

temporary care, treatment, and assistance, and continuing hospitalization under the Act.

PART 212—ASSISTANCE FOR UNITED STATES CITIZENS RETURNED FROM FOREIGN COUNTRIES

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AUTHORITY: Sec. 302, 75 Stat. 142, sec. 1102, 49 Stat. 647; 42 U.S.C. 1313, 1302.

SOURCE: 39 FR 26548, July 19, 1974, unless otherwise noted.

§ 212.1 General definitions.

When used in this part:

- (a) *Act* means section 1113 of the Social Security Act, as amended;
- (b) The term *Secretary* means the Secretary of Health and Human Services;
- (c) The term *Department* means the Department of Health and Human Services;
- (d) The term *Administration* means the Administration for Children and Families, Department of Health and Human Services;
- (e) The term *Assistant Secretary* means the Assistant Secretary for Children and Families;
- (f) The term *eligible person* means an individual with respect to whom the conditions in § 212.3 are met;
- (g) The term *State* includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam;
- (h) The term *United States* when used in a geographical sense means the States;
- (i) The term *agency* means State or local public agency or organization or national or local private agency or organization with which the Assistant Secretary has entered into agreement for the provision of temporary assistance pursuant to the Act;

(j) The term *temporary assistance* means money payments, medical care, temporary billeting, transportation, and other goods and services necessary for the health, or welfare of individuals, including guidance, counseling, and other welfare services.

[39 FR 26548, July 19, 1974, as amended at 53 FR 36580, Sept. 21, 1988; 60 FR 19864, Apr. 21, 1995]

§ 212.2 General.

The Assistant Secretary shall develop plans and make arrangements for provision of temporary assistance within the United States to any eligible person, after consultation with appropriate offices of the Department of State, the Department of Justice, and the Department of Defense. Temporary assistance shall be provided, to the extent feasible, in accordance with such plans, as modified from time to time by the Assistant Secretary. The Assistant Secretary shall enter into agreements with agencies whose services and facilities are to be utilized for the purpose of providing temporary assistance pursuant to the Act, specifying the conditions governing the provision of such assistance and the manner of payment of the cost of providing therefor.

[39 FR 26548, July 19, 1974, as amended at 60 FR 19864, Apr. 21, 1995]

§ 212.3 Eligible person.

In order to establish that an individual is an eligible person, it must be found that:

- (a) He is a citizen of the United States or a dependent of a citizen of the United States;
- (b) A written statement has been transmitted to the Administration by an authorized official of the Department of State containing information which identifies him as having returned, or been brought, from a foreign country to the United States because of the destitution of the citizen of the United States, or the illness of such citizen or any of his dependents, or because of war, threat of war, invasion, or similar crisis. Such statement shall, if possible, incorporate or have attached thereto, all available pertinent information concerning the individual.

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In case of war, threat of war, invasion, or similar crisis, a determination by the Department of State that such a condition is the general cause for the return of citizens of the United States and their dependents from a particular foreign country, and evidence that an individual has returned, or, been brought, from such country to the United States shall be considered sufficient identification of the reason for his return to, or entry into the United States; and

(c) He is without resources immediately accessible to meet his needs.

[39 FR 26548, July 19, 1974, as amended at 60 FR 19864, Apr. 21, 1995]

§ 212.4 Reception; initial determination, provisions of temporary assistance.

(a) The Administration, or the agency upon notification by the Administration, will meet individuals identified as provided in § 212.3(b), at the port of entry or debarkation.

(b) The Administration or agency will make findings, setting forth the pertinent facts and conclusions, and an initial determination, according to standards established by the Administration, as to whether an individual is an eligible person.

(c) The Administration or agency will provide temporary assistance within the United States to an eligible person, according to standards of need established by the Administration, upon arrival at the port of entry or debarkation, during transportation to his intermediate and ultimate destinations, and after arrival at such destinations.

(d) Temporary assistance may be furnished only for 90 days from the day of arrival of the eligible person in the United States unless he is handicapped in attaining self-support or self-care for such reasons as age, disability, or lack of vocational preparation. In such cases temporary assistance may be extended upon prior authorization by the Administration for nine additional months.

[39 FR 26548, July 19, 1974, as amended at 40 FR 43218, Sept. 19, 1975; 53 FR 36580, Sept. 21, 1988]

§ 212.5 Periodic review and redetermination; termination of temporary assistance.

(a) The Administration or agency will review the situation of each recipient of temporary assistance at frequent intervals to consider whether or not circumstances have changed that would require a different plan for him.

(b) Upon a finding by the Administration or agency that a recipient of temporary assistance has sufficient resources available to meet his needs, temporary assistance shall be terminated.

[39 FR 26548, July 19, 1974, as amended at 53 FR 36580, Sept. 21, 1988]

§ 212.6 Duty to report.

The eligible person who receives temporary assistance, or the person who is caring for or otherwise acting on behalf of such eligible person, shall report promptly to the Administration or agency any event or circumstance which would cause such assistance to be changed in amount or terminated.

[39 FR 26548, July 19, 1974, as amended at 53 FR 36580, Sept. 21, 1988]

§ 212.7 Repayment to the United States.

(a) An individual who has received temporary assistance shall be required to repay, in accordance with his ability, any or all of the cost of such assistance to the United States, except insofar as it is determined that:

(1) The cost is not readily allocable to such individual;

(2) The probable recovery would be uneconomical or otherwise impractical;

(3) He does not have, and is not expected within a reasonable time to have, income and financial resources sufficient for more than ordinary needs; or

(4) Recovery would be against equity and good conscience.

(b) In determining an individual's resources, any claim which he has against any individual, trust or estate, partnership, corporation, or government shall be considered, and assignment to the United States of such claims shall be taken in appropriate cases.

(c) A determination that an individual is not required to repay the cost of temporary assistance shall be final and binding, unless such determination was procured by fraud or misrepresentation of the individual or some other person, or the individual voluntarily offers to repay.

(d) A determination that an individual is required to repay any or all of the cost of temporary assistance may be reconsidered at any time prior to repayment of the required amount. A further determination shall be made with respect to his liability to repay the balance of such amount on the basis of new evidence as to whether (1) he has, or is expected within a reasonable time to have, income and financial resources sufficient for more than ordinary needs, or (2) recovery would be against equity and good conscience.

§ 212.8 Federal payments.

(a) The agreement made by the Assistant Secretary with an agency for carrying out the purposes of the Act shall provide for payment to such agency, either in advance or by way of reimbursement, of the cost of temporary assistance provided pursuant to the Act, and payment of the cost of other expenditures necessarily and reasonably related to providing the same. Such agreement shall include the cost of other expenditures necessarily and reasonably related to providing the same. Such agreement shall include the method for determining such costs, as well as the methods and procedures for determining the amounts of advances or reimbursement and for remittance and adjustment thereof.

(b) To receive reimbursements, States, or other agencies, shall request and receive prior approval from the Assistant Secretary for administrative expenses incurred in developing or preparing to implement repatriation plans for groups of eligible persons. Such requests should include a description of the activities to be undertaken, an estimate of the expenses and a rationale for the expenditures. In reviewing requests, the Assistant Secretary will consider the necessity and reasonableness of the costs. Prior approval is not required for administrative expenditures incurred by a State in imple-

menting approved repatriation plans as a result of Federal notification that an evacuation may be necessary.

[39 FR 26548, July 19, 1974, as amended at 60 FR 19864, Apr. 21, 1995]

§ 212.9 Disclosure of information.

(a) No disclosures of any information of a personal and private nature with respect to an individual obtained at any time by any person, organization, or institution in the course of discharging the duties of the Secretary under the Act shall be made except insofar:

(1) As the individual or his legal guardian, if any (or, if he is a minor, his parent or legal guardian), shall consent;

(2) As disclosure may be necessary to carry out any functions of the Secretary under the Act;

(3) As disclosure may be necessary to carry out any functions of any agency of the United States which are related to the return of the individual from a foreign country, or his entry into the United States; or

(4) As expressly authorized by the Assistant Secretary.

(b) An agreement made with an agency for the provision of temporary assistance pursuant to the Act shall provide that no disclosure will be made of any information of a personal and private nature received by such agency in the course of discharging the duties under such agreement except as is provided therein, or is otherwise specifically authorized by the Assistant Secretary.

[39 FR 26548, July 19, 1974, as amended at 60 FR 19864, Apr. 21, 1995]

§ 212.10 Nondiscrimination.

(a) No eligible person shall, on the ground of race, color, or national origin be excluded from participation, be denied any benefits, or otherwise be subjected to discrimination of any nature or form in the provision of any benefits under the Act.

(b) The prohibition in paragraph (a) of this section precludes discrimination either in the selection of individuals to receive the benefits, in the scope of benefits, or in the manner of

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providing them. It extends to all facilities and services provided by the Administration or an agency to an individual, and to the arrangements and the procedures under this part relating thereto, in connection with reception and temporary assistance under the Act.

[39 FR 26548, July 19, 1974, as amended at 60 FR 19864, Apr. 21, 1995]

PART 213—PRACTICE AND PROCEDURE FOR HEARINGS TO STATES ON CONFORMITY OF PUBLIC ASSISTANCE PLANS TO FEDERAL REQUIREMENTS

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AUTHORITY: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.

SOURCE: 36 FR 1454, Jan. 29, 1971, unless otherwise noted.

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Subpart A—General

§ 213.1 Scope of rules.

(a) The rules of procedure in this part govern the practice for hearings afforded by the Department to States pursuant to § 201.4 or § 201.6 (a) or (b) of this chapter, and the practice relating to decisions upon such hearings. These rules may also be applied to hearings afforded by the Department to States in other Federal-State programs for which Federal administrative responsibility has been delegated to the Service.

(b) Nothing in this part is intended to preclude or limit negotiations between the Department and the State, whether before, during, or after the hearing to resolve the issues which are, or otherwise would be, considered at the hearing. Such negotiations and resolution of issues are not part of the hearing, and are not governed by the rules in this part, except as expressly provided herein.

§ 213.2 Records to be public.

All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copied in the office of the FSA Hearing Clerk. Inquiries may be made at the Central Information Center, Department of Health and Human Services, 330 Independence Avenue SW., Washington, DC 20201.

[36 FR 1454, Jan. 29, 1971, as amended at 53 FR 36580, Sept. 21, 1988]

§ 213.3 Use of gender and number.

As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa. Words importing the masculine gender may be applied to females or organizations.

§ 213.4 Suspension of rules.

Upon notice to all parties, the Administrator or the presiding officer, with respect to matters pending before him and within his jurisdiction, may modify or waive any rule in this part upon determination that no party will