TABLE 1.—GENERAL SUPERFUND SECTION, SEPTEMBER 1995

State site name	City/County	Notes(a)
* * * * *	*	*
KS Ace Services	Colby	
* * * * *	*	*
ME West Site/Hows Corners	Plymouth	
* * * * *	*	*
NJ Horseshoe Road	Sayreville	
* * * * *	*	*
TN Tennessee Products	Chattanooga	A.
* * * * *	*	*
TX RSR Corp.	Dallas	
* * * * *	*	*
VI Tutu Wellfield	Tutu	
* * * * *	*	*

3. Table 2 to appendix B to part 300 is amended by revising the table heading by adding the following sites by State and in alphabetical order:

TABLE 2.—FEDERAL FACILITIES SECTION, SEPTEMBER 1995

State site name	City/County	Notes(a)
* * * * *	*	*
MD Indian Head Naval Surface Warfare Center	Indian Head	
* * * * *	*	*
PA Willow Grove Naval Air & Air Res. Stn	Willow Grove	

(a) A=Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be > 28.50).

BILLING CODE 6560–50–M
[FR Doc. 95–24415 Filed 9–28–95; 8:45 am]
BILLING CODE 6560–10–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Chapter IV

[BPD–830–FC]

Medicare Program; Authority Citations: Technical Amendments

ACTION: Final rule with comment period.

SUMMARY: This technical regulation provides uniform simplified authority citations for most of the parts that pertain to the Medicare program, and revises the sections or paragraphs that explain the statutory basis for the substance of the rules.

These changes are consistent with the use of authority citations and paragraphs identified as ''statutory basis'' in the regulations that pertain to the Medicaid program.

They are intended to put an end to the continual changing of the current lengthy authority citations and, by clarifying and, where needed, expanding the ''statutory basis'' portions, ensure better understanding of that basis.

DATES: *Effective date:* These rules are effective as of September 29, 1995.

Comment date: We will consider comments received by: November 28, 1995.

ADDRESSES: Please mail written comments (an original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–830–FC, P.O. Box 7195, Baltimore, MD 21207.

If you prefer, you may deliver your written comments (original and 3 copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201–0001, or

Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–830–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of the document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, Monday through Friday of each week from 8:30 a.m. to 5 p.m., phone: (202) 690–7890.

FOR FURTHER INFORMATION CONTACT: Luisa V. Iglesias (202) 690–6383.

SUPPLEMENTARY INFORMATION:

Background

In 1978 we revised, reorganized, and redesignated the Medicaid regulations. At that time we simplified the authority citations to limit them to those statutory

provisions that explicitly authorize issuance of regulations, and to add to each part of the rules a section or paragraph to explain the statutory provisions that are implemented by the part.

Recently, we have begun to use the same kind of authority citations and explanations in the Medicare regulations.

Provisions of the Regulations

By establishing the simplified authority citation for most of the parts of the HCFA rules that pertain to Medicare, we—

- Make it unnecessary to keep revising individual citations as different parts are amended by newly issued regulations;
- Achieve consistency with the Medicaid regulations; and
- Provide guidance to readers with respect to the statutory basis of the rules.

For parts that have subparts dealing with very different subject matter, it is sometimes preferable to have ''statutory basis'' sections or paragraphs in each subpart. These clarifying additions do not affect the substance of the rules.

In part 414, we have made a nomenclature change for consistent use of the term ''physician services''.

Collection of Information Requirements

This rule contains no new information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Response to Comments

Although this is a final rule, we will consider timely comments from anyone who believes that, in making these technical changes we have unintentionally altered the substance of the rule. If we revise this rule as a result of comments, we will discuss all timely comments in the preamble to the revised rule.

Waiver of Proposed Rulemaking and Delayed Effective Date

The changes made by this rule are technical and editorial in nature and do not alter the substance of the regulations. Their aim is to simplify the authority citations to limit them to statutory sections that explicitly authorize or require issuance of regulations. Accordingly, we find that there is good cause to waive proposed rulemaking procedures as unnecessary.

In addition, it is important, for the convenience of the public, that these technical changes be effective as of October 1, 1995 so that they will be included in the 1995 edition of the Code of Federal Regulations on which the public relies. Accordingly, we find that there is also good cause to waive the usual 30-day delay in the effective date.

Regulatory Flexibility Statement

Consistent with the Regulatory Flexibility Act (RFA) and section 1102(b) of the Social Security Act, we prepare a regulatory flexibility analysis for each rule, unless we can certify that the particular rule will not have a significant economic impact on a substantial number of small entities, or a significant impact on the operation of a substantial number of small rural hospitals.

The RFA defines ''small entity'' as a small business, a nonprofit enterprise, or a government jurisdiction (such as a county, city, or township) with a population of less than 50,000. We also consider all providers and suppliers of services to be small entities. For purposes of section 1102 of the Act, we define a small rural hospital as a hospital that has fewer than 50 beds and is not located in a Metropolitan Statistical Area.

We have not prepared a regulatory flexibility analysis because we have determined and we certify that these rules will not have a significant economic impact on a substantial number of small entities or a significant impact on the operation of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this rule was not reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 401

Claims, Freedom of information, Health facilities, Medicare, Privacy.

42 CFR Part 403

Health insurance, Hospitals, Intergovernmental relations, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 406

Health facilities, Kidney diseases, Medicare.

42 CFR Part 407

Medicare.

42 CFR Part 408

Medicare.

42 CFR Part 409

Health facilities, Medicare.

42 CFR Part 411

Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 414

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 416

Health facilities, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 418

Health facilities, Hospice care, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 420

Fraud, Health facilities, Health professions, Medicare.

42 CFR Part 421

Administrative practice and procedure, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 424

Emergency medical services, Health facilities, Health professions, Medicare.

42 CFR Part 462

Grant programs-health, Health care, Health professions, Peer Review Organizations (PRO)

42 CFR Part 466

Grant programs-health, Health care, Health facilities, Health professions, Peer Review Organizations (PRO), Reporting and recordkeeping requirements.

42 CFR Part 473

Administrative practice and procedure, Health care, Health professions, Peer Review Organizations (PRO), Reporting and recordkeeping requirements.

42 CFR Part 476

Health care, Health professional, Health record, Peer Review Organizations (PRO), Penalties, Privacy,

Reporting and recordkeeping requirements.

42 CFR Part 482

Grant programs-health, Hospitals, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 483

Grant programs-health , Health facilities, Health professions, Health records, Medicaid, Medicare, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

42 CFR Part 484

Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 488

Health facilities, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 489

Health facilities, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 498

Administrative practice and procedure, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Chapter IV is amended as set forth below.

A. In the following parts, the authority citation is revised to read as set forth below:

Parts 406, 407, 408, 411, 412, 416, 418, 462, 466, 476, 489, and 498.

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

PART 401—GENERAL ADMINISTRATIVE REQUIREMENTS

B. In part 401, the following changes are made:

1. The authority citation for part 401, which was published at 59 FR 56232 (November 10, 1994) is removed and the following authority citation is added at the end of the table of contents:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1895hh). Subpart F is also issued under the authority of the Federal Claims Collection Act (31 U.S.C. 3711).

2. The authority citations at the beginning of subparts B and F are removed.

PART 403—SPECIAL PROGRAMS AND PROJECTS

C. Part 403 is amended as set forth below.

1. The following authority citation is added at the end of the table of contents:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. The authority citations at the beginning of subparts B, C and E are removed.

PART 409—HOSPITAL INSURANCE BENEFITS

D. Part 409 is amended as set forth below.

1. The authority citation for part 409 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (U.S.C.1302 and 1895hh).

2. Section 409.1 is revised to read as follows:

§ 409.1 Statutory basis.

This part is based on the identified provisions of the following sections of the Social Security Act:

(a) Sections 1812 and 1813 establish the scope of benefits of the hospital insurance program under Medicare Part A and set forth deductible and coinsurance requirements.

(b) Sections 1814 and 1815 establish conditions for, and limitations on, payment for services furnished by providers.

(c) Section 1820 establishes the rural primary care hospital program.

(d) Section 1861 describes the services covered under Medicare Part A, and benefit periods.

(e) Section 1862(a) specifies exclusions from coverage; and section 1862(h) requires a registry of pacemakers.

(f) Section 1881 sets forth the rules for individuals who have end-stage renal disease (ESRD), for organ donors, and for dialysis, transplantation, and other services furnished to ESRD patients.

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

E. Part 413 is amended as set forth below.

1. The authority citation for part 413 continues to read as follows:

Authority: Secs. 1102, 1861(v)(1)(A), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(v)(1)(A), and 1395hh).

2. Section 413.1(a) is amended to revise paragraphs (a)(1) and (a)(3) to read as follows:

§ 413.1 Introduction.

(a) *Basis, scope, and applicability*—(1) *Statutory basis*—(i) *Basic provisions.* (A) Section 1815 of the Act requires that the Secretary make interim payments to providers and periodically determine the amount that should be paid under Part A of Medicare to each provider for the services it furnishes.

(B) Section 1814(b) of the Act (for Part A) and section 1833(a) (for Part B) provide for payment on the basis of the lesser of a provider's reasonable costs or customary charges.

(C) Section 1861(v) of the Act defines ''reasonable cost''.

(ii) *Additional provisions.* (A) Section 1138(b) of the Act specifies the conditions for Medicare payment for organ procurement costs.

(B) Section 1814(j) of the Act provides for exceptions to the ''lower of costs or charges'' provisions.

(C) Section 1833 (a)(4) and (i)(3) of the Act provide for payment of a blended amount for certain surgical services furnished in a hospital's outpatient department.

(D) Section 1833(n) of the Act provides for payment of a blended amount for outpatient hospital diagnostic procedures such as radiology.

(E) Section 1834(c)(1)(C) of the Act establishes the method for determining Medicare payment for screening mammograms performed by hospitals.

(F) Section 1834(g) of the Act provides for payment for rural primary care hospital (RPCH) outpatient services on the basis of prospectively determined amounts.

(G) Section 1881 of the Act authorizes payment for services furnished to ESRD patients.

(H) Section 1883 of the Act provides for payment for post-hospital SNF care furnished by a rural hospital that has swing-bed approval.

(I) Sections 1886 (a) and (b) of the Act impose a ceiling on the rate of increase in hospital inpatient costs.

(J) Section 1886(h) of the Act provides for payment to a hospital for the services of interns and residents in approved teaching programs on the basis of a ''per resident'' amount.

* * * * *

(3) *Applicability.* The payment principles and related policies set forth in this part are binding on HCFA and its fiscal intermediaries, on the Provider Reimbursement Review Board, and on the entities listed in paragraph (a)(2) of this section.

PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

(F) Part 414 is amended as set forth below.

1. The authority citation for part 414 is revised to read as follows:

Authority: Secs. 1102, 1871, and 1881(b)(l) of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395rr(b)(l)).

2. Nomenclature change. In part 414, in the following locations, the words ''physicians' services'' are revised to read ''physician services'': §§ 414.1, 414.2 (in the definition of the term, the introductory text and paragraph (2)), 414.22, 414.24 (heading and paragraph (c)(2)), 414.30, 414.32 (heading and paragraph (b)), 414.40 (paragraph (b) introductory text), 414.44 (paragraphs (a)(1), (b) introductory text, (d), (e), and (f)), and 414.58 (heading and paragraph (a)).

3. The authority citation at the beginning of subpart A is removed.

4. Section 414.1 is revised to read as follows:

§ 414.1 Basis and scope.

This part implements the indicated provisions of the following sections of the Act:

1833—Rules for payment for most Part B services.
1834(a) and (h)—Amounts and frequency of payments for durable medical equipment and for prosthetic devices and orthotics and prosthetics.
l848—Fee schedule for physician services.
1881(b)—Rules for payment for services to ESRD beneficiaries.
1887—Payment of charges for physician services to patients in providers.

PART 420—PROGRAM INTEGRITY: MEDICARE

G. Part 420 is amended as set forth below.

The authority citation for part 420 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 420.200 [Amended]

2. In the first sentence of § 420.200, ''1833(e),'' and the words '', and 1866'' are removed, and ''1861'' is revised to read ''and 1861(v)(1)(i)''.

PART 421—INTERMEDIARIES AND CARRIERS

H. Part 421 is amended as set forth below.

1. The authority citation for part 421 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. § 421.1 is amended to redesignate paragraph (b) as paragraph (c), revise paragraph (a) and add a new paragraph (b) to read as follows:

§ 421.1 Basis and scope.

(a) This part is based on the indicated provisions of the following sections of the Act:

1124—Requirements for disclosure of certain information.
1816 and 1842—Use of organizations and agencies in making Medicare payments to providers and suppliers of services.

(b) Section 421.118 is also based on 42 U.S.C.1395b–1(a)(1)(F), which authorizes demonstration projects involving intermediary agreements and carrier contracts

* * * * *

PART 424—CONDITIONS FOR MEDICARE PAYMENT

I. Part 424 is amended as set forth below.

1. The authority citation for part 424 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. § 424.1 is amended to revise paragraph (a) to read as follows:

§ 424.1 Basis and scope.

(a) *Statutory basis.* (1) This part is based on the indicated provisions of the following sections of the Act:

1814—Basic conditions for, and limitations on, Medicare payments for Part A services.
1815—Payment to providers for Part A services.
1835—Procedures for payment to providers for Part B services.
1842(b)(3)(B)(ii)—Assignment of Part B Medicare claims.
1842(b)(6)—Payment to entities other than the supplier.
1848—Payment for physician services.
1870(e) and (f)—Settlement of claims after death of the beneficiary.

(2) Section 424.444(c) is also based on section 216(j) of the Act.

PART 473—RECONSIDERATIONS AND APPEALS

J. Part 473 is amended as set forth below.

1. The authority citation for part 473 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 473.12 [Amended]

2. In § 473.12, the following changes are made:

a. Paragraph (b) is redesignated as paragraph (c).

b. Paragraph (a) is redesignated as paragraph (b) and revised, and a new paragraph (a) is added, to read as set forth below.

c. In redesignated paragraph (c), ''will review'' is revised to read ''reviews''.

§ 473.12 Statutory basis.

(a) Under section 1154 of the Act, a PRO may make an initial determination that services furnished or proposed to be furnished are not reasonable, necessary, or delivered in the most appropriate setting.

(b) Under section 1155 of the Act, the following rules apply:

(1) A Medicare beneficiary, a provider, or an attending practitioner who is dissatisfied with an initial denial determination under paragraph (a) of this section is entitled to a reconsideration by the PRO that made that determination.

(2) The beneficiary is also entitled to the following:

(i) A hearing by an administrative law judge if $200 or more is still in controversy after a reconsidered determination.

(ii) Judicial review if $2000 or more is still in controversy after a final determination by the Department.

* * * * *

PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

K. Part 482 is amended as set forth below.

1. The authority citation for part 482 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 482.1 [Amended]

2. In § 482.1, the following changes are made:

a. The heading of paragraph (a) is revised to read ''*Statutory basis.*''.

b. Paragraph (a)(3) is redesignated as paragraph (a)(5).

c. New paragraphs (a)(3) and (a)(4) are added to read as set forth below.

d. In paragraph (b), ''subpart S of part 405'' is revised to read ''subpart A of part 488''.

§ 482.1 Basis and scope.

(a) *Statutory basis.* * * *

(3) Sections 1861(k) and 1902(a)(30) of the Act provide that hospitals participating in Medicare and Medicaid must have a utilization review plan that meets specified requirements.

(4) Section 1883 of the Act sets forth the requirements for hospitals that provide long term care under an agreement with the Secretary.

* * * * *

PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES

L. Part 483 is amended as set forth below.

1. The statutory citation for part 483 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 483.1 [Amended]

2. In § 483.1, the following changes are made:

a. The heading of paragraph (a) is revised to read ''*Statutory basis*.''.

b. Paragraph (a)(2) is redesignated as paragraph (a)(3) and a new paragraph (a)(2) is added to read as follows:

§ 483.1 Basis and scope.

(a) *Statutory basis.* * * *

(2) Section 1861(l) of the Act requires the facility to have in effect a transfer agreement with a hospital.

§ 483.150 [Amended]

3. In § 483.150, the following changes are made:

a. The section heading is revised to read as set forth below.

b. Paragraphs (a) and (b) are redesignated as paragraphs (b) and (c) with the headings added as set forth below.

c. A new paragraph (a) is added to read as set forth below.

§ 483.150 Statutory basis; Deemed meeting or waiver of requirements.

(a) *Statutory basis.* This subpart is based on sections 1819(b)(5) and 1919(b)(5) of the Act, which establish standards for training nurse-aides and for evaluating their competency.

(b) *Deemed meeting of requirements.* * * *

(c) *Waiver of requirements.* * * *

4. Section 483.200 is revised to read as follows:

§ 483.200 Statutory basis.

This subpart is based on sections 1819(e)(3) and (f)(3) and 1919(e)(3) and (f)(3) of the Act, which require States to make available, to individuals who are discharged or transferred from SNFs or NFs, an appeals process that complies with guidelines issued by the Secretary.

PART 484—CONDITIONS OF PARTICIPATION: HOME HEALTH AGENCIES

M. Part 484 is amended as set forth below.

1. Section 484.1 is revised to read as follows:

§ 484.1 Basis and scope.

(a) *Basis and scope.* This part is based on the indicated provisions of the following sections of the Act:

(1) Sections 1861(o) and 1891 establish the conditions that an HHA must meet in order to participate in Medicare.

(2) Section 1861(z) specifies the Institutional planning standards that HHAs must meet.

(b) This part also sets forth additional requirements that are considered necessary to ensure the health and safety of patients.

PART 488—SURVEY AND CERTIFICATION PROCEDURES

N. Part 488 is amended as set forth below.

l. The authority citation for part 488 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1895hh).

2. A new § 488.2 is added to read as follows:

§ 488.2 Statutory basis.

This part is based on the indicated provisions of the following sections of the Act:

1128—Exclusion of entities from participation in Medicare.
1128A—Civil money penalties.
1814—Conditions for, and limitations on, payment for Part A services.
1819—Requirements for SNFs.
1861(f)—Requirements for psychiatric hospitals.
1861(z)—Institutional planning standards that hospitals and SNFs must meet.
1861(ee)—Discharge planning guidelines for hospitals.
1864—Use of State survey agencies.
1865—Effect of accreditation.
1880—Requirements for hospitals and SNFs of the Indian Health Service.
1883—Requirements for hospitals that provide SNF care.
1902—Requirements for participation in the Medicaid program.
1913—Medicaid requirements for hospitals that provide NF care.
1919—Medicaid requirements for NFs.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance; Program No. 93.773, Medicare Hospital Insurance; Program No. 93.774, Medicare Supplementary Medical Insurance)

Dated: September 15, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–24382 Filed 9–28–95; 8:45 am]

BILLING CODE 4120–01–P

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42 CFR Part 400

[OFH–018–F]

Medicare and Medicaid Programs; Approved Information Collection Requirements

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Technical final rule.

SUMMARY: This technical final rule updates our display of approved control numbers for the collection of information that have been assigned to us by the Office of Management and Budget (OMB). OMB regulations require each agency to include the approval numbers in the agency's rules.

EFFECTIVE DATE: This regulation is effective September 29, 1995.

FOR FURTHER INFORMATION CONTACT: Zaneta Davis, 410–786–2094.

SUPPLEMENTARY INFORMATION:

I. Background

The Paperwork Reduction Act of 1980 (PRA 1980), Public Law 90–620, Title 44 U.S.C. Chapter 35, requires Federal agencies to minimize burden and costs associated with information collection. The Director of the Office of Management and Budget (OMB) promulgated regulations to implement the provisions of PRA 1980 at 5 CFR Part 1320. The OMB regulations include a requirement that Federal agencies obtain OMB approval of collection of information requirements that are contained in any regulations published by the agencies in the Federal Register. After approval of the information collection by OMB, Federal agencies are further required to publish the control number assigned by OMB as part of the agency's regulations. To comply with the OMB requirement and as a means of notifying the public that our information collection requirements have been approved, we have established a general regulation under 42 CFR 400.310 to display the valid OMB control numbers and the applicable regulation sections. We routinely update § 400.310 to add sections that have been approved by OMB, delete sections that are no longer in effect, or redesignate approved sections.

II. Provisions of the Rule

We are revising § 400.310, which sets forth our display of valid OMB control numbers for 42 CFR.

Additions

We have identified below the sections we are adding to § 400.310 because they have been approved by OMB.