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non-federal litigants to the same extent and in the same manner that they are available to the general public. The availability of Department of Health and Human Services' employees to testify in litigation not involving Federal parties is governed by the Department of Health and Human Services' policy on maintaining strict impartiality with respect to private litigants and to minimize the disruption of official duties.

(c) This part applies to state and local court, administrative, and legislative proceedings and Federal court and administrative proceedings.

(d) This part does not apply to:

(1) Any civil or criminal proceedings where the United States, the Department of Health and Human Services, and any agency thereof, or any other Federal agency is a party.

(2) Congressional requests or subpoenas for testimony or documents.

(3) Consultative services and technical assistance provided by the Department of Health and Human Services, or any agency thereof, in carrying out its normal program activities.

(4) Employees serving as expert witnesses in connection with professional and consultative services as approved outside activities in accordance with 45 CFR 73.735–704 and 73.735–708. (In cases where employees are providing such outside services, they must state for the record that the testimony represents their own views and does not necessarily represent the official position of the Department of Health and Human Services.)

(5) Employees making appearances in their private capacity in legal or administrative proceedings that do not relate to the Department of Health and Human Services (such as cases arising out of traffic accidents, crimes, domestic relations, etc.) and not involving professional and consultative services.

(6) Any matters covered in 21 CFR part 20, involving the Food and Drug Administration, and 20 CFR part 401, involving the Social Security Administration.

(7) Any civil or criminal proceedings in State court brought on behalf of the Department of Health and Human Services.

[52 FR 37146, Oct. 5, 1987, as amended at 55 FR 4611, Feb. 9, 1990]

§ 2.2 Definitions.

Agency Head refers to the head of the relevant operating division or other major component of the Deparment of Health and Human Services, or his or her delegatees. For each component of the Department, the Agency Head for the purposes of this part is as follows:

(1) Office of the Secretary—Assistant Secretary for Management and Budget;

(2) Office of Human Development Services—Assistant Secretary for Human Development Services;

(3) Public Health Service—Assistant Secretary for Health;

(4)Centers for Medicare & Medicaid Services—Administrator;

(5) Family Support Administration—Assistant Secretary for Family Support;

(6) Social Security Administration—Commissioner; and

(7) Office of the Inspector General—Inspector General.

Employee includes commissioned officers in the Public Health Service Commissioned Corps, as well as regular and special Department of Health and Human Services employees (except employees of the Food and Drug Administration), and any employees of health insurance intermediaries and carriers performing functions under agreements entered into pursuant to sections 1816 and 1842 of the Social Security Act, 42 U.S.C. 1395h, 1395u.

Testify and testimony includes both in-person, oral statements before a court, legislative or administrative body and statements made pursuant to depositions, interrogatories, declarations, affidavits, or other formal participation.

[52 FR 37146, Oct. 5, 1987, as amended at 55 FR 4611, Feb. 9, 1990]

§ 2.3 Policy on presentation of testimony and production of documents.

(a) No Department of Health and Human Services employee may provide testimony or produce documents in any proceedings to which this part applies concerning information acquired