

## Administration for Children and Families, HHS

## § 1326.2

client and case eligibility will be subject to disclosure to officials of the Department.

[80 FR 44807, July 27, 2015, as amended at 81 FR 35647, June 3, 2016]

### PART 1326—DEVELOPMENTAL DISABILITIES FORMULA GRANT PROGRAMS

#### Subpart A—Basic Requirements

##### Sec.

- 1326.1 General.
- 1326.2 Obligation of funds.
- 1326.3 Liquidation of obligations.
- 1326.4 [Reserved]

#### Subpart B—Protection and Advocacy for Individuals With Developmental Disabilities (PADD)

- 1326.19 Definitions.
- 1326.20 Agency designated as the State Protection and Advocacy System.
- 1326.21 Requirements and authority of the State Protection and Advocacy System.
- 1326.22 Periodic reports: State Protection and Advocacy System.
- 1326.23 Non-allowable costs for the State Protection and Advocacy System.
- 1326.24 Allowable litigation costs.

#### Subpart C—Access to Records, Service Providers, and Individuals With Developmental Disabilities

- 1326.25 Access to records.
- 1326.26 Denial or delay of access to records.
- 1326.27 Access to service providers and individuals with developmental disabilities.
- 1326.28 Confidentiality of State Protection and Advocacy System records.

#### Subpart D—Federal Assistance to State Councils on Developmental Disabilities

- 1326.30 State plan requirements.
- 1326.31 State plan submittal and approval.
- 1326.32 Periodic reports: Federal assistance to State Councils on Developmental Disabilities.
- 1326.33 Protection of employees interest.
- 1326.34 Designated State Agency.
- 1326.35 Allowable and non-allowable costs for Federal assistance to State Councils on Developmental Disabilities.

- 1326.36 Final disapproval of the State plan or plan amendments.

#### Subpart E—Practice and Procedure for Hearings Pertaining to States' Conformity and Compliance With Developmental Disabilities State Plans, Reports, and Federal Requirements

##### GENERAL

- 1326.80 Definitions.
- 1326.81 Scope of rules.
- 1326.82 Records to the public.
- 1326.83 Use of gender and number.
- 1326.84 Suspension of rules.
- 1326.85 Filing and service of papers.

##### PRELIMINARY MATTERS—NOTICE AND PARTIES

- 1326.90 Notice of hearing or opportunity for hearing.
- 1326.91 Time of hearing.
- 1326.92 Place.
- 1326.93 Issues at hearing.
- 1326.94 Request to participate in hearing.

##### HEARING PROCEDURES

- 1326.100 Who presides.
- 1326.101 Authority of presiding officer.
- 1326.102 Rights of parties.
- 1326.103 Discovery.
- 1326.104 Evidentiary purpose.
- 1326.105 Evidence.
- 1326.106 Exclusion from hearing for misconduct.
- 1326.107 Unsponsored written material.
- 1326.108 Official transcript.
- 1326.109 Record for decision.

##### POST-HEARING PROCEDURES, DECISIONS

- 1326.110 Post-hearing briefs.
- 1326.111 Decisions following hearing.
- 1326.112 Effective date of decision by the Secretary.

AUTHORITY: 42 U.S.C. 15001 *et seq.*

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#### Subpart A—Basic Requirements

##### § 1326.1 General.

All rules under this subpart are applicable to both the State Councils on Developmental Disabilities and the agency designated as the State Protection and Advocacy (P&As) System.

##### § 1326.2 Obligation of funds.

(a) Funds which the Federal Government allots under this part during a Federal fiscal year are available for obligation by States for a two-year period

### § 1326.3

beginning with the first day of the Federal fiscal year in which the grant is awarded.

(b)(1) A State incurs an obligation for acquisition of personal property or for the performance of work on the date it makes a binding, legally enforceable, written commitment, or when the State Council on Developmental Disabilities enters into an Interagency Agreement with an agency of State government for acquisition of personal property or for the performance of work.

(2) A State incurs an obligation for personal services, for services performed by public utilities, for travel or for rental of real or personal property on the date it receives the services, its personnel takes the travel, or it uses the rented property.

(c)(1) A Protection & Advocacy System may elect to treat entry of an appearance in judicial and administrative proceedings on behalf of an individual with a developmental disability as a basis for obligating funds for the litigation costs. The amount of the funds obligated must not exceed a reasonable estimate of the costs, and the way the estimate was calculated must be documented.

(2) For the purpose of this paragraph (c), *litigation costs* means expenses for court costs, depositions, expert witness fees, travel in connection with a case and similar costs, and costs resulting from litigation in which the agency has represented an individual with developmental disabilities (*e.g.*, monitoring court orders, consent decrees), but not for salaries of employees of the P&A. All funds made available for Federal assistance to State Councils on Developmental Disabilities and to the P&As obligated under this paragraph (c) are subject to the requirement of paragraph (a) of this section. These funds, if reobligated, may be reobligated only within a two-year period beginning with the first day of the Federal fiscal year in which the funds were originally awarded.

### § 1326.3 Liquidation of obligations.

(a) All obligations incurred pursuant to a grant made under the Act for a specific Federal fiscal year, must be liquidated within two years of the close

### 45 CFR Ch. XIII (10–1–23 Edition)

of the Federal fiscal year in which the grant was awarded.

(b) The Secretary, or his or her designee, may waive the requirements of paragraph (a) of this section when State law impedes implementation or the amount of obligated funds to be liquidated is in dispute.

(c) Funds attributable to obligations which are not liquidated in accordance with the provisions of this section revert to the Federal Government.

### § 1326.4 [Reserved]

## Subpart B—Protection and Advocacy for Individuals With Developmental Disabilities (PADD)

### § 1326.19 Definitions.

As used in this subpart and subpart C of this part, the following definitions apply:

*Abuse.* The term “abuse” means any act or failure to act which was performed, or which was failed to be performed, knowingly, recklessly, or intentionally, and which caused, or may have caused, injury or death to an individual with developmental disabilities, and includes but is not limited to such acts as: Verbal, nonverbal, mental and emotional harassment; rape or sexual assault; striking; the use of excessive force when placing such an individual in bodily restraints; the use of bodily or chemical restraints which is not in compliance with Federal and State laws and regulations, or any other practice which is likely to cause immediate physical or psychological harm or result in long term harm if such practices continue. In addition, the P&A may determine, in its discretion that a violation of an individual’s legal rights amounts to abuse, such as if an individual is subject to significant financial exploitation.

*American Indian Consortium.* The term “American Indian Consortium” means any confederation of 2 or more recognized American Indian Tribes, created through the official resident population of 150,000 enrolled tribal members and a contiguous territory of Indian lands in two or more States.

*Complaint.* The term “complaint” includes, but is not limited to, any report