

**§ 1.11 Engineering services.**

(a) *Federal participation.* Costs of engineering services performed by the State highway department or any instrumentality or entity referred to in paragraph (b) of this section may be eligible for Federal participation only to the extent that such costs are directly attributable and properly allocable to specific projects.

\* \* \* \* \*

[FR Doc. 01-29258 Filed 11-21-01; 8:45 am]

BILLING CODE 4910-22-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[FRL-7105-5]

**Approval and Promulgation of Implementation Plans; Texas; Revisions to General Rules and Regulations for Control of Air Pollution by Permits for New Sources and Modifications; Withdrawal of Direct Final Rule**

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

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

**SUMMARY:** Due to receipt of adverse comments, EPA is withdrawing the direct final rule to approve revisions to Texas General Rules and Regulations for Control of Air Pollution by Permits for New Sources and Modifications. In the direct final rule published September 24, 2001 (66 FR 48796), we stated that if we received adverse comment by October 24, 2001, the direct final rule would be withdrawn and would not take effect. The EPA will address all public comments in a subsequent final rule based on the proposed rule also published on September 24, 2001 (66 FR 48850). The EPA subsequently received adverse comments on the direct final rule from Public Citizen and from Lowerre & Kelly, Attorneys at Law.

**DATES:** The Direct final is withdrawn as of November 23, 2001.

**ADDRESSES:** Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

EPA, Region 6, Air Permits Section (6PD-R), 1445 Ross Avenue, Dallas, Texas 75202-2733  
TNRCC, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753

**FOR FURTHER INFORMATION CONTACT:** Stanley M. Spruiell, Air Permits Section at (214) 665-7212 or at spruiell.stanley@epa.gov.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 7, 2001.

**Lawrence E. Starfield,**

*Acting Deputy Regional Administrator, Region 6.*

Accordingly, the amendments to the table in § 52.2270(c) published in the **Federal Register** September 24, 2001 (66 FR 48796) is withdrawn as of November 23, 2001.

[FR Doc. 01-29100 Filed 11-21-01; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****42 CFR Part 130**

RIN 0906-AA56

**Ricky Ray Hemophilia Relief Fund Program**

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Adoption of interim final rule as final rule with amendments.

**SUMMARY:** This document adopts the Ricky Ray Hemophilia Relief Fund Program interim final rule as a final rule with amendments. This final rule facilitates the petitioning process where health care history can be certified by physician assistants as well as by physicians or nurse practitioners; details the procedures by which the Secretary may resolve issues of eligibility or payment raised by a petition; ensures that payments made for the benefit of minors and other individuals who do not have the legal capacity to receive the payments are used for their benefit; and allows additional time for petitioners who are having difficulty obtaining needed medical or legal documentation to complete their petitions.

**DATES:** The regulations published on May 31, 2000 (65 FR 34860), were effective on July 31, 2000, and the amendments made in this final rule are effective November 23, 2001.

**FOR FURTHER INFORMATION CONTACT:** Paul T. Clark, Program Director, Bureau of Health Professions, Health Resources

and Services Administration, (301) 443-2330.

**SUPPLEMENTARY INFORMATION:****Background**

The Ricky Ray Hemophilia Relief Fund Act of 1998 (Public Law 105-369) established the Ricky Ray Hemophilia Relief Fund Program to provide compassionate payments to certain individuals with blood-clotting disorders, such as hemophilia, who were treated with antihemophilic factor between July 1, 1982, and December 31, 1987 and contracted HIV. The Act also provides for payments to certain persons who contracted HIV from the foregoing individuals. The spouse or former spouse of such an individual, who acquired HIV from that individual is eligible for payment, as are children who acquired HIV through perinatal transmission from an eligible parent. In addition to these individuals, certain survivors also are eligible. A lawful spouse is eligible for the payment; if there is no surviving spouse, the payment is to be made in equal shares to all children of the eligible individual. If there are no surviving spouse or children, the parents of the eligible individual will receive the payment. If none of these individuals is living, the money will remain in the Fund. There is no provision for payment to be made to an estate or to any individual beyond those explicitly mentioned in the Act.

In order to receive a payment, either the eligible individual, or someone on behalf of the eligible individual, must file a petition for payment with sufficient documentation to prove that he or she meets the requirements of the statute.

Congress appropriated \$75 million to support the Ricky Ray Hemophilia Relief Fund Program during Fiscal Year (FY) 2000. As a result, we began issuing compassionate payments to eligible individuals in August 2000, in accordance with the procedures prescribed in the interim final rule. Congress has now passed an omnibus appropriations bill for FY 2001 that includes \$580 million for the Ricky Ray Program. The Department anticipates that the combined total of \$655 million for FY 2000 and 2001 is sufficient to make compassionate payments on all eligible petitions.

An interim final rule was published in the **Federal Register** on May 31, 2000 (65 FR 34860), to establish procedures and requirements for medical/legal documentation required to prove eligibility for individuals, a mechanism for providing compassionate payments to eligible individuals under the statute,

a reconsideration process, and to seek public comment on these provisions.

### Discussion of Comments

The public comment period ended on June 30, 2000. The Department received a total of 19 public comments. Fourteen were from potential petitioners and other individuals; four were from hemophilia and HIV advocacy groups; and one was from a professional association. The issues raised and the Department's responses appear below.

#### A. The Petitioning Process

One commenter expressed concern that individuals might seek a competitive edge in the random selection process by filing multiple identical petitions. The commenter urged us to establish specific, fixed penalties for those individuals, such as consolidating the petitions under the highest randomly-assigned number.

The Department agrees that multiple filings of identical petitions was a possible area of abuse in the petition process. In addition, the submission of multiple copies of identical petitions would cause a significant increase in administrative costs and hinder our ability to make payments on approved petitions in a timely fashion. Accordingly, we instituted a policy that if a petitioner submitted multiple identical petitions, all such petitions would be consolidated into one file prior to being assigned a randomly-selected order number. Because we are able to take corrective action prior to the assignment of randomly-selected order numbers, we have elected not to impose a penalty on individuals who file multiple petitions.

Another commenter urged us to publish petition forms in Spanish to accommodate those individuals who live in Spanish-speaking countries or territories (e.g., Puerto Rico).

The Ricky Ray Program already has in place a Spanish version of the Ricky Ray Hemophilia Relief Fund Petition Form. It is available to petitioners upon request, and at the Ricky Ray website. In addition, we have also provided technical support in Spanish via the Ricky Ray toll-free Helpline.

Another commenter suggested that we use other media in addition to the **Federal Register** to publicize availability of the Ricky Ray Hemophilia Relief Fund.

The Ricky Ray Program Office (RRPO) has made a broad effort to publicize the Ricky Ray Hemophilia Relief Fund by contacting advocacy groups for persons with blood-clotting disorders, hemophilia treatment centers, and numerous health care providers to

publicize the availability of the Program. In addition, the Department has issued press releases to the general media, and interviews have been conducted by various print and broadcast media groups. The RRPO implemented a website (<http://www.hrsa.gov/bhpr/rickyray>), installed a toll-free telephone number (1-888-496-0338), and made mass mailings to inform interested individuals of this Program.

Other commenters suggested that the Department expand the list of eligible survivors to include care providers and unmarried partners. In addition, one commenter stated that surviving parents of an eligible individual should be eligible to petition in conjunction with other survivors and receive a portion of the compassionate payment. This commenter also suggested that if the surviving spouse of an eligible individual remarries, his/her rights to apply as the eligible survivor should be forfeited, and the rights should pass to the next eligible survivor.

The interim final rule implements the provision of the Act that provides for payments to be made to specified survivors in a specific order. Section 103(c) of the Act provides for the payment to be made as follows: (1) To a surviving spouse who is living at the time of payment; (2) if there is no surviving spouse, the payment is to be made in equal shares to all children of the individual who are living at the time of payment; and (3) if there are no surviving spouse or surviving children, the payment is to be made in equal shares to the surviving parents of the eligible individual. If the individual is not survived by a person described in 1, 2, or 3 above, the payment will revert back to the Ricky Ray Hemophilia Relief Fund. The remarriage of an eligible spouse does not alter his/her statutory right to payment. In addition, the Act does not allow different classes of survivors to share in the payment. Only Congress can change the provisions of the Act.

One commenter suggested that the time frame for eligibility be expanded to include individuals who were treated with antihemophilic factor prior to July 1, 1982.

The time frame for qualifying for a compassionate payment from the Fund is established in section 102(a) of the Act. This section directs the Secretary to make a compassionate payment from the Fund to any individual with an HIV infection who has a blood-clotting disorder, such as hemophilia, and was treated with antihemophilic factor at any time between July 1, 1982, and

December 31, 1987. Only Congress can change the provisions of the Act.

The Department received comments requesting that the Program allow individuals to petition on behalf of the estate of deceased individuals who had a blood-clotting disorder, received antihemophilic factor and contracted HIV. The commenters argued that in the event that a deceased individual has no survivors, the executor should be eligible to apply on behalf of the deceased individual and apply the payment to the estate.

The Act does not provide for the payment of claims to estates of deceased individuals who contracted HIV. That conclusion reflects a legislative decision made by Congress, as the statute leaves no room for a contrary result. In the case of the deceased individual with HIV, section 103(c) of the Act directs the Secretary to make payment first to a surviving spouse, then to all surviving children, and lastly to the surviving parents of the deceased individual. If there are no survivors within those categories, the Act requires that the payment revert back to the Fund.

The Department received a comment urging the Program to eliminate § 130.23(a)(2) of the interim final rule, which relates to the filing of an amendment by the next eligible survivor in the event that a petitioner dies before payment. The commenter suggested that this scenario could be addressed through the court system.

The Department does not concur with this comment. We believe it is essential to have mechanisms in place to allow all potentially eligible survivors to petition for payment. The effect of § 130.23(a)(2) is to allow eligible survivors to retain the assigned order number of an individual who filed a petition, but then died prior to receiving payment.

A commenter suggested that the RRPO allow the private sector to implement and administer the Ricky Ray Hemophilia Relief Fund Act. Further, the commenter urged us to bestow upon the private sector the duty of disbursing government funds.

In accordance with the Act, the Secretary of Health and Human Services is required to establish procedures under which individuals may submit petitions for payment under the Ricky Ray Hemophilia Relief Fund. Section 101(c) of the Act also provides that amounts in the Fund shall be available only for disbursement by the Secretary of Health and Human Services. We have contracted with private expert consultants, as needed, for the purpose of obtaining assistance in reviewing petitioners' eligibility for compassionate

payments, but we retain the functions of determining eligibility and making payments. This is a Federal Government Program, and payments must be disbursed through the Secretary of the Department.

The Department received a comment regarding the process by which the Secretary will determine whether a petition is complete. Specifically, § 130.33(d) of the interim final rule indicates that, following the issuance of an incomplete notice, the Secretary will continue to process a petition if the petitioner fails to complete the petition within the specified deadline or fails to make an adequate showing of good cause as to why the required documentation is unavailable. The commenter noted that, in the event that the petitioner fails to complete the petition, the intended language might have been for the Secretary not to finish processing the petition.

It is the intention of the Secretary to process fully all submitted petitions. In the event that a petition does not include all required documentation, and the petitioner fails to make an adequate showing of good cause as to why the required documentation is unavailable, despite the extension of time that may be given under the amendments to § 130.33(c) and (d)(2) herein, the petition will be processed and may be disapproved.

One commenter suggested that petitions receive a chance for full review, even if the appropriated funds are exhausted for FY 2000 and 2001. In addition, the commenter asked that a statement be released indicating that all petitions will be reviewed regardless of the availability of appropriated funds.

The Secretary will review fully each petition postmarked between July 31, 2000, and November 13, 2001, regardless of the status of the funding.

#### *B. Documentation Required To Prove Eligibility*

One commenter requested that the regulations be changed to allow physician assistants to submit the Confidential Physician and Nurse Practitioner Affidavit. The commenter noted that physician assistants are regulated and certified in all States and, in many instances, serve as the primary health care providers for potential petitioners.

The Department agrees with this comment. Therefore, we are amending § 130.20(b) of the regulations to allow physician assistants, as well as physicians and nurse practitioners, to submit affidavits verifying medical eligibility.

One commenter raised concerns about the use of documents from the Factor Concentrate Settlement as delineated in § 130.31(h) of the interim final rule. The commenter raised concerns about obtaining such documentation and notification regarding whether the documentation was sufficient for a petition under the Act.

As described in § 130.31(h) of the interim final rule, the RRPO will accept originals, or duplicate copies, of medical and legal documentation used in the Factor Concentrate Settlement (*Susan Walker v. Bayer Corporation, et al.*, 96–C–5024 (N.D. Ill)). However, it is the responsibility of the petitioner to obtain such documentation or to request, in writing, that it be released by the Settlement Administrator directly to the Ricky Ray Program. If the Ricky Ray petitioner is the same person who originally submitted documents in the settlement, the Settlement Administrator may provide copies of those documents to the petitioner. However, in cases where the petitioner is someone other than the person who submitted the documents in the Settlement, the U.S. District Court has approved procedures to expedite the Ricky Ray payment process and ensure that confidentiality is protected (Settlement Implementation Order No. 16, December 14, 2000).

This Order authorizes the Settlement Administrator to provide the documents needed to complete a Ricky Ray petition, if available, directly from the Settlement files to the Ricky Ray Program when a petitioner so requests by sending the Settlement Administrator a copy of the letter from the Program indicating what required documentation is missing from the petition. Requests, which must be in writing and include the copy of this letter, should be sent to: Factor Concentrate Settlement Litigation, Claims Administrator, 1777 Sentry Parkway West, Dublin Hall, Suite 400, Blue Bell, PA 19422.

It should be noted that whatever eligibility or payment decisions were made under the Factor Settlement, those decisions have no bearing whatsoever on such determinations under the Ricky Ray Program. Allowing petitioners to use their documents from the Factor Settlement files to complete their Ricky Ray petitions, when applicable, is merely a mechanism to aid petitioners in completing their petitions in the least burdensome and most expeditious manner.

#### *C. The Payment Process*

A commenter suggested that the RRPO collect the taxpayer identification

number (TIN) of attorneys for the purpose of filing tax returns. The commenter stated that the Internal Revenue Service requires governmental units to collect TINs from attorneys when making payments which are income to attorneys, and to report those transactions via Form 1099–Misc informational returns.

In compliance with the statute, payments are made to petitioners and not to attorneys. Should the petitioner owe a portion of his or her payment to an attorney, within the limit of section 107 of the Act, the RRPO is not a party to that transaction and will not have information to report to the Internal Revenue Service.

The Department received a comment concerning the likelihood that the FY 2000 appropriation would be insufficient to pay all eligible petitioners. The commenter urged us to provide to each petitioner who files an approved petition and does not receive payment, a notice stating when the funds will be paid.

As stated earlier, since Congress now has appropriated \$580 million to the Ricky Ray Hemophilia Relief Fund for FY 2001, we believe that there will be sufficient funds to pay all approved petitions.

The Department received several comments suggesting that we prioritize the payment process. The commenters advocated that individuals with a blood-clotting disorder and HIV should receive compassionate payments before survivors of deceased individuals.

Section 103(c)(1) of the Act requires us to make payments to individuals who file complete and approved petitions “in the order received.” The process described in the interim final rule was designed to comply with this provision of the statute. The Act does not provide for prioritizing payments to individuals who are living with a blood-clotting disorder and HIV over payments to eligible survivors.

One commenter expressed concern regarding the amount of payments. The interim final rule and section 102(a) of the Act both provide that “\* \* \* if there are sufficient amounts in the Fund to make each payment, the Secretary shall make a single payment of \$100,000\* \* \*” to an eligible individual with HIV. The commenter questioned whether this provision could provide the basis for making partial payments if the Secretary determines that there are not sufficient funds available to make single payments of \$100,000.

The Secretary has interpreted this provision as requiring full payments of \$100,000 on behalf of each eligible

individual with HIV, to the extent that funds are available to make each individual payment.

#### D. The Reconsideration Process

The Department received comments regarding the reconsideration process for petitions denied payment. One commenter expressed concern that the reconsideration review panel be independent of, and not subject to influence from, the RRPO. In addition, another commenter asked where the request for reconsideration would have to be sent if different from the RRPO. The commenters also requested that the review process be clearly defined.

Every petitioner who files a petition and is denied payment may ask for reconsideration. As stated in § 130.40(a) of the interim final rule, the request must be sent to the Deputy Associate Administrator for Health Professions, Health Resources and Services Administration, Room 8A-54, 5600 Fishers Lane, Rockville, MD 20857. The request must be received within 60 calendar days of the date the petition was denied. The request should state the reasons that the petitioner is seeking reconsideration, but may not include any additional documentation not previously provided. The Deputy Associate Administrator will convene a panel to review all requests for reconsideration. The panel will consist of three individuals qualified to evaluate the petitions who are independent of the RRPO. The panel will review each case and make recommendations to the Deputy Associate Administrator. The recommendations of the review panel will be made independently of the RRPO. The Deputy Associate Administrator will review the recommendations and make the final determination.

#### Explanation of Provisions

Section 130.20(b) of the interim final rule currently provides that the medical documentation required to prove that an individual is eligible for payment may be submitted in the form of relevant medical records or of an affidavit, signed under penalty of perjury, by a physician or nurse practitioner, verifying that the individual had a blood-clotting disorder, such as hemophilia, received antihemophilic factor between July 1, 1982, and December 31, 1987, and was diagnosed as having HIV.

As previously noted, we are herein amending § 130.20(b) of the interim final rule to allow physician assistants, as well as physicians or nurse practitioners, to submit such sworn

affidavits to verify medical eligibility. Although we are not amending the sample affidavit in Appendix B to the final rule to reflect this addition, we will accept the affidavit when completed and signed by a physician assistant. This will apply to affidavits from physician assistants for petitions that have not yet been reviewed. According to the comment received on this issue, licensure terminology *per se* is not used by all States for physician assistants. Therefore, in the space currently provided in Section C of the affidavit for "License Number and State Where Licensed" physician assistants must include their State certification or registration number (and name of State) if a license number is not applicable.

A new § 130.24 is added to Subpart C stating that, where a petition raises an eligibility or payment question, the Secretary may require additional documentation to resolve the issue. For example, where the medical records submitted are inconclusive in establishing HIV infection, a sworn affidavit verifying satisfaction of the medical criteria necessary for eligibility, or evidence of one or more of the opportunistic diseases listed in Appendix A may be required.

Under the Act and regulations, if the person with HIV is no longer living and is not survived by a spouse or children who are living at the time of payment, the compassionate payment is made in equal shares to the surviving parents (§ 130.11(b)(3)). If one parent is deceased, the sole surviving parent is eligible to receive the full payment of \$100,000. In order for the Secretary to determine the appropriate amount of the payment to be made, a petitioner filing a petition designating him/herself to be the sole surviving parent must provide proof of death, or termination of parental rights, of the other parent. Where a parent is seeking the full \$100,000 payment but cannot document that the other parent is deceased, proof of termination of parental rights or other evidence establishing eligibility for the full payment would be required to determine the proper payment amount.

The RRPO may make compassionate payments for the benefit of a legally incompetent individual (i.e., a minor or other individual who does not have the legal capacity to receive payment directly). However, in order to ensure that these payments are, in fact, used for their benefit, we are requiring that evidence of a guardianship (sometimes called a conservatorship) established in accordance with applicable State and local laws, as well as proof of a guardianship account, be provided before a compassionate payment can be

made for the benefit of these individuals. Payments will be made electronically to the guardianship account. If these requirements have not been met at the time the petition is submitted, the RRPO will not delay review of the petition.

Although there may be a time and cost burden associated with the establishment of a guardianship and guardianship account (all fees associated with these requirements are to be borne by the petitioner), persons without legal capacity to receive payments who participated in the Factor Concentrate Settlement (i.e., the *Walker v. Bayer* case) may already have established such an account. If so, this would reduce any burden associated with the requirements of this policy, since it is unnecessary to establish a separate guardianship account specifically for payments made under the Ricky Ray Program.

We recognize that the personal representative (such as a parent, guardian, or attorney) who files the petition on behalf of a minor or other legally incompetent individual may not be the guardian of that person's property and, therefore, would not have the authority to receive the payment on his/her behalf. It is the responsibility of the personal representative filing the petition to submit the documentation showing that the guardianship and guardianship account have been set up as required, before payment can be made.

Further information regarding the RRPO policy on payments for the benefit of minors and legally incompetent adults is available on the Ricky Ray website at <http://www.hrsa.gov/bhpr/rickyray>.

Currently, § 130.33 provides that, as a part of the petition review process, if we determine that a petition is incomplete, we so notify the petitioner and give the petitioner 60 days from the date of notification to submit the missing information. In the event that the petitioner is unable to secure the required documentation to complete the petition, the petitioner may submit written documentation to the Secretary within the 60 days showing good cause as to why the required legal and/or medical evidence is not available.

In the interest of minimizing the burden on those who may be eligible for payment but who are having difficulty obtaining the required medical or legal documentation, the Department has determined that it may be helpful for some petitioners to have additional time beyond the 60-day deadline, at the discretion of the Secretary, in which to provide missing documentation and,

thereby, complete their petitions. Thus, we are amending § 130.33(c) to allow for this additional time, as the Secretary may deem appropriate, for petitioners to obtain and submit their missing documentation before the Secretary makes a final determination of eligibility. We are amending § 130.33(d)(2) as well and believe that we are thereby giving petitioners every opportunity to submit evidence of their eligibility where additional time would enable them to do so.

#### Technical Amendments

Technical amendments are being made to part 130 to add at the end of §§ 130.20, 130.21, 130.22, 130.23, 130.24, 130.30, and 130.31 a parenthetical statement indicating that these sections contain information collection requirements that have been reviewed and given an approval number by the Office of Management and Budget.

#### Justification of Waiver of Delay of Effective Date

The Secretary has found that a delay in the effective date of these amendments is unnecessary and contrary to the public interest. The amendments enable the RRPO to facilitate making compassionate payments to eligible petitioners with no additional burdens. They have no effect on any individual's rights or responsibilities.

#### Economic and Regulatory Impact

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that provide the greatest net benefits (including potential economic, environmental, public health, safety distributive and equity effects). In addition, under the Regulatory Flexibility Act (RFA) of 1980, if a rule has a significant economic effect on a substantial number of small entities, the Secretary must specifically consider the economic effect of the rule on small entities and analyze regulatory options that could lessen the impact of the rule.

Executive Order 12866 requires that all regulations reflect consideration of alternatives, of costs, of benefits, of incentives, of equity, and of available information. Regulations must meet certain standards, such as avoiding an unnecessary burden. Regulations which are significant because of cost, adverse effects on the economy, inconsistency with other agency actions, effects on the budget, or novel legal or policy issues, require special analysis.

The Department has determined that resources to implement this final rule are required only of petitioners in submitting their petitions and of the Department in reviewing them. Therefore, in accordance with the RFA of 1980, and the Small Business Regulatory Enforcement Fairness Act of 1996, which amended the RFA, the Secretary certifies that this final rule will not have a significant impact on a substantial number of small entities. The Secretary has also determined that this final rule does not meet the criteria for a major rule as defined by Executive Order 12866 and would have no major effect on the economy or Federal expenditures.

We have determined that the final rule is not a "major rule" within the meaning of the statute providing for Congressional Review of Agency Rulemaking, 5 U.S.C. 801. We have made this decision because Congress, not the Department, determined the amount of the compassionate payment to be disbursed to eligible petitioners under the Act. In promulgating this final rule, the Department is not exercising any discretion as to the amount of money given to petitioners deemed eligible under the Act.

#### Impact on Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed or final rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This final rule will impose no direct requirement costs on State and local governments, does not preempt State law, or have any Federalism implications.

#### Impact on Family Well-Being

The Secretary has determined that, by implementing the provision of compassionate payments to eligible petitioners, this final rule has a positive effect on family well-being. Therefore, in accordance with Section 654(c) of the Treasury and General Government Appropriations Act of 1999, the Department has assessed the impact of the rule on the seven elements of family well-being specified in the law, namely: family safety, family stability; marital commitment; parental rights in the education, nurture and supervision of their children; family functioning, disposable income or poverty; and the behavior and personal responsibility of youth. The only element on which this rule has an impact is disposable income or poverty. The rule has a positive impact on disposable income or poverty

because it implements the provision of compassionate payments of \$100,000 to eligible petitioners without imposing a corresponding burden on them.

#### Paperwork Reduction Act

The information collection requirements set forth in the final rule under §§ 130.20, 130.21, 130.22, 130.23, 130.24, 130.30, and 130.31 for the Ricky Ray Hemophilia Relief Fund (45 CFR part 130) have been approved under OMB No. 0915-0244. This approval included an extensive 60-day agency review and public comment period on the information collections requirements set forth in rulemaking.

#### List of Subjects in 42 CFR Part 130

Blood diseases, HIV/AIDS, Indemnity payments, Reporting and recordkeeping requirements.

Dated: June 29, 2001.

**Elizabeth M. Duke,**

*Acting Administrator, Health Resources and Services Administration.*

Approved: August 30, 2001.

**Tommy G. Thompson,**

*Secretary.*

For the reasons stated above, the Department of Health and Human Services is adopting the interim final rule adding 42 CFR chapter I, subchapter L and part 130, published at 65 FR 34860 on Wednesday, May 31, 2000, as a final rule with the following changes:

#### SUBCHAPTER L—COMPASSIONATE PAYMENTS

#### PART 130—RICKY RAY HEMOPHILIA RELIEF FUND PROGRAM

1. The authority citation for part 130 continues to read as follows:

**Authority:** Secs. 101–108 of Pub. L. 105–369, 112 Stat. 3368 (42 U.S.C. 300c–22 note); sec. 215 of the Public Health Service Act (42 U.S.C. 216).

#### Subpart C—Documentation Required for Complete Petitions

2. Section 130.20 is amended by revising the first and second sentence in paragraph (b); and by adding a parenthetical phrase at the end of the section to read as follows:

#### § 130.20 Form of medical documentation.

\* \* \* \* \*

(b) An affidavit, signed under penalty of perjury, by a physician, nurse practitioner or physician assistant, verifying that the medical criteria necessary for a petitioner to be eligible for payment under the Act are satisfied. Such an affidavit must include the physician's, nurse practitioner's or

physician assistant's State of practice, and license, certification or registration number, as applicable. \* \* \*

(Approved by the Office of Management and Budget under control number 0915-0244.)

3. Section 130.21 is amended by adding a parenthetical phrase at the end of the section to read as follows:

**§ 130.21 What documentation is required for petitions filed by living persons with HIV?**

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 0915-0244.)

4. Section 130.22 is amended by adding a parenthetical phrase at the end of the section to read as follows:

**§ 130.22 What documentation is required for petitions filed by survivors of persons with HIV, which are filed in cases where the person with HIV dies before filing a petition?**

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 0915-0244.)

5. Section 130.23 is amended by adding a parenthetical phrase at the end of the section to read as follows:

**§ 130.23 What documentation is required for amendments to petitions, which are filed by survivors of persons with HIV?**

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 0915-0244.)

6. A new § 130.24 is added to subpart C to read as follows:

**§ 130.24 What additional documentation may the Secretary require to resolve eligibility or payment issues?**

(a) In addition to the applicable documentation required under this subpart, the Secretary may require the petitioner to provide other documentation, as the Secretary deems appropriate, to resolve issues of eligibility, or of the procedure for payment, raised by a petition.

(b) Where a petition filed on behalf of a minor or other individual who is legally incompetent to receive payment has been approved for payment, the personal representative filing the petition on the individual's behalf must submit the following before payment can be made for the legally incompetent individual:

(1) Documentation of a guardianship or conservatorship, established in accordance with State and local law; and

(2) Information identifying a guardianship or conservatorship account.

(Approved by the Office of Management and Budget under control number 0915-0244.)

**Subpart D—Procedures for Filing and Paying Complete Petitions**

8. Section 130.30 is amended by adding a parenthetical phrase at the end of the section to read as follows:

**§ 130.30 Who may file a petition for payment or an amendment to a petition?**

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 0915-0244.)

9. Section § 130.31 is amended by adding a parenthetical phrase at the end of the section to read as follows:

**§ 130.31 How and when is a petition for payment filed?**

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 0915-0244.)

10. Section 130.33 is amended by adding a sentence at the end of paragraph (c), and by revising paragraph (d)(2) to read as follows:

**§ 130.33 How will the Secretary determine whether a petition is complete?**

\* \* \* \* \*

(c) \* \* \* The Secretary may allow additional time beyond the 60-day deadline, as the Secretary deems appropriate, for the petitioner to provide the documentation required to complete the petition.

(d) \* \* \* (2) The 60-day deadline, or the extended deadline under § 130.33(c), as applicable, to complete the petition is not met; or

\* \* \* \* \*

[FR Doc. 01-29173 Filed 11-21-01; 8:45 am]

BILLING CODE 4165-15-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**45 CFR Parts 1355, 1356 and 1357**

**Administration for Children and Families**

Title IV-E Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews; Technical Corrections

**AGENCY:** Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

**ACTION:** Technical corrections.

**SUMMARY:** The Administration for Children and Families is correcting the

final rule on Title IV-E Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews published on January 25, 2000 (65 FR 4019-4093), and related regulations at 45 CFR parts 1355, 1356 and 1357.

**DATES:** Effective November 23, 2001. Comments accepted until January 22, 2002.

**ADDRESSES:** Please address comments to Kathleen McHugh, Director of Policy, Children's Bureau, Administration on Children, Youth and Families, 330 C Street, SW., Washington, DC 20447. Comments will not be accepted by telephone.

**FOR FURTHER INFORMATION CONTACT:** Kathleen McHugh, Children's Bureau, 202-401-5789.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Administration on Children, Youth and Families published a final rule on the title IV-E foster care eligibility reviews and the child and family services reviews on January 25, 2000, in the **Federal Register** (65 FR 4019-4093). The purpose of the final rule was to implement reviews of title IV-E foster care maintenance payments and title IV-B and IV-E State plan requirements. The final rule also implemented certain requirements of the Social Security Act Amendments of 1994; the Multiethnic Placement Act of 1994, as amended; and the Adoption and Safe Families Act of 1997. The effective date of the rule was March 27, 2000.

**II. Need for Technical and Correcting Amendments in 45 CFR Parts 1355, 1356 and 1357**

In reviewing the final rule, we have identified several technical errors, omissions, and obsolete references in the final regulations. In addition, certain sections of the existing regulations conflict with recent changes in Federal child welfare legislation. We are making these technical, conforming amendments to correct and clarify the regulations.

*Waiver of Notice and Comment Procedures*

The Administrative Procedure Act (5 U.S.C. 55(b)(B)) requires that the Department publish a Notice of Proposed Rulemaking unless the Department finds, for good cause, that such notice is impracticable, unnecessary, or contrary to the public interest. In this instance, we are making only technical, nonsubstantive clarifications, corrections, and conforming amendments. Accordingly,