;

(iii) A description of sampling methodology used, if applicable;

(iv) The results of the self-assessment reviews; and

(v) A description of the corrective actions proposed and/or taken.

§ 308.2 Required program compliance criteria.

(a) *Case closure.* (1) The State must have and use procedures for case closure pursuant to Sec. 303.11 of this chapter in at least 90 percent of the closed cases reviewed.

(2) If a IV–D case was closed during the review period, the State must determine whether the case met requirements pursuant to § 303.11 of this chapter.

(b) *Establishment of paternity and support order.* The State must have and use procedures required in this paragraph in at least 75 percent of the cases reviewed.

(1) If an order for support is required and established during the review period, the case meets the requirements, notwithstanding the timeframes for: establishment of cases as specified in Sec. 303.2(b) of this chapter; provision of services in interstate IV–D cases per § 303.7(a), (b), (c)(4) through (6), and (c) (8) and (9) of this chapter; and location and support order establishment under §§ 303.3(b)(3) and (5), and 303.4(d) of this chapter.

(2) If an order was required, but not established during the review period, the State must determine the last required action and determine whether the action was taken within the appropriate timeframe. The following is a list of possible last actions:

(i) Opening a case within 20 days pursuant to § 303.2(b) of this chapter;

(ii) If location activities are necessary, using all appropriate sources within 75 days pursuant to § 303.3(b)(3) of this chapter. This includes all the following locate sources as appropriate: custodial parent, Federal and State Parent Locator Services, U.S. Postal Service, State employment security agency, employment data, Department of Motor Vehicles, and credit bureaus;

(iii) Repeating location attempts quarterly and when new information is received in accordance with § 303.3(b)(5) of this chapter;

(iv) Establishing an order or completing service of process necessary to commence proceedings to establish a support order, or if applicable, paternity, within 90 days of locating the non-custodial parent, or documenting unsuccessful attempts to serve process in accordance with the State's guidelines defining diligent efforts pursuant to §§ 303.3(c) and 303.4(d) of this chapter.

(c) *Enforcement of orders.* A State must have and use procedures required under this paragraph in at least 75 percent of the cases reviewed. Enforcement cases include cases in which ongoing income withholding is in place as well as cases in which new or repeated enforcement actions were required during the review period.

(1) If income withholding was appropriate and a withholding collection was received during the last quarter of the review period and the case was submitted for Federal and State income tax refund offset, if appropriate, the case meets the requirements of § 303.6(c)(3) of this chapter, notwithstanding the timeframes for: establishment of cases in § 303.2(b) of this chapter; provision of services in interstate IV–D cases under § 303.7(a), (b), (c)(4) through (6), and (c) (8) and (9) of this chapter; and location and income withholding in §§ 303.3(b)(3) and (5), and 303.100 of this chapter.

(2) If income withholding was not appropriate, and a collection was received during the review period, and the case was submitted for Federal and State income tax refund offset, if appropriate, then the case meets the requirements of § 303.6(c)(3) of this chapter, notwithstanding the timeframes for: establishment of cases in § 303.2(b) of this chapter; provision of services in interstate IV–D cases under § 303.7(a), (b), (c)(4) through (6) and (c) (8) and (9) of this chapter; and location and enforcement of support obligations in §§ 303.3(b)(3) and (5), and 303.6 of this chapter.

(3) If an order needed enforcement during the review period, but income was not withheld or other collections were not received (when income withholding could not be implemented), the State must determine the last required action and determine whether the action was taken within the appropriate timeframes. The following is a list of possible last required actions:

(i) If location activities are necessary, using all appropriate location sources within 75 days pursuant to Sec. 303.3(b)(3) of this chapter. Location sources include: custodial parent, Federal and State Parent Locator Services, U.S. Postal Service, State employment security agency, Department of motor vehicles, and credit bureaus;

(ii) Repeating attempts to locate quarterly and when new information is received pursuant to § 303.3(b)(5) of this chapter;

(iii) If there is no immediate income withholding order, initiating income withholding upon identifying a delinquency equal to one month's arrears, in accordance with Sec. 303.100(c) of this chapter;

(iv) If immediate income withholding is ordered, sending a notice to the employer directing the employer to withhold from the income of the employee an amount equal to the monthly (or other periodic) support obligation (including any past due support obligation) of the employee, within:

(A) Two business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires and in which an information comparison conducted under section 453A(f) of the Act reveals a match;

(B) Two business days after receipt of notice of, and the income source subject to withholding from a court, another State, an employer, the FPLS or another source recognized by the State.

(v) If income withholding is not appropriate or cannot be implemented, taking an appropriate enforcement action (other than Federal and State income tax refund offset), unless service of process is necessary, within no more

than 30 days of identifying a delinquency or identifying the location of the non-custodial parent, whichever occurs later in accordance with § 303.6(c)(2) of this chapter;

(vi) If income withholding is not appropriate or cannot be implemented and service of process is needed, taking an appropriate enforcement action (other than Federal and State income tax refund offset), within no more than 60 days of identifying a delinquency or locating the non-custodial parent, whichever occurs later, or documenting unsuccessful attempts to serve process in accordance with the State's guidelines for defining diligent efforts and § 303.6(c)(2) of this chapter;

(vii) If the case has arrearages, submitting the case for Federal and State income tax refund offset during the review period, if appropriate, in accordance with §§ 303.72, 303.102 and 303.6(c)(3) of this chapter.

(d) *Disbursement of collections.* A State must have and use procedures required in this paragraph in at least 75 percent of the cases reviewed. With respect to the last payment received for each case:

(1) States must determine whether disbursement of collection was made within two business days after receipt by the State Disbursement Unit from the employer or other source of periodic income in accordance with section 457(a) of the Act, if sufficient information identifying the payee is provided pursuant to section 454B(c) of the Act.

(2) States may delay the distribution of collections toward arrearages until resolution of any timely appeals with respect to such arrearages pursuant to section 454B(c)(2) of the Act.

(e) Securing and enforcing medical support orders. A State must have and use procedures required under this paragraph in at least 75 percent of the cases reviewed. A State must:

(1) Determine whether all support orders established during the review period included medical support. If not, determine whether medical support was included in the petition for support to the court or administrative authority pursuant to sec. 466(a)(19) of the Act and § 303.31(b)(1) of this chapter.

(2) If a requirement for medical support is included in the order, determine whether steps were taken to determine if reasonable health insurance was available pursuant to Sec. 303.31(a)(1) and (b)(7) of this chapter.

(3) If reasonable health insurance was available, but not obtained, determine whether steps were taken to enforce the order pursuant to § 303.31(b)(7) of this chapter.

(4) Determine whether the IV-D agency informed the Medicaid agency that coverage had been obtained when health insurance was obtained during the review period pursuant to § 303.31(b)(6) of this chapter.

(5) Determine whether the custodial parent was provided with information regarding the policy when health insurance was obtained pursuant to § 303.31(b)(5) of this chapter.

(6) Determine whether the State requested employers providing health coverage to inform the State of lapses in coverage pursuant to § 303.31(b)(9) of this chapter.

(7) Determine whether the State transferred notice of the health care provision to a new employer when a noncustodial parent was ordered to provide health insurance coverage and changed employment and the new employer provides health care coverage.

(f) *Review and adjustment of orders.* A State must have and use procedures required under this paragraph in at least 75 percent of the cases reviewed.

(1) If a case has been reviewed and meets the conditions for adjustment under State laws and procedures and § 303.8 of this chapter and the order is adjusted or a determination is made as a result of a review during the self-assessment period that an adjustment is not needed in accordance with the State's guidelines for setting child support awards, the State will be considered to have taken appropriate action in that case, notwithstanding the timeframes for: establishment of cases in § 303.2(b) of this chapter; provision of services in interstate IV–D cases under § 303.7(a), (b), (c)(4) through (6), and (c)(8) and (9) of this chapter; and location and review and adjustment of support orders contained in §§ 303.3(b)(3) and (5), and 303.8 of this chapter.

(2) If a case has not been reviewed, the State must determine the last required action and determine whether the action was taken within the appropriate timeframe. The following is a list of possible last required actions:

(i) If location is necessary to conduct a review, using all appropriate location sources within 75 days of opening the case pursuant to § 303.3(b)(3) of this chapter. Location sources include: custodial parent, Federal and State Parent Locator Services, U.S. Postal Service, State employment security agency, unemployment data, Department of Motor Vehicles, and credit bureaus;

(ii) Repeating location attempts quarterly and when new information is received pursuant to § 303.3(b)(5) of this chapter;

(iii) Within 180 calendar days of receiving a request for a review or locating the non-requesting parent, whichever occurs later, conducting a review of the order and adjusting the order or determining that the order should not be adjusted pursuant to sec. 303.8(e) of this chapter;

(iv) If an adjustment was made during the review period using cost of living or automated methods, giving both parties 30 days to contest any adjustment to that support order pursuant to sec. 466(a)(10)(A)(ii) of the Act.

(3) The State must provide the custodial and non-custodial parents notices, not less often than once every three years, informing them of their right to request the State to review and, if appropriate, adjust the order. The first notice may be included in the order pursuant to sec. 466(a)(10)(C) of the Act.

(g) *Interstate services.* A State must have and use procedures required under this paragraph in at least 75 percent of the cases reviewed. For all interstate cases requiring services during the review period, determine the last required action and determine whether the action was taken during the appropriate timeframe:

(1) Initiating interstate cases:

(i) Except when using the State's long-arm statute for establishing paternity, if referral is appropriate, within 20 calendar days of determining that the non-custodial parent is in another State and, if appropriate, receipt of any necessary information needed to process the case, referring that case to the responding State's interstate central registry for action pursuant to § 303.7(b)(2) of this chapter.

(ii) If additional information is requested, providing the responding State's central registry with requested additional information within 30 calendar days of the request pursuant to § 303.7(b)(4) of this chapter.

(iii) Upon receipt of new information on a case, notifying the responding State of that information within 10 working days pursuant to § 303.7(b)(5) of this chapter.

(iv) Within 20 calendar days after receiving a request for review and adjustment pursuant to § 303.7(b)(6) of this chapter.

(2) Responding interstate cases:

(i) Within 10 working days of receipt of an interstate IV-D case, the central registry reviewing submitted documentation for completeness, forwarding the case to the State Parent Locator Service (PLS) for locate or to the appropriate agency for processing, acknowledging receipt of the case and requesting any missing documentation from the initiating State, and informing

the IV–D agency in the initiating State where the case was sent for action, pursuant to § 303.7(a)(2) of this chapter.

(ii) The Central registry responding to inquiries from other States within five working days of a receipt of request for case status review pursuant to § 303.7(a)(4) of this chapter.

(iii) Within 10 days of locating the non-custodial parent in a different jurisdiction or State, forwarding the case in accordance with Federal requirements pursuant to §§ 303.7(c)(5) and (6) of this chapter.

(iv) Within two business days of receipt of collections, forwarding any support payments to the initiating State pursuant to sec. 454B(c)(1) of the Act.

(v) Within 10 working days of receipt of new information notifying the initiating State of that new information pursuant to § 303.7(c)(9) of this chapter.

(h) *Expedited processes.* The State must have and use procedures required under this paragraph in the amounts specified in this paragraph in the cases reviewed for the expedited processes criterion.

(1) In IV–D cases needing support orders established, regardless of whether paternity has been established, action to establish support orders must be completed from the date of service of process to the time of disposition within the following timeframes pursuant to Sec. 303.101(b)(2)(i) of this chapter:

(i) 75 percent in 6 months; and

(ii) 90 percent in 12 months.

(2) States may count as a success for the 6-month standard cases where the IV–D agency uses long-arm jurisdiction and disposition occurs within 12 months of service of process on the alleged father or non-custodial parent.

§ 308.3 Optional program areas of review.

(a) *Program direction.* A State may include a program direction review in its self-assessment for the purpose of analyzing the relationships between case results relating to program compliance areas, and performance and program outcome indicators. This review is an opportunity for States to demonstrate how they are trying to manage their resources to achieve the best performance possible. A program direction analysis could describe the following:

(1) Initiatives that resulted in improved and achievable performance accompanied with supporting data;

(2) Barriers impeding progress; and

(3) Efforts to improve performance.

(b) *Program service enhancement.* A State may include a program service enhancement report in its self-assessment that describes initiatives put into practice that improved program performance and customer service. This is an opportunity for States to promote their programs and innovative practices. Some examples of innovative activities that States may elect to discuss in the report include:

(1) Steps taken to make the program more efficient and effective;

(2) Efforts to improve client services;

(3) Demonstration projects testing creative new ways of doing business;

(4) Collaborative efforts being taken with partners and customers;

(5) Innovative practices which have resulted in improved program performance;

(6) Actions taken to improve public image;

(7) Access/visitation projects initiated to improve non-custodial parents' involvement with the children and;

(8) Efforts to engage non-custodial parents who owe overdue child support to pay that support or engage in work activities, such as subsidized employment, work experience, or job search.

(c) A State may provide any of the optional information in paragraphs (a) and (b) of this section in narrative form.

[FR Doc. 00–31612 Filed 12–11–00; 8:45 am]

BILLING CODE 4150–04–P