

thereon are impracticable, unnecessary, and contrary to the public interest since veterans entitled to compensation must be provided such compensation promptly to help them meet their financial obligations.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

This rule has been reviewed under Executive Order 12866 by the Office of Management and Budget.

The Catalog of Federal Domestic Assistance program numbers are 64.109 and 64.110.

**List of Subjects in 38 CFR Part 3**

Administrative practice and procedure, Claims, Health care, Individuals with disabilities, Pensions, Veterans.

Approved: March 24, 1997.

**Jesse Brown,**  
*Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

**PART 3—ADJUDICATION**

**Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation**

1. The authority citation for part 3, subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

**§ 3.317 [Amended]**

2. In § 3.317, paragraph (a)(1)(i) is amended by removing “two years after the date on which the veteran last performed active military, naval, or air service in the Southwest Asia theater of operations during the Persian Gulf War” and adding, in its place, “December 31, 2001”.

3. In § 3.317, the authority citation immediately following paragraph (d)(2) is revised to read as follows:

**§ 3.317 Compensation for certain disabilities due to undiagnosed illnesses.**

\* \* \* \* \*

**Authority:** 38 U.S.C. 1117.

[FR Doc. 97-11055 Filed 4-28-97; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[VA068-5018a and VA066-5018a; FRL-5815-4]

**Approval and Promulgation of Air Quality Implementation Plans; Virginia: Withdrawal of the Direct Final Rule Approving the Redesignation of the Hampton Roads Ozone Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of a direct final rule.

**SUMMARY:** On March 12, 1997, EPA published a direct final rule approving the Commonwealth of Virginia’s request to redesignate the Hampton Roads area from marginal ozone nonattainment to attainment. The direct final rule also approved, as a state implementation plan (SIP) revision, the 10 year maintenance plan and mobile emissions budget developed for the Hampton Roads area and submitted by the Commonwealth. Because EPA received adverse comments on this direct final action within the 30 day public comment period, it is withdrawing the March 12, 1997 direct final rulemaking action pertaining to the Hampton Roads nonattainment area.

**DATES:** This action is effective April 25, 1997.

**FOR FURTHER INFORMATION CONTACT:** Kristeen Gaffney, Ozone/Carbon Monoxide and Mobile Sources Section (3AT21), USEPA—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, or by telephone at: (215) 566-2092. Questions may also be addressed via e-mail, at the following address: Gaffney.Kristeen@epamail.epa.gov [PLEASE note that only written comments can be accepted for inclusion in the docket.]

**SUPPLEMENTARY INFORMATION:** On March 12, 1997, EPA published a direct final rule [62 FR 11337] approving the Commonwealth of Virginia’s request to redesignate the Hampton Roads marginal ozone nonattainment area from nonattainment to attainment and the 10 year maintenance plan and mobile emissions budget submitted by the Commonwealth for the Hampton Roads area as revisions to the Virginia SIP. As stated in the March 12, 1997 rulemaking document, EPA’s action to approve the redesignation was based upon its review of the Commonwealth’s submittal and its determination that all five of the Clean Air Act’s criteria for redesignation

have been met by and for the Hampton Roads area. The ambient air quality data monitored in the Hampton Roads area indicated that it had attained the National Ambient Air Quality Standard (NAAQS) for ozone for the years 1993-1995. Review of the data monitored in 1996 has indicated continued attainment of the ambient standard. EPA also determined that the Commonwealth had a fully approved Part D SIP for the Hampton Roads area, was fully implementing that SIP, and that the air quality improvement in the Hampton Roads area was due to permanent and enforceable control measures. In the same rulemaking, EPA approved the maintenance plan submitted by the Commonwealth of Virginia as a SIP revision because it provides for maintenance of the ozone standard for 10 years and a mobile emissions budget for the Hampton Roads area.

In its March 12, 1997 rulemaking, EPA stated that if adverse comments were received on the direct final rule within the 30 days of its publication, EPA would publish a document announcing the withdrawal of its direct final rulemaking action. Because EPA received adverse comments on the direct final rulemaking within the prescribed comment period from the Allies in Defense of Cherry Point and U.S. Senator Lauch Faircloth of North Carolina, EPA is withdrawing the March 12, 1997 final rulemaking action pertaining to the Hampton Roads nonattainment area.

In a companion proposed rulemaking published in the Proposed Rules section of the same **Federal Register**, EPA stated that if adverse comments were received on the direct final action within 30 days of its publication, it would withdraw the direct final rule. In their letter submitting adverse comments, the Allies in Defense of Cherry Point also indicated that they intended to submit additional adverse comments and requested that the comment period be extended.

In a subsequent rulemaking document, EPA will reopen the comment period on the March 12, 1997 proposed rule.

In determining its final action on the Commonwealth’s redesignation request and maintenance plan for the Hampton Roads area, EPA shall consider all comments received on its March 12, 1997 proposed action.

Dated: April 14, 1997.

**William T. Wisniewski,**  
*Acting Regional Administrator, Region III.*

Therefore the amendments to 40 CFR parts 52 and 81 which added

§§ 52.2420(c)(117) and 52.2424 and the amendment to the table in § 81.347 are withdrawn.  
[FR Doc. 97-11123 Filed 4-25-97; 11:54 pm]  
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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Health Care Financing Administration  
42 CFR Part 433**

[MB-112-F]

**Medicaid Program; Third Party Liability (TPL) Cost-Effectiveness Waivers**

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

**ACTION:** Correcting amendment.

**SUMMARY:** This document makes technical corrections to final regulations published on July 10, 1995, at 60 FR 35498, concerning Medicaid agencies' actions where third party liability (TPL) may exist for expenditures for medical assistance covered under the State plan.

**EFFECTIVE DATE:** These amendments are effective as of September 8, 1995, the effective date of the final rule that contained the errors.

**FOR FURTHER INFORMATION CONTACT:** Deborah Helms, (410) 786-7132.

**SUPPLEMENTARY INFORMATION:** Final regulations published on July 10, 1995, at 60 FR 35498 amended 42 CFR part 433 to revise Medicaid regulations concerning Medicaid agencies' actions where third party liability (TPL) may exist for expenditures for medical assistance covered under the State plan. The regulations allow Medicaid agencies to request waivers from certain procedures in regulations that are not expressly required by the Social Security Act. In the regulations, we unintentionally deleted the entire text of § 433.139(b)(3) through an error in our amendatory language and presentation of the CFR text. Consequently, we need to restore the deleted text in § 433.139(b)(3). This document corrects the error by amending § 433.139, to reinstate the deleted language.

**List of Subjects in 42 CFR Part 433**

Administrative practice and procedure, Claims, Grant programs—health, Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 433 is corrected by making the following correcting amendments:

**PART 433—STATE FISCAL ADMINISTRATION**

1. The authority citation for Part 433 continues to read as follows:

**Authority:** Secs. 1102, 1137, 1902(a)(4), 1902(a)(18), 1902(a)(25), 1902(a)(45), 1902(t), 1903(a)(3), 1903(d)(2), 1903(d)(5), 1903(o), 1903(p), 1903(r), 1903(w), 1912, and 1919(e) of the Social Security Act (42 U.S.C. 1302, 1320b-7, 1396a(a)(4), 1396a(a)(18), 1396a(a)(25), 1396a(a)(45), 1396a(t), 1396b(a)(3), 1396b(d)(2), 1396a(d)(5), 1396b(i), 1396b(o), 1396b(p), 1396b(r), 1396b(w), and 1396k.

2. Section 433.139 is amended by adding paragraph (b)(3) to read as follows:

**§ 433.139 Payment of claims.**

\* \* \* \* \*

(b) *Probable liability is established at the time claim is filed.* \* \* \*

(3) The agency must pay the full amount allowed under the agency's payment schedule for the claim and seek reimbursement from any liable third party to the limit of legal liability (and for purposes of paragraph (b)(3)(ii) of this section, from a third party, if the third party liability is derived from an absent parent whose obligation to pay support is being enforced by the State title IV-D agency), consistent with paragraph (f) of this section if—

(i) The claim is prenatal care for pregnant women, or preventive pediatric services (including early and periodic screening, diagnosis and treatment services provided for under part 441, subpart B of this chapter), that is covered under the State plan; or

(ii) The claim is for a service covered under the State plan that is provided to an individual on whose behalf child support enforcement is being carried out by the State title IV-D agency. The agency prior to making any payment under this section must assure that the following requirements are met:

(A) The State plan specifies whether or not providers are required to bill the third party.

(B) The provider certifies that before billing Medicaid, if the provider has billed a third party, the provider has waited 30 days from the date of the service and has not received payment from the third party.

(C) The State plan specifies the method used in determining the provider's compliance with the billing requirements.

\* \* \* \* \*

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Programs)

Dated: April 17, 1997.  
**Neil J. Stillman,**  
*Deputy Assistant Secretary for Information Resources Management.*  
[FR Doc. 97-11023 Filed 4-28-97; 8:45 am]  
BILLING CODE 4120-01-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Office of Inspector General  
42 CFR Part 1004**

RIN 0991-AA86

**Health Care Programs: Fraud and Abuse; Revised PRO Sanctions for Failing To Meet Statutory Obligations**

**AGENCY:** Office of Inspector General (OIG), HHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule addresses revised procedures governing the imposition and adjudication of program sanctions, based on recommendations from State utilization and quality control peer review organizations (PROs), resulting from enactment of sections 214 and 231(f) of the Health Insurance Portability and Accountability Act (HIPAA) of 1996. **EFFECTIVE DATE:** These regulations are effective on April 29, 1997.

**FOR FURTHER INFORMATION CONTACT:** Joel J. Schaer, Office of Counsel to the Inspector General, (202) 619-0089.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*The PRO Sanctions Process*

Section 1156 of the Social Security Act imposes specific statutory obligations on health care practitioners and other persons to furnish medically necessary services to Medicare and State health care program beneficiaries that meet professionally recognized standards of health care. The statute authorizes the Secretary—based on a PRO's recommendation—to impose sanctions on those who fail to comply with these statutory obligations.

Under the PRO sanctions process as originally established, no practitioner or other person was subject to a program exclusion or a momentary penalty until the practitioner or other person had received notice of the proposed sanction and had an opportunity to respond, including a discussion with the PRO. After the receipt of a recommendation from a PRO, the OIG, delegated the Secretary's authority, was authorized to impose an exclusion or a monetary penalty after a careful review of all