determination that probable cause exists; and

(iv) Names of individuals who are residents and provide information for the record.

(2) Have written policies governing access to, storage of, duplication and release of information from client records; and

(3) Obtain written consent from the client, if competent, or from his or her legal representative, from individuals who have been provided general information or technical assistance on a particular matter and from individuals who furnish reports or information that forms the basis for a determination of probable cause, before releasing information to individuals not otherwise authorized to receive it.

(b) Nothing in this subpart shall prevent the P&A system from. (1) Issuing a public report of the results of an investigation which maintains the confidentiality of the individuals listed in paragraph (a)(1) of this section or,

(2) Reporting the results of an investigation which maintains the confidentiality of individual service recipients to responsible investigative or enforcement agencies should an investigation reveal information concerning the facility, its staff, or employees warranting possible sanctions or corrective action. this information may be reported to agencies responsible for facility licensing or accreditation, employee discipline, employee licensing or certification, or criminal prosecution.

(c) For purposes of any periodic audit, report, or evaluation of the performance of the P&A system, the Secretary shall not require the P&A system to disclose the identity, or any other personally identifiable information, of any individual requesting assistance under a program. This requirement does not restrict access by the Department or other authorized Federal or State officials to client records or other records of the P&A system when deemed necessary for audit purposes and for monitoring P&A system compliance with applicable Federal or State laws and regulations. The purpose of obtaining such information is solely to determine that P&A systems are spending their grant funds awarded under the Act on serving individuals with mental illness. Officials that have access to such information must keep it confidential to the maximum extent permitted by law and regulations. If photostatic copies of materials are provided, then the destruction of such evidence is required once such reviews have been completed.

(d) Subject to the restrictions and procedures set out in this section, implementing section 106 (a) and (b) of the Act (42 U.S.C. 10806 (a) and (b)), this part does not limit access by a legal guardian, conservator, or other legal representative of an individual with mental illness, unless prohibited by State or Federal law, court order or the attorney-client privilege.

§ 51.46 Disclosing information obtained from a provider of mental health services.

(a) Except as provided in paragraph (b) of this section, if a P&A system has access to records pursuant to section 105(a)(4) of the Act (42 U.S.C. 10805(a)(4)) which, under Federal or State law, are required to be maintained in a confidential manner by a provider of mental health services, it may not disclose information from such records to the individual who is the subject of the information if the mental health professional responsible for supervising the provision of mental health services to that individual has given the P&A system a written determination that disclosure of such information to the individual would be detrimental to the individual's health. The provider shall be responsible for giving any such written determination to the P&A system at the same time as access to the records containing the information is granted.

(b)(1) If the disclosure of information has been denied under paragraph (a) of this section to an individual, the following individuals or the P&A system may select another mental health professional to review the information and to determine if disclosure of the information would be detrimental to the individual's health:

(i) Such individual;

(ii) The legal guardian, conservator or other legal representative of the individual; or

(iii) An eligible P&A system, acting on behalf of an individual:

(A) Whose legal guardian is the State; or

(B) Whose legal guardian, conservator, or other legal representative has not, within a reasonable time after the denial of access to information under paragraph (a), selected a mental health professional to review the information.

(2) If such mental health professional determines, based on professional judgment, that disclosure of the information would not be detrimental to the health of the individual, the P&A system may disclose such information to the individual.

(c) The restriction in paragraph (b) of this section does not affect the P&A system's access to the records.

[FR Doc. 97–26835 Filed 10–9–97; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 433

[MB–113–F]

RIN: 0938–AI30

Medicaid Program; Limitation on Provider-Related Donations and Health Care-Related Taxes; Revision of Waiver Criteria for Tax Programs Based Exclusively on Regional Variations; Correction

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

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to the final regulations that were published in the **Federal Register** on August 13, 1993 (58 FR 43156). These regulations revised the Medicaid regulations relating to limitations on federal financial participation (FFP) in State medical assistance expenditures when States receive funds from provider-related donations and revenues generated by certain health care-related taxes.

EFFECTIVE DATE: September 13, 1993.

FOR FURTHER INFORMATION CONTACT: Jim Frizzera, (410) 786–9535.

SUPPLEMENTARY INFORMATION: On August 13, 1993, we published final regulations that further implemented statutory provisions that limit the amount of Federal financial participation (FFP) available for medical assistance expenditures in a fiscal year when States receive funds donated from providers and revenues generated by certain health care related taxes. The August 13, 1993 final rule amended on interim final rule that was published in the **Federal Register** on November 24, 1992 that established in regulations the statutory limitations.

In general, the statute specified the types of health care related taxes that a State is permitted to receive without a reduction in FFP. Such taxes are broad-based taxes that apply in a uniform manner to all health care providers in a class, and that do not hold providers harmless for their tax costs. If, however, a State tax is not broad-based and uniform, a State may submit a waiver application to us requesting that we

treat its tax as a broad-based and uniform health care-related tax. A State application may be approved if the State established that, among other things, the tax is generally redistributive. We established in the regulation the waiver criteria under which we will determine whether a tax, that does not meet the statutory defined broad-based or uniform requirements, is generally redistributive.

As published, the regulation at 42 CFR 433.68(e)(2)(iv) contains an error in the percentage amount necessary to demonstrate that a State tax that varies, based exclusively on regional variations, and enacted and in effect prior to November 24, 1992, is generally redistributive and can be considered to meet the criteria for waiver of the uniform tax requirement.

List of Subjects in 42 CFR Part 433

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

Accordingly, 42 CFR part 433 is corrected by making the following correcting amendment:

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.)

§ 433.68 [Corrected]

2. In § 433.68, paragraph (e)(2)(iv), remove the percentage ''0.85'' and add in its place ''0.70''.

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

Dated: September 12, 1997.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 97–27194 Filed 10–9–97; 4:00 pm]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket Nos. 92–266 and 93–215; FCC 97–339]

Small Cable Television Systems; Rate Regulation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a Fourteenth Order on Reconsideration denying two petitions seeking reconsideration of the rules adopted for small cable television systems governing rates charged for regulated cable services in the Sixth Report and Order and Eleventh Order on Reconsideration in MM Docket Nos. 92–266 and 93–215, FCC 95–195. The Commission also adopted minor clarifications to the rate rules.

EFFECTIVE DATE: October 15, 1997.

FOR FURTHER INFORMATION CONTACT: Julie Buchanan, Cable Services Bureau, (202) 418–7200.

SUPPLEMENTARY INFORMATION: The following is a synopsis of the Commission's Fourteenth Order on Reconsideration in MM Docket Nos. 92–266 and 93–215, adopted September 24, 1997 and released October 1, 1997. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Synopsis

I. Introduction

1. On May 5, 1995, the Commission adopted the Sixth Report and Order and Eleventh Order on Reconsideration in MM Docket Nos. 92–266 and 93–215, FCC 95–196, 60 FR 35854 (July 12, 1995) (''Small System Order''), thereby modifying the rules governing rates charged for regulated cable services by certain smaller cable systems. In this order, we address petitions for reconsideration of the Small System Order.

II. Background

2. Section 623(i) of the Communications Act of 1934, as amended (''Communications Act''), requires that the Commission design rate regulations to reduce the administrative burdens and the cost of compliance for cable systems with 1,000 or fewer subscribers. In the Small System Order, the Commission extended small system rate relief to small cable systems owned by small cable companies. The Small System Order defines a small system as any system that serves 15,000 or fewer subscribers, and it defines a small cable company as a cable operator that serves a total of 400,000 or fewer subscribers over all of its systems.

3. In addition to adopting the new categories of small systems and small cable companies, the Small System Order introduced a form of rate regulation known as the small system cost of service methodology. This approach, which is available only to small systems owned by small cable companies, follows general principles of cost of service rate regulation. An eligible cable operator may establish a maximum permitted rate for regulated cable service equal to the amount necessary to cover its operating expenses plus a reasonable return on its prudent investment in the assets used to provide that service. The small system cost of service methodology differs both procedurally and substantively from the standard cost of service methodology available to cable operators generally.

4. To implement the small system cost of service rules, we designed FCC Form 1230, a simplified one-page form, for use exclusively by operators eligible for these rules. This form is more streamlined than Form 1220 used for cost of service showings by larger operators. To use Form 1230, the operator must calculate five items of data pertaining to the system in question: annual operating expenses, net rate base, rate of return, channel count and subscriber count. Once these variables are calculated, the form generates the maximum per channel rate the operator may charge for regulated service. Although subject to regulatory review, this rate is presumed reasonable if it is no more than $1.24 per channel.

5. When applicable, the presumption of reasonableness effectively exempts eligible cable operators from many of the proof burdens that apply under our standard cost of service rules. For example, eligible small cable companies have greater discretion than larger operators in determining how to allocate costs between regulated and unregulated services and between various levels of regulated services. Similarly, qualifying cable operators using Form 1230 are not subject to the presumption of unreasonableness that otherwise attaches when an operator seeks a rate of return higher than