TABLE IX.—RULES LOG NUMBER, RULES REVISION, AND AFFECTED AREAS FOR TEXAS NO_X SIP—Continued

Rule log No.	Rule revision	Affected areas
1999–055D–117–AI	Point sources in D/FW area	Collin, Dallas, Denton, and Tarrant counties.

If you are in one of these Texas counties, you should refer to the Texas NO_X rules to determine if and how today's action will affect you.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely approves State law as meeting federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.).

Because this rule proposes to approve pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998).

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a State rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS.

It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The proposed rule does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*.).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Nitrogen oxides, Nonattainment, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 16, 2000.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 00–27925 Filed 10–30–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 435

[HCFA–2086–P]

RIN 0938–AK22

Medicaid Program; Change in Application of Federal Financial Participation Limits

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would change the current requirement that limits on Federal Financial Participation (FFP) must be applied before States use less restrictive income methodologies than those used by related cash assistance programs in determining eligibility for Medicaid.

This regulatory change is necessary because the current regulatory interpretation of how the FFP limits apply to income methodologies under section 1902 (r)(2) of the Social Security Act (the Act) unnecessarily restricts States' ability to take advantage of the authority to use less restrictive income methodologies under that section of the statute. While the enactment of section 1902(r)(2) of the Act could be read in the limited manner embodied in current regulations the statute does not require such a reading, and subsequent State experience with implementing section 1902(r)(2) calls into question the current regulation's approach.

DATES: We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on November 30, 2000.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–2086–P, P.O. Box 8010, Baltimore, MD 21244–8010.

To ensure that mailed comments are received in time for us to consider them, please allow for possible delays in delivering them.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 443-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–8010.

Comments mailed to the above addresses may be delayed and received too late for us to consider them.

Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–2086–P.

Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's office at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 to 5 p.m. (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Roy Trudel, (410) 786–3417.

SUPPLEMENTARY INFORMATION: Generally, in determining financial eligibility of individuals for the Medicaid program, State agencies must apply the financial methodologies and requirements of the cash assistance program that is most closely categorically related to the individual's status. Our regulations at 42 CFR 435.601 set forth the requirements for State agencies applying less restrictive income and resource methodologies when determining Medicaid eligibility under the authority of section 1902(r)(2) of the Social Security Act (the Act). Current regulations at 42 CFR 435.1007 provide that when States use less restrictive income and resource methodologies under section 1902(r)(2), the limits on Federal Financial Participation (FFP) in section 1903(f) of the Act apply before application of any less restrictive income methodologies. We are proposing to amend that regulation to change this requirement so that FFP limits would apply after application of any less restrictive income methodologies under section 1902(r)(2) of the Act.

The adoption of this policy would give States additional flexibility in setting Medicaid eligibility requirements. Also, we believe adoption of this policy reflects the intent of Congress to move the Medicaid program away from cash assistance program rules, as evidenced by enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which severed the link between the AFDC program and Medicaid.

I. Background

Section 2373(c) of the Deficit Reduction Act of 1984 (DRA) established a moratorium period beginning on October 1, 1981, during which the Secretary was prohibited from taking any compliance, disallowance, penalty, or other regulatory action against a State because a State's Medicaid plan included a standard or methodology for determining financial eligibility for the medically needy that the Secretary determined was less restrictive than the standard or methodology required under the related cash assistance program.

The provisions of the DRA moratorium were clarified by section 9 of the Medicare and Medicaid Patient Program Protection Act of 1987. Section 9 amended section 2373(c) of DRA to specify that the moratorium applied to the Secretary's compliance, disallowance, penalty, or other regulatory actions against a State because the State plan is determined to be in violation of provisions of the Act for coverage, as optional categorically needy, of certain aged, blind, and disabled individuals who were in institutions or receiving home and community-based services, as well as methodologies for determining financial eligibility of the medically needy.

The moratorium applied to an amendment or other changes in Medicaid State plans, or operation or program manuals, regardless of whether the Secretary had approved, disapproved, acted upon, or not acted upon the amendment or other change, or operation or program manual.

Authority to adopt less restrictive financial methodologies as part of a State's Medicaid plan was added to the law in 1988. Section 303(e) of the Medicare Catastrophic Coverage Act of 1988, enacted on July 1, 1988 (and amended by section 608(d)(16)(C) of the Family Support Act of 1988), amended the Act to permit States to use less restrictive financial methodologies in determining eligibility not only for the medically needy eligibility group at section 1902(a)(10)(C) of the Act, but also for specified categorically needy groups of individuals. These categorically needy groups include qualified pregnant women and children (section 1902(a)(10)(A)(i)(III) of the Act), poverty level pregnant women and infants (section 1902(a)(10)(A)(i)(IV) of the Act), qualified Medicare beneficiaries (section 1905(p) of the Act), all of the optional categorically needy groups specified in section 1902(a)(10)(A)(ii) of the Act, and individuals in States that have elected, under section 1902(f) of the Act, to apply more restrictive eligibility criteria than are used by the Supplemental Security Income (SSI) program. This provision of the Medicare Catastrophic Coverage Act was effective for medical assistance furnished on or after October 1, 1982. This authority was codified in a new section 1902(r)(2) of the Act.

The application of FFP limits prior to use of section 1902(r)(2) more liberal income methodologies was based on the Senate Report accompanying the 1987 amendment to the DRA moratorium (Senate Report No. 109, 100th Congress, 1st session at 24–25) which stated that:

> The moratorium does not eliminate the limits on income and resources of eligible individuals and families under section 1903(f) (including the requirements that the applicable medically needy income level not exceed the amount determined in accordance with standards prescribed by the Secretary to be equivalent to 133⅓ percent of the most generous AFDC eligibility standard, and that the income of individuals receiving a State supplementary payment in a medical institution or receiving home and community-based services under a special income standard not exceed 300% of the SSI standard). The moratorium also does not permit States Medicaid benefits to those who are not ''categorically related'' individuals (that is, individuals who would not be eligible for Medicaid, regardless of the amount of their income and resources).

Since, as the legislative history indicates, section 1902(r)(2) is essentially the codification of the DRA moratorium, we continued to apply the FFP limits at section 1903(f) of the Act when developing the implementing regulations for section 1902(r)(2).

However, subsequent experience has shown that the policy we adopted restricted the flexibility Congress intended States to have when it enacted section 1902(r)(2) in ways we did not foresee when we published the current regulations. The real effect of the policy we adopted was to make it almost impossible for States to actually use less restrictive income methodologies for many eligibility groups, including the medically needy, because use of such methodologies would violate the FFP limits. States have noted that the application of the FFP limits prior to use of less restrictive income methodologies unnecessarily limits their flexibility to expand Medicaid eligibility and simplify program administration by modifying cash assistance financial methodologies that do not work well in the Medicaid context.

Further, the passage of Pub. L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, leads us to believe that the current

application of the FFP income limits under section 1902(r)(2) no longer reflects Congressional intent. In enacting this legislation, Congress clearly expressed its intent that States should have the flexibility to depart from cash assistance program-based income criteria to define Medicaid eligibility. Given that Congress chose to sever the link between cash assistance and Medicaid under this legislation, we believe it is valid to conclude that Congress did not actually intend that FFP limits, which are based on cash assistance standards, apply prior to use of less restrictive financial methodologies under section 1902(r)(2) of the Act for those eligibility groups to which section 1902(r)(2) applies.

Also, section 1903(f) was enacted prior to section 1902(r)(2). Had Congress intended that the FFP limits apply prior to use of less restrictive income methodologies, it could have amended section 1903(f) to so state. The fact that section 1903(f) was not so amended indicates that Congress intended that the FFP limits apply after, not before, use of less restrictive income methodologies.

Thus, this change will give States needed additional flexibility in setting Medicaid eligibility requirements. Even though section 1902(r)(2) was derived from the DRA moratorium, its own legislative history did not contain any similar discussion of its interaction with the 1903(f) FFP limits. As such, we do not believe it is necessary to consider the legislative history of DRA to be determinative of Congressional understanding of the operation of section 1902(r)(2).

II. Provisions of the Proposed Regulations

As explained above, we are proposing to amend § 435.1007 to change the requirement that FFP limits apply prior to use of any less restrictive income methodologies under section 1902(r)(2) of the Act.

Section 435.1007 Categorically Needy, Medically Needy, and Qualified Medicare Beneficiaries

In 435.1007(b), we intend to delete the phrase ''does not exceed'' and replace it with the word ''exceeds''. This is purely an editorial change to correct an error in wording in the current regulation.

In § 435.1007, we are proposing to amend paragraph (e) by removing the phrase ''are applied and before the less restrictive income deductions under § 435.601(c)'' and replacing it with the following language: ''and any income disregards in the State plan authorized under section 1902(r)(2)'.

We are proposing to further amend § 435.1007 by adding a new paragraph (f) to read: ''A State may use the less restrictive income methodologies included under its State plan as authorized under § 435.601 in determining whether a family's income exceeds the limitation described in paragraph (b) of this section.''

III. Collection of Information Requirements

Under the Paper Work Reduction Act (PRA) of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment if Office of Management and Budget review and approval is needed because a proposed regulation imposes a collection of information requirement.

However, this proposed regulation does not impose any new collection of information requirements. Whether to take advantage of the flexibility the proposed rule makes available is strictly at the option of each State. If a State chooses to use any less restrictive income methodologies under the proposed rule, it would do so by using the existing process for amending its State Medicaid plan. The proposed rule imposes no new or different processes or information requirements on States.

IV. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the major comments in the preamble to that document.

V. Regulatory Impact Statement

A. Overall Impact

We and the Office of Management and Budget have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any one year). This rule is considered to be a major rule with economically significant effects.

The Medicaid and Medicare cost of the proposed rule is projected to be $960 million over five years. This estimate is based on available cost data on medically needy income standards and medically needy spending levels. Such data could be obtained for only two States (Utah and California). Using that available data, we projected the potential cost of the proposed rule by assuming that within two years of enactment about one fourth of States (*i.e.*, States representing at least 25% of total Medicaid program costs) would implement changes similar to those proposed by Utah and California. The result was an estimated potential cost of $860 million over five years in Medicaid costs and about $100 million in Medicare costs as explained below.

Arriving at the Medicaid and Medicare costs was difficult due to the fact that implementation of the option under this rule is entirely at the discretion of the State. Further, States that choose to exercise the option have great latitude in establishing the extent to which, and the eligibility groups for which, the option would be applied under their State Medicaid plan. As a result of limited data being available, we invite comments on this section.

Benefits of the Proposed Rule Change

We believe the proposed change will benefit both States and individuals in a number of ways. For example, under normal eligibility rules, States are required to count many kinds of income. Some of these types of income are administratively burdensome to deal with, and often do not materially affect the outcome of the eligibility determination. Some examples are the value of food or shelter provided to an applicant (called in-kind support and maintenance), income belonging to a parent of a child, or a spouse who is not applying for benefits (called deemed income), and low amounts of income such as interest earned on savings accounts. The proposed rule would allow States to use income disregards to simplify the process of determining eligibility by not counting types of income that primarily impose an administrative burden.

Medically Needy Income Limits

Under a medically needy program, States can choose to cover under Medicaid individuals with income that is too high to otherwise be eligible, but

who, by subtracting incurred medical expenses from their income, could reduce their income to the State's medically needy income standard. This process is known as spending down excess income, or ''spenddown''.

However, in many States the medically needy income standard is very low; in at least 22 States, the medically needy income standard is actually lower than the income standard for SSI benefits ($512 a month for an individual in 2000). In four States, the medically needy income standard is less than $200 a month. This creates a situation where individuals whose income is just slightly over the limit that would allow them to receive Medicaid as SSI recipients must spend down a certain amount of ''excess'' income to reach the medically needy income level.

For example, a person with $512 a month in income can be eligible for SSI and get free Medicaid in most States. A person with just $1 more cannot be eligible for SSI, and thus cannot receive Medicaid based on receiving SSI benefits. Depending on a particular State's medically needy income level, such an individual may have to spend over $300 on medical care each month just to reach a medically needy income limit that is that far below the SSI level.

Under the Medicaid statute, States cannot just increase their medically needy income levels to deal with this problem. However, under the proposed rule, a State could use section 1902(r)(2) to disregard additional amounts of income under its medically needy program, effectively reducing or even eliminating the large spenddown liability described in the example above.

Helping People Move From Institutions to the Community

The medically needy spenddown problem described above can also have adverse effects for people in medical institutions who would like to receive care in community settings. In many States, people with relatively high levels of income (up to $1,536 a month in 2000) can still be eligible for Medicaid provided they are in a medical institution. This is because many States cover an eligibility group that is specifically targeted at people in institutions, and which provides for that high income standard.

As long as a person is in the institution, he or she remains eligible for Medicaid. However, if the person wants to move to the community, he or she will lose eligibility under the institutional group. The only alternative in many cases is to become eligible in the community as medically needy. However, as explained previously, the medically needy income standard is very low in many States. A person who was eligible under the institutional group may find that he or she must spend most of his or her income on medical care in the community before the medically needy income standard can be met. The person may not be able to incur enough in the way of medical expenses while in the community to meet the medically needy income standard, which in turn would mean the person effectively would be without any coverage for medical care. Even if the person could incur enough medical expenses, though, the medical expenses would consume so much income that the person would have little left to use for the basic necessities of life such as food, clothing, shelter, transportation, etc.

The practical effect of this is that many people in institutions who would like to move to the community, and who would normally be able to manage in a community setting, remain in the institution because they literally cannot afford to leave. The proposed change in the regulations would give States opportunities to correct spenddown problems so that more people could leave institutional settings and live in the community.

Encouraging Work Effort

While legislation enacted in the last few years has given States new options for providing Medicaid to individuals with disabilities who want to work, States may want to encourage work effort among individuals eligible under other groups such as the medically needy, or among individuals who may not readily fit into one of the new work incentives groups. One way to encourage work effort is to allow people to keep more of the income they earn without forcing them to either spend more for medical care under a medically needy spenddown, or risk losing Medicaid altogether.

Under section 1902(r)(2) a State could do that by increasing the amount of earned income that is not counted in determining a person's eligibility. However, the current application of the FFP limits to the use of less restrictive income disregards effectively precludes States from offering that kind of encouragement for many eligibility groups. The proposed change in the regulations would remove that restriction, giving States another way to encourage work effort.

Medicaid Eligibility Expansion

In addition to the specific examples described above, section 1902(r)(2) gives States the option of expanding their Medicaid eligibility rolls by disregarding additional types and amounts of income and resources, thereby allowing people who could not otherwise meet the program's eligibility requirements to become eligible. However, the current application of the FFP limits to the use of less restrictive income disregards greatly reduces the options States have to implement that kind of program expansion. The proposed regulation change would give States the full flexibility provided by section 1902(r)(2) to expand their base of eligible individuals if they choose to do so.

Effect on Small Businesses and Small Rural Hospitals

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. Individuals and States are not included in the definition of a small entity.

We certify that small entities would not be affected by the proposed rule because the rule only affects States, which by definition are not small entities. The proposed rule would affect only States because any decisions concerning whether to take advantage of the options the rule makes available would be made at the State government level and then implemented by each State. However, because of limited data available, we invite comments in this area.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This proposed rule would have no direct impact on small rural hospitals. The proposed rule affects only States because only States can implement the option the proposed rule makes available. As such small rural hospitals are in no way involved in the process of deciding whether to take advantage of the flexibility the proposed rule offers. Small rural hospitals would be impacted only to the extent that a State's use of less restrictive income methodologies could result in some

increase in the number of individuals eligible for Medicaid. This in turn could result in a slight increase in utilization of rural hospital services should an individual eligible under the less restrictive methodology need such services. Again, because of limited data available, we invite comments in this area.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in an annual expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million. The proposed rule would have no impact on the private sector. The rule would impose no requirements on State, local or tribal governments. Rather, it would offer State governments additional flexibility in operating their Medicaid programs, but would not require that they make any changes in their programs.

Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that would impose substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. The proposed rule would impose no requirement costs on governments, nor does it preempt State law or otherwise have Federalism implications.

HCFA has had discussions of this issue with a number of State governments since approximately 1990. Those discussions have taken place both with individual States and with groups of States, including HCFA's Medicaid Eligibility Technical Advisory Group and the National Association of State Medicaid Directors Executive Council. Based on the many discussions we have had, we believe States will be overwhelmingly in favor of the proposed change.

B. Anticipated Effects

1. Effects on State Governments

The proposed rule will give States greater flexibility in designing and operating their Medicaid programs.

2. Effects on Providers

No providers would be affected by this rule.

3. Effects on the Medicare and Medicaid programs

This rule would increase Medicare costs by about $100 million over five years. Since the rule may increase the number of individuals eligible for Medicaid who receive inpatient hospital services, it would affect the calculation of hospitals' disproportionate share hospital (DSH) calculations under the Medicare program. We estimate that Medicare DSH payments would increase by $100 million over five years due to changes in this rule.

Under Medicaid, it is projected that the Federal cost of this rule could be as much as $860 million over 5 years. However, because actual implementation of the provisions of the rule is strictly at the option of each State, actual Federal program costs would depend on whether, and to what degree, States choose to take advantage of the flexibility provided by the proposed rule.

C. Alternatives Considered

There are few alternatives to the proposed rule to consider. One alternative is to maintain the requirement that the FFP limits apply prior to use of less restrictive income methodologies under § 435.601, but allow additional disregards at a somewhat higher level than is possible under the current regulations. However, this would not provide States the level of flexibility to operate their Medicaid programs that is provided under the proposed rule, and thus would be of only limited value. We rejected this alternative because it would not give States what they need to effectively operate their Medicaid programs.

We also considered pursuing a legislative option that would have changed the Medicaid statute itself to clarify that the FFP limits at section 1903(f) of the Act should apply after, rather than before, the use of any less restrictive income methodologies under section 1902(r)(2) of the Act. However, as explained previously the current policy concerning application of the FFP limits to less restrictive income methodologies does not reflect a clear statutory requirement, but rather is an administrative interpretation of the statute. Since the statute as written will support the proposed change in policy, we believe the issue should be addressed via a change in the regulations rather than a change in the statute. Also, we believe the proposed rule is the most efficient and expedient way of accomplishing the desired change.

D. Conclusion

We expect this rule to benefit State Medicaid programs and Medicaid beneficiaries by giving States additional flexibility in designing and operating their programs. In turn, this would allow States to make individuals eligible for Medicaid who otherwise could not be eligible under the current regulations.

Because this rule is considered major rule that is economically significant, we have prepared a regulatory impact statement. We believe that this rule will have an estimated cost of $960 million dollars over five years based on best available data. In addition, we certify, that this rule would not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 435

Aid to Families with Dependent Children, Grant programs—health, Medicaid, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Wages.

For the reasons set forth in the preamble, 42 CFR part 435 would be amended as set forth below:

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

1. The authority citation for part 435 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. Section 435.1007 is amended by revising paragraphs (b) and (e) and adding paragraph (f) to read as follows:

435.1007 Categorically needy, medically needy, and qualified Medicare beneficiaries.

* * * * *

(b) Except as provided in paragraphs (c) and (d) of this section, FFP is not available in State expenditures for individuals (including the medically needy) whose annual income after deductions specified in §§ 435.831(a) and (c) exceeds the following amounts, rounded to the next higher multiple of $100.

* * * * *

(e) FFP is not available in expenditures for services provided to categorically needy and medically needy recipients subject to the FFP limits if their annual income, after the cash assistance income deductions and any income disregards in the State plan authorized under section 1902(r)(2) of the Act are applied, exceeds the 133⅓ percent limitation described under paragraphs (b), (c), and (d) of this section.

(f) A State may use the less restrictive income methodologies included under its State plan as authorized under § 435.601 in determining whether a family's income exceeds the limitation described in paragraph (b) of this section.

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

Dated: July 25, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Approved: September 23, 2000.

Donna E. Shalala,

Secretary.

[FR Doc. 00–27923 Filed 10–27–00; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2302; MM Docket Nos. 00–189, 00–190, 00–191, 00–192; RM–9984, RM–9985, RM–9986, RM–9987

Radio Broadcasting Services (Heber, Snowflake, Overgaard, and Taylor, Arizona)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission, at the request of New Directions Media, Inc., seeks comment on four petitions for rulemaking requesting the allotment of Channel 288C2 at Heber, Arizona; Channel 258C2 at Snowflake, Arizona; Channel 232C3 at Overgaard, Arizona; and Channel 278C3 at Taylor, Arizona as each community's first local aural service. Channel 288C2 can be allotted to Heber in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, without the imposition of a site restriction, at coordinates 34–25–53 NL and 110–35–36 WL. Channel 258C2 can be allotted to Snowflake in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, without the imposition of a site restriction at coordinates 34–30–48 NL and 110–04–40 WL. Channel 232C3 can be allotted to Overgaard in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, without the imposition of a site restriction at coordinates 34–23–27 NL and 110–33–04 WL. Channel 278C3 can be allotted to Taylor in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, without the imposition of a site restriction at coordinates 34–27–54 NL and 110–05–26 WL. Petitioner is requested to provide further information concerning the community status of each proposed community.

DATES: Comments must be filed on or before December 1, 2000, and reply comments on or before December 18, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: New Directions Media, Inc., Robert D. Zellmer, President, P.O. Box 1643, Greeley, CO 80632.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, Docket No. 00–189, 00–190, 00–191, 00–192, adopted September 27, 2000, and released October 11, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority Citation for part 73 continues to read as follows:

Authority: 47 U.S.C 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Heber, Channel 288C2, Snowflake, Channel 258C2, Overgaard, Channel 232C3, and Taylor, Channel 278C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2301; MM Docket No. 00–194, RM–9972; MM Docket No. 00–195, RM–9973; MM Docket No. 00–196, RM–9974; MM Docket No. 00–197, RM–9975]

Radio Broadcasting Services; Paradise, MI; Clinton TN; Lynchburg, TN; Rincon, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes four new allotments to Paradise, MI; Lynchburg, TN; Clinton, TN; and Rincon, TX. The Commission requests comments on a petition filed by David C. Schaburg proposing the allotment of Channel 234A at Paradise, Michigan, as the community's first local aural transmission service. Channel 234A can be allotted to Paradise in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 234A at Paradise are 46–37–42 North Latitude and 85–02–18 West Longitude. Since Paradise is located within 320 kilometers (199 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been requested. *See* **SUPPLEMENTARY INFORMATION**.

DATES: Comments must be filed on or before December 1, 2000, and reply comments on or before December 18, 2000.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the