

for the quarter being reported and prior quarters.

(Collection reporting form approved by the Office of Management and Budget under control number 0960-0238 and expenditure reporting form approved under control number 0960-0235)

[47 FR 8570, Mar. 1, 1982]

**PART 302—STATE PLAN REQUIREMENTS**

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SOURCE: 40 FR 27159, June 26, 1975, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 302 appear at 64 FR 6247, Feb. 9, 1999.

**§ 302.0 Scope of this part.**

This part defines the State plan provisions required for an approved plan under title IV-D of the Act.

**§ 302.1 Definitions.**

The definitions found in § 301.1 of this chapter also are applicable to this part.

**§ 302.10 Statewide operations.**

The State plan shall provide that:

(a) It will be in operation on a statewide basis in accordance with equitable standards for administration that are mandatory throughout the State;

(b) If administered by a political subdivision of the State, the plan will be mandatory on such political subdivision;

(c) The IV-D agency will assure that the plan is continuously in operation in all appropriate offices or agencies through:

(1) Methods for informing staff of State policies, standards, procedures and instructions; and

(2) Regular planned examination and evaluation of operations in local offices by regularly assigned State staff, including regular visits by such staff; and through reports, controls, or other necessary methods.

**§ 302.11 State financial participation.**

The State plan shall provide that the State will participate financially in the program.

**§ 302.12 Single and separate organizational unit.**

(a) The State plan shall provide for the establishment or designation of a single and separate organizational unit to administer the IV-D plan. Such unit is referred to as the IV-D agency. Under this requirement:

(1) The IV-D agency may be:

- (i) Located in any other agency of the State; or,
- (ii) Established as a new agency of the State.

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(2) The IV-D agency shall be responsible and accountable for the operation of the IV-D program. Except as provided in §303.20 of this part, the agency need not perform all the functions of the IV-D program so long as it insures that all these functions are being carried out properly, efficiently, and effectively;

(3) If the IV-D agency delegates any of the functions of the IV-D program to any other State or local agency or official, or any official with whom a cooperative agreement as described in §302.34 has been entered into or purchases services from any person or private agency pursuant to §304.22 of this part, the IV-D agency shall have responsibility for securing compliance with the requirements of the State plan by such agency or officials.

(b) The State plan shall describe the structure of the IV-D agency and the distribution of responsibilities among the major divisions within the unit, and if it is located within another agency, show its place in such agency. If any of the IV-D program functions are to be performed outside of the IV-D agency then these functions shall be listed with the name of the organization responsible for performing them.

(Approved by the Office of Management and Budget under control number 0960-0253)

[40 FR 27159, June 26, 1975, as amended at 51 FR 37731, Oct. 24, 1986; 64 FR 6247, Feb. 9, 1999]

### § 302.13 Plan amendments.

(a) The State plan shall provide that the plan will be amended whenever necessary to reflect new or revised Federal statutes or regulations, or material change in any phase of State law, organization, policy of IV-D agency operation.

(b) *Federal financial participation.* Except where otherwise provided, Federal financial participation is available in the additional expenditures resulting from an amended provision of the State plan as of the first day of the calendar quarter in which an approvable amendment is submitted or the date on which

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the amended provision becomes effective in the State, whichever is later.

(Approved by the Office of Management and Budget under control number 0960-0253)

[40 FR 27159, June 26, 1975, as amended at 51 FR 37731, Oct. 24, 1986]

### § 302.14 Fiscal policies and accountability.

The State plan shall provide that the IV-D agency, in discharging its fiscal accountability, will maintain an accounting system and supporting fiscal records adequate to assure that claims for Federal funds are in accord with applicable Federal requirements. The retention and custodial requirements for these records are prescribed in 45 CFR 75.361 through 75.370.

[81 FR 93561, Dec. 20, 2016]

### § 302.15 Reports and maintenance of records.

The State plan shall provide that:

(a) The IV-D agency will maintain records necessary for the proper and efficient operation of the plan, including records regarding:

(1) Applications pursuant to §302.33 for support services available under the State plan;

(2) Location of noncustodial parents, actions to establish paternity and obtain and enforce support, and the costs incurred in such actions;

(3) Amount and sources of support collections and the distribution of these collections;

(4) Any fees charged or paid for support enforcement services;

(5) Any other administrative costs;

(6) Any other information required by the Office;

(7) Statistical, fiscal, and other records necessary for reporting and accountability required by the Secretary; and

(8) The retention and custodial requirements for the records in this section are prescribed in 45 CFR 75.361 through 75.370.

(b) The IV-D agency will make such reports in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as he may

from time to time find necessary to assure the correctness and verification of such reports.

(Approved by the Office of Management and Budget under control numbers 0960-0154, 0960-0226 and 0960-0238)

[40 FR 27159, June 26, 1975, as amended at 47 FR 57281, Dec. 23, 1982; 48 FR 51917, Nov. 15, 1983; 51 FR 37731, Oct. 24, 1986; 61 FR 67240, Dec. 20, 1996; 81 FR 3021, Jan. 20, 2016; 81 FR 93561, Dec. 20, 2016]

#### § 302.17 Inclusion of State statutes.

The State plan shall provide a copy of State statutes, or regulations promulgated pursuant to such statutes and having the force of law (including citations of such statutes and regulations), that provide procedures to determine the paternity of a child born out of wedlock, to establish the child support obligation of a responsible parent, and to enforce a support obligation, including spousal support if appropriate.

(Approved by the Office of Management and Budget under control numbers 0960-0253 and 0960-0385)

[50 FR 19647, May 9, 1985, as amended at 51 FR 37731, Oct. 24, 1986]

#### § 302.19 Bonding of employees.

The State plan shall provide that the following requirements and criteria to bond employees are in effect:

(a) *IV-D responsibility.* The IV-D agency will insure that every person, who has access to or control over funds collected under the child support enforcement program, is covered by a bond against loss resulting from employee dishonesty.

(b) *Scope.* The requirement in paragraph (a) of this section applies to every person who, as a regular part of his or her employment, receives, disburses, handles or has access to support collections, which includes:

(1) IV-D agency employees and employees of any other State or local agency to which IV-D functions have been delegated.

(2) Employees of a court or law enforcement official performing under a cooperative agreement with the IV-D agency.

(3) Employees of any private or governmental entity from which the IV-D agency purchases services.

(c) *Bond.* The bond will be for an amount which the State IV-D agency deems adequate to indemnify the State IV-D program for loss resulting from employee dishonesty.

(d) *Self-bonding System.* A State or political subdivision may comply with the requirement in paragraph (a) of this section:

(1) By means of a self-bonding system established under State law or,

(2) In the case of a political subdivision, by means of a self-bonding system approved by the State IV-D agency.

(e) *IV-D liability.* The requirements of this section do not reduce or limit the ultimate liability of the IV-D agency for losses of support collections from the State's IV-D program.

[44 FR 28803, May 17, 1979; 44 FR 45137, Aug. 1, 1979, as amended at 47 FR 57281, Dec. 23, 1982]

#### § 302.20 Separation of cash handling and accounting functions.

The State plan shall provide that the following requirements and criteria to separate the cash handling and accounting functions are in effect.

(a) *IV-D responsibility.* The IV-D agency will maintain methods of administration designed to assure that persons responsible for handling cash receipts of support do not participate in accounting or operating functions which would permit them to conceal in the accounting records the misuse of support receipts. Such methods of administration shall follow generally recognized accounting standards.

(b) *Scope.* The requirement in paragraph (a) of this section applies to persons who participate in the collection, accounting or operating functions which include:

(1) IV-D agency employees and employees of any other State or local agency to which IV-D functions have been delegated.

(2) Employees of a court or law enforcement official performing under a cooperative agreement with the IV-D agency.

(3) Employees of any private or governmental entity from which the IV-D agency purchases services.

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(c) *Exception.* The Regional Office may grant a waiver to sparsely populated geographical areas, where the requirements in paragraph (a) of this section would necessitate the hiring of unreasonable numbers of additional staff. The IV-D agency must document such administrative infeasibility and provide an alternative system of controls that reasonably insures that support collections will not be misused.

[44 FR 28803, May 17, 1979, as amended at 47 FR 57281, Dec. 23, 1982]

### § 302.30 Publicizing the availability of support enforcement services.

Effective October 1, 1985, the State plan shall provide that the State will publicize regularly and frequently the availability of support enforcement services under the plan through public service announcements. Publicity must include information on any application fees which may be imposed for such services and a telephone number or postal address where further information may be obtained.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19647, May 9, 1985, as amended at 51 FR 37731, Oct. 24, 1986]

### § 302.31 Establishing paternity and securing support.

The State plan shall provide that:

(a) The IV-D agency will undertake:

(1) In the case of a child born out of wedlock with respect to whom an assignment as defined in § 301.1 of this chapter is effective, to establish the paternity of such child; and

(2) In the case of any individual with respect to whom an assignment as defined in § 301.1 of this chapter is effective, to secure support for a child or children from any person who is legally liable for such support, using State laws regarding intrastate and interstate establishment and enforcement of support obligations. Effective October 1, 1985, this includes securing support for a spouse or former spouse who is living with the child or children, but only if a support obligation has been established for that spouse and the child support obligation is being enforced under the title IV-D State plan.

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(3) When assigned medical support payments are received and retained by a non-IV-A Medicaid recipient, the IV-D agency shall notify the Medicaid agency whenever it discovers that directly received medical support payments are being, or have been, retained.

(b) Upon receiving notice of a claim of good cause for failure to cooperate, the IV-D agency will suspend all activities to establish paternity or secure support until notified of a final determination by the appropriate agency.

(c) The IV-D agency will not undertake to establish paternity or secure support in any case for which it has received notice that there has been a finding of good cause unless there has been a determination that support enforcement may proceed without the participation of the caretaker or other relative. If there has been such a determination, the IV-D agency will undertake to establish paternity or secure support but may not involve the caretaker or other relative in such undertaking.

(Approved by the Office of Management and Budget under control numbers 0960-0385 and 0970-0107)

[50 FR 19647, May 9, 1985, as amended at 51 FR 25526, July 15, 1986; 51 FR 37731, Oct. 24, 1986; 56 FR 8003, Feb. 26, 1991; 64 FR 6247, Feb. 9, 1999; 68 FR 25303, May 12, 2003]

### § 302.32 Collection and disbursement of support payments by the IV-D agency.

The State plan shall provide that:

(a) The IV-D agency must establish and operate a State Disbursement Unit (SDU) for the collection and disbursement of payments under support orders—

(1) In all cases being enforced under the State IV-D plan; and

(2) In all cases not being enforced under the State IV-D plan in which the support order is initially issued in the State on or after January 1, 1994, and in which the income of the noncustodial parent is subject to withholding in accordance with section 466(a)(8)(B) of the Act.

(b) Timeframes for disbursement of support payments by SDUs under section 454B of the Act.

(1) In intergovernmental IV-D cases, amounts collected by the responding State on behalf of the initiating agency must be forwarded to the initiating agency within 2 business days of the date of receipt by the SDU in the responding State, in accordance with §303.7(d)(6)(v) of this chapter.

(2) Amounts collected by the IV-D agency on behalf of recipients of aid under the State's title IV-A or IV-E plan for whom an assignment under sections 408(a)(3) or 471(a)(17) of the Act is effective shall be disbursed by the SDU within the following timeframes:

(i) Except as specified under paragraph (b)(2)(iv) of this section, if the SDU sends payment to the family (other than payments sent to the family from the State share of assigned support collections), the SDU must send these payments within 2 business days of the end of the month in which the payment was received by the SDU. Any payment passed through to the family from the State share of assigned support collections must be sent to the family within 2 business days of the date of receipt by the SDU.

(ii) Except as specified under paragraph (b)(2)(iv) of this section, when the SDU sends collections to the family for the month after the month the family becomes ineligible for title IV-A, the SDU must send collections to the family within 2 business days of the date of receipt by the SDU.

(iii) Except as specified under paragraph (b)(2)(iv) of this section, when the SDU sends collections to the IV-E foster care agency under §302.52(b)(2) and (4) of this part, the SDU must send collections to the IV-E agency within 15 business days of the end of the month in which the support was received by the SUD.

(iv) Collections as a result of Federal tax refund offset paid to the family or distributed in title IV-E foster care cases under §302.52(b)(4) of this part, must be sent to the title IV-A family or title IV-E agency, as appropriate, within 30 calendar days of the date of initial receipt by the title IV-D agency, unless State law requires a post-offset appeal process and an appeal is filed timely, in which case the SDU must send any payment to the title IV-A family or title IV-E agency within 15

calendar days of the date the appeal is resolved.

(3)(i) Except as provided under paragraph (b)(3)(ii) of this section, amounts collected on behalf of individuals receiving services under §302.33 of this part shall be disbursed by the SDU pursuant to section 457 of the Act, within 2 business days of receipt by the SDU.

(ii) Collections due the family as a result of Federal tax refund offset must be sent to the family within 30 calendar days of the date of initial receipt in the title IV-D agency, except:

(A) If State law requires a post-offset appeal process and an appeal is timely filed, in which case the SDU must send any payment to the family within 15 calendar days of the date the appeal is resolved; or

(B) As provided in §303.72(h)(5) of this chapter.

[64 FR 6247, Feb. 9, 1999, as amended at 68 FR 25303, May 12, 2003; 73 FR 74919, Dec. 9, 2008; 81 FR 93561, Dec. 20, 2016]

**§ 302.33 Services to individuals not receiving title IV-A assistance.**

(a) *Availability of Services.* (1) The State plan must provide that the services established under the plan shall be made available to any individual who:

(i) Files an application for the services with the IV-D agency. In an interstate case, only the initiating State may require an application under this section; or

(ii) Is a non-IV-A Medicaid recipient; or

(iii) Has been receiving IV-D services and is no longer eligible for assistance under the title IV-A, IV-E foster care, and Medicaid program.

(2) The State may not require an application, other request for services or an application fee from any individual who is eligible to receive services under paragraphs (a)(1)(ii) and (iii) of this section. If an individual receiving services under paragraph (a)(1)(iii) of this section refuses services in response to a notice under paragraph (a)(4) of this section, and subsequently requests services, that individual must file an application and pay an application fee.

(3) The State may not charge fees or recover costs from any individual who is eligible to receive services under paragraph (a)(1)(ii) of this section.

(4) Whenever a family is no longer eligible for assistance under the State's title IV-A and Medicaid programs, the IV-D agency must notify the family, within 5 working days of the notification of ineligibility, that IV-D services will be continued unless the family notifies the IV-D agency that it no longer wants services but instead wants to close the case. This notice must inform the family of the benefits and consequences of continuing to receive IV-D services, including the available services and the State's fees, cost recovery, and distribution policies. This requirement to notify the family that services will be continued, unless the family notifies the IV-D agency to the contrary, also applies when a child is no longer eligible for IV-E foster care, but only in those cases that the IV-D agency determines that such services and notice would be appropriate.

(5) The State must provide all appropriate IV-D services, in addition to IV-D services related to securing medical support, to all individuals who are eligible to receive services under paragraph (a)(1)(ii) of this section unless the individual notifies the State that only IV-D services related to securing medical support are wanted.

(6) The State may elect in its State plan to allow an individual under paragraph (a)(1)(i) of this section who files an application to request paternity-only limited services in an intrastate case. If the State chooses this option, the State must define how this process will be implemented and must establish and use procedures, including domestic violence safeguards, which are reflected in a record, that specify when paternity-only limited services will be available. An application will be considered full-service unless the parent specifically applies for paternity-only limited services in accordance with the State's procedures. If one parent specifically requests paternity-only limited services and the other parent requests full services, the case will automatically receive full services. The State will be required to charge the application and service fees required under paragraphs (c) and (e) of this section for paternity-only limited services, and may recover costs in accordance with paragraph (d) of this section

if the State has chosen this option in its State plan. The State must provide the applicant an application form with information on the availability of paternity-only limited services, consequences of selecting this limited service, and an explanation that the case will be closed when the limited service is completed.

(b) *Definitions.* For purposes of this section:

*Applicant's income* means the disposable income available for the applicant's use under State law.

(c) *Application fee.* (1) Beginning October 1, 1985, the State plan must provide that an application fee will be charged for each individual who applies for services under this section. Under this paragraph:

(i) The State shall collect the application fee from the individual applying for IV-D services or pay the application fee out of State funds.

(ii) The State may recover the application fee from the noncustodial parent who owes a support obligation to a non-IV-A family on whose behalf the IV-D agency is providing services and repay it to the applicant or itself.

(iii) State funds used to pay an application fee are not program expenditures under the State plan but are program income under §304.50 of this chapter.

(iv) Any application fee charged must be uniformly applied on a statewide basis and must be:

(A) A flat dollar amount not to exceed \$25 (or such higher or lower amount as the Secretary may determine to be appropriate for any fiscal year to reflect increases or decreases in administrative costs); or

(B) An amount based on a fee schedule not to exceed the flat dollar amount specified in paragraph (c)(2)(iv)(A) of this section. The fee schedule must be based on the applicant's income.

(v) The State may allow the jurisdiction that collects support for the State under this part to retain any application fee collected under this section.

(2) In an interstate case, the application fee is charged by the State where the individual applies for services under this section.

(d) *Recovery of costs.* (1) The State may elect in its State plan to recover any costs incurred in excess of any fees collected to cover administrative costs under the IV-D State plan. A State which elects to recover costs shall collect on a case by case basis either excess actual or standardized costs:

(i) From the individual who owes a support obligation to a non-IV-A family on whose behalf the IV-D agency is providing services under this section; or

(ii) From the individual who is receiving IV-D services under paragraph (a)(1) (i) or (iii) of this section, either directly or from the support collected on behalf of the individual, but only if the State has in effect a procedure for informing all individuals authorized within the State to establish an obligation for support that the State will recover costs from the individual receiving IV-D services under paragraphs (a)(1) (i) and (iii) of this section.

(2) A State that recovers standardized costs under paragraph (d)(1) of this section shall develop a methodology, which is reflected in a record, to determine standardized costs which are as close to actual costs as is possible. This methodology must be made available to any individual upon request.

(3) The IV-D agency shall not treat any amount collected from the individual as a recovery of costs under paragraph (d)(1)(i) of this section except amounts which exceed the current support owed by the individual under the obligation.

(4) If a State elects to recover costs under paragraph (d)(1)(ii) of this section, the IV-D agency may attempt to seek reimbursement from the individual who owes a support obligation for any costs paid by the individual who is receiving IV-D services and pay all amounts reimbursed to the individual who is receiving IV-D services.

(5) If a State elects to recover costs under this section, the IV-D agency must notify, consistent with the option selected, either the individual who is receiving IV-D services under paragraphs (a)(1) (i) or (iii) of this section, or the individual who owes a support obligation that such recovery will be made. In an interstate case, the IV-D agency where the case originated must

notify the individual receiving IV-D services of the States that recover costs.

(6) The IV-D agency must notify the IV-D agencies in all other States if it recovers costs from the individual receiving IV-D services.

(e) *Annual collection fee.* (1) A State must impose in, and report for, a Federal fiscal year an annual fee of \$35 for each case if there is an individual in the case to whom IV-D services are provided and:

(i) For whom the State has collected and disbursed to the family at least \$550 of support in that year; and

(ii) No individual in the case has received assistance under a former State AFDC program, assistance as defined in §260.31 under a State TANF program, or assistance as defined in §286.10 under a Tribal TANF program.

(2) The State must impose the annual \$35 fee in international cases under section 454(32) of the Act in which the criteria for imposition of the annual \$35 fee under paragraph (1) of this section are met.

(3) For each Federal fiscal year, after the first \$550 of support is collected and disbursed to the family, the fee must be collected by one or more of the following methods:

(i) Retained by the State from support collected in cases subject to the fee in accordance with distribution requirements in §302.51(a)(5) of this part, except that no cost will be assessed for such services against:

(A) A foreign obligee in an international case receiving IV-D services pursuant to section 454(32)(C) of the Act; and

(B) An individual who is required to cooperate with the IV-D program as a condition of Food Stamp eligibility as defined at §273.11(o) and (p) of title 7;

(ii) Paid by the individual applying for services under section 454(4)(A)(ii) of the Act and implementing regulations in this section, provided that the individual is not required to cooperate with the IV-D program as a condition of Food Stamp eligibility as defined at §273.11(o) and (p) of title 7;

(iii) Recovered from the noncustodial parent, provided that the noncustodial parent is not an individual required to cooperate with the IV-D program as a

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condition of Food Stamp eligibility as defined at §273.11(o) and (p) of title 7; or

(iv) Paid by the State out of its own funds.

(4) The State must report, in accordance with §302.15 of this part and instructions issued by the Secretary, the total amount of annual \$35 fees imposed under this section for each Federal fiscal year as program income, regardless of which method or methods are used under paragraph (3) of this section.

(5) State funds used to pay the annual \$35 fee shall not be considered administrative costs of the State for the operation of the title IV-D plan, and all annual \$35 fees imposed during a Federal fiscal year must be considered income to the program, in accordance with §304.50 of this chapter.

(Approved by the Office of Management and Budget under control numbers 0960-0253, 0960-0385, 0960-0402, and 0970-0107)

[49 FR 36772, Sept. 19, 1984, as amended at 50 FR 19648, May 9, 1985; 51 FR 37731, Oct. 24, 1986; 56 FR 8003, Feb. 26, 1991; 61 FR 67240, Dec. 20, 1996; 73 FR 74919, Dec. 9, 2008; 81 FR 93561, Dec. 20, 2016; 85 FR 35207, June 9, 2020]

### § 302.34 Cooperative arrangements.

The State plan shall provide that the State will enter into agreements, which are reflected in a record, for cooperative arrangements under §303.107 of this chapter with appropriate courts; law enforcement officials, such as district attorneys, attorneys general, and similar public attorneys and prosecutors; corrections officials; and Indian Tribes or Tribal organizations. Such arrangements may be entered into with a single official covering more than one court, official, or agency, if the single official has the legal authority to enter into arrangements on behalf of the courts, officials, or agencies. Such arrangements shall contain provisions for providing courts and law enforcement officials with pertinent information needed in locating noncustodial parents, establishing paternity and securing support, to the extent that such information is relevant to the duties to be performed pursuant to the arrangement. They shall also provide for assistance to the IV-D agency in carrying out the program, and may relate to

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any other matters of common concern. Under matters of common concern, such arrangements may include provisions for the investigation and prosecution of fraud directly related to paternity and child and spousal support, and provisions to reimburse courts and law enforcement officials for their assistance.

[54 FR 30222, July 19, 1989, as amended at 61 FR 67240, Dec. 20, 1996; 64 FR 6248, Feb. 9, 1999; 81 FR 93562, Dec. 20, 2016]

### § 302.35 State parent locator service.

The State plan shall provide as follows:

(a) *State PLS.* The IV-D agency shall maintain a State PLS to provide locate information to authorized persons for authorized purposes.

(1) *For IV-D cases and IV-D purposes by the IV-D agency.* The State PLS shall access the Federal PLS and all relevant sources of information and records available in the State, and in other States as appropriate, for locating custodial parents, noncustodial parents, and children for IV-D purposes.

(2) *For authorized non-IV-D individuals and purposes.* (i) The State PLS shall access and release information authorized to be disclosed under section 453(a)(2) and 453(j)(3) of the Act from the Federal PLS and, in accordance with State law, information from relevant in-State sources of information and records, as appropriate, for locating custodial parents, noncustodial parents, non-parent relatives, and children upon request of authorized individuals specified in paragraph (c) of this section, for authorized purposes specified in paragraph (d) of this section.

(ii) The State PLS shall not release information from the computerized support enforcement system required under part 307 of this chapter, IRS information, or financial institution data match information, nor shall the State PLS forward a non-IV-D request to another State IV-D agency.

(iii) The State PLS need not make subsequent location attempts if locate efforts fail to find the individual sought unless a new request is submitted.

(b) *Central State PLS requirement.* The IV-D program shall maintain a central State PLS to submit requests to the Federal PLS.

(c) *Authorized persons.* The State PLS shall accept requests for locate information only from the following authorized persons:

(1) Any State or local agency providing child and spousal support services under the State plan, and any Tribal IV-D agency providing child and spousal support services under a Tribal plan approved under 45 CFR part 309, provided the State and Tribe have in effect an intergovernmental agreement for the provision of Federal PLS services;

(2) A court that has authority to issue an order or to serve as the initiating court in an action to seek an order against a noncustodial parent for the support and maintenance of a child, or any agent of such court;

(3) The resident parent, legal guardian, attorney, or agent of a child who is not receiving assistance under title IV-A of the Act only if the individual:

(i) Attests that the request is being made to obtain information on, or to facilitate the discovery of, any individual in accordance with section 453(a)(2) of the Act for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations;

(ii) Attests that any information obtained through the Federal or State PLS shall be used solely for these purposes and shall be otherwise treated as confidential;

(iii) Attests that the requestor is the resident parent, legal guardian, attorney, or agent of a child not receiving assistance under title IV-A; and

(iv) Pays the fee required for Federal PLS services under section 453(e)(2) of the Act and §303.70(f)(2)(i) of this chapter, if the State does not pay the fee itself. The State may also charge a fee to cover its costs of processing the request, which must be as close to actual costs as possible, so as not to discourage requests to use the Federal PLS. If the State itself pays the fee for use of the Federal PLS or the State PLS in a non-IV-D case, Federal financial participation is not available in those expenditures.

(4) Authorized persons as defined in §303.15 of this chapter in connection with parental kidnapping, child custody or visitation cases; or

(5) A State agency that is administering a program operated under a State plan under titles IV-B or IV-E of the Act.

(d) *Authorized purposes for requests and scope of information provided.* The State PLS shall obtain location information under this section only for the purpose specified in paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) of this section.

(1) *To locate an individual with respect to a child in a IV-D, non-IV-D, IV-B, or IV-E case.* The State PLS shall locate individuals for the purpose of establishing parentage, or establishing, setting the amount of, modifying, or enforcing child support obligations or for determining who has or may have parental rights with respect to a child. For these purposes, only information in the Federal PLS or the State PLS may be provided. This information is limited to name, Social Security Number(s), most recent address, employer name and address, employer identification number, wages or other income from, and benefits of, employment, including rights to, or enrollment in, health care coverage, and asset or debt information.

(2) *To assist States in carrying out their responsibilities under title IV-D, IV-A, IV-B, and IV-E programs.* In addition to the information that may be released pursuant to paragraph (d)(1) of this section, State PLS information may be disclosed to State IV-D, IV-A, IV-B, and IV-E agencies for the purpose of assisting States to carry out their responsibilities to administer title IV-D, IV-A, IV-B, and IV-E programs, including information to locate an individual who is a child or a relative of a child in a IV-B or IV-E case. Information that may be disclosed about relatives of children involved in IV-B and IV-E cases is limited to name, Social Security Number(s), most recent address, employer name and address and employer identification number.

(3) *To locate an individual sought for the unlawful taking or restraint of a child or for child custody or visitation purposes.* The State PLS shall locate individuals for the purpose of enforcing a State law

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with respect to the unlawful taking or restraint of a child or for making or enforcing a child custody or visitation determination as defined in section 463(d)(1) of the Act. This information is limited to most recent address and place of employment of a parent or child.

(e) *Locate information subject to disclosure.* Subject to the requirements of this section and the privacy safeguards required under section 454(26) of the Act and the family violence indicators under section 307.11(f)(1)(x) of this part, the State PLS shall disclose the following information to authorized persons for authorized purposes,

(1) Federal PLS information described in sections 453 and 463 of the Act; and

(2) Information from in-state locate sources.

[73 FR 56443, Sept. 26, 2008, as amended at 75 FR 81906, Dec. 29, 2010]

### § 302.36 Provision of services in inter-governmental IV-D cases.

(a) The State plan shall provide that, in accordance with §303.7 of this chapter, the State will extend the full range of services available under its IV-D plan to:

(1) Any other State;

(2) Any Tribal IV-D program operating under §309.65(a) of this chapter; and

(3) Any country as defined in §301.1 of this chapter.

(b) The State plan shall provide that the State will establish a central registry for intergovernmental IV-D cases in accordance with the requirements set forth in §303.7(b) of this chapter.

[75 FR 38641, July 2, 2010]

### § 302.37 [Reserved]

### § 302.38 Payments to the family.

The State plan shall provide that any payment required to be made under §§302.32 and 302.51 to a family will be made directly to the resident parent, legal guardian, caretaker relative having custody of or responsibility for the child or children, judicially-appointed conservator with a legal and fiduciary duty to the custodial parent and the child, or alternate caretaker designated in a record by the custodial

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parent. An alternate caretaker is a nonrelative caretaker who is designated in a record by the custodial parent to take care of the children for a temporary time period.

[81 FR 93562, Dec. 20, 2016]

### § 302.39 Standards for program operation.

The State plan shall provide that the IV-D agency will comply with the standards for program operation and the organizational and staffing requirements prescribed by part 303 of this chapter.

[41 FR 55348, Dec. 20, 1976]

### § 302.40 [Reserved]

### § 302.50 Assignment of rights to support.

The State plan shall provide as follows:

(a) An assignment of support rights, as defined in §301.1 of this chapter, constitutes an obligation owed to the State by the individual responsible for providing such support. Such obligation shall be established by:

(1) Order of a court of competent jurisdiction or of an administrative process; or

(2) Except for obligations assigned under 42 CFR 433.146, other legal process as established by State laws, such as a legally enforceable and binding agreement.

(b) The amount of the obligation described in paragraph (a) of this section shall be:

(1) The amount specified in the order of a court of competent jurisdiction or administrative process which covers the assigned support rights.

(2) If there is no court or administrative order, an amount determined in a record by the IV-D agency as part of the legal process referred to in paragraph (a)(2) of this section in accordance with the requirements of §302.56.

(c) The obligation described in paragraph (a) of this section shall be deemed for collection purposes to be collectible under all applicable State and local processes.

(d) Any amounts which represent support payments collected from an individual responsible for providing support under the State plan shall reduce,

dollar for dollar, the amount of his obligation under this section.

(e) No portion of any amounts collected which represent an assigned support obligation defined under §301.1 of this chapter may be used to satisfy a medical support obligation unless the court or administrative order designates a specific dollar amount for medical purposes.

[64 FR 6248, Feb. 9, 1999, as amended at 68 FR 25303, May 12, 2003; 81 FR 93562, Dec. 20, 2016]

**§302.51 Distribution of support collections.**

The State plan shall provide as follows:

(a)(1) For purposes of distribution in a IV-D case, amounts collected, except as provided under paragraphs (a)(3) and (5) of this section, shall be treated first as payment on the required support obligation for the month in which the support was collected and if any amounts are collected which are in excess of such amount, these excess amounts shall be treated as amounts which represent payment on the required support obligation for previous months.

(2) In title IV-A and title IV-E foster care cases in which conversion to a monthly amount is necessary because support is ordered to be paid other than monthly, the IV-D agency may round off the converted amount to whole dollar amount for the purpose of distribution under this section and §302.52 of this part.

(3)(i) Except as provided in paragraph (a)(3)(ii), amounts collected through Federal tax refund offset must be distributed as arrearages in accordance with §303.72 of this chapter, and section 457 of the Act;

(ii) Effective October 1, 2009, or up to a year earlier at State option, amounts collected through Federal tax refund offset shall be distributed in accordance with §303.72 of this chapter and the option selected under section 454(34) of the Act.

(4)(i) Effective October 1, 1998 (or October 1, 1999 if applicable) except with respect to those collections addressed under paragraph (a)(3) of this section and except as specified under paragraph (a)(4)(ii) of this section, with respect to amounts collected and distrib-

uted under title IV-D of the Act, the date of collection for distribution purposes in all IV-D cases is the date of receipt in the State disbursement unit established under section 454B of the Act.

(ii) If current support is withheld by an employer in the month when due, and received by the State in a month other than the month when due, the date of withholding may be deemed to be the date of collection.

(iii) When the date of collection pursuant to this subparagraph is deemed to be the date the wage or other income was withheld, and the employer fails to report the date of withholding, the IV-D agency must reconstruct that date by contacting the employer or comparing actual amounts collected with the pay schedule specified in the court or administrative order.

(5)(i) Except as provided in paragraph (a)(5)(ii), a State must pay to a family that has never received assistance under a program funded or approved under title IV-A or foster care under title IV-E of the Act and to an individual who is not required to cooperate with the IV-D program as a condition of Food Stamp eligibility as defined at §273.11(o) and (p) of title 7 the portion of the amount collected that remains after withholding any annual \$35 fee that the State imposes under §302.33(e) of this part.

(ii) If a State charges the noncustodial parent the annual \$35 fee under §302.33(e) of this part, the State may retain the \$35 fee from the support collected after current support and any payment on arrearages for the month under a court or administrative order have been disbursed to the family provided the noncustodial parent is not required to cooperate with the IV-D program as a condition of Food Stamp eligibility as defined at §273.11(o) and (p) of title 7.

(b) If an amount collected as support represents payment on the required support obligation for future months, the amount shall be applied to such future months. However, no such amounts shall be applied to future months unless amounts have been collected which fully satisfy the support obligation assigned under section

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403(a)(8) of the Act for the current month and all past months.

(c)(1) The amounts collected by the IV-D agency which represent specific dollar amounts designated in the support order for medical purposes that have been assigned to the State under 42 CFR 433.146 shall be forwarded to the Medicaid agency for distribution under 42 CFR 433.154.

(2) When a family ceases receiving assistance under the State's title XIX plan, the assignment of medical support rights under section 1912 of the Act terminates, except for the amount of any unpaid medical support obligation that has accrued under such assignment. The IV-D agency shall attempt to collect any unpaid specific dollar amounts designated in the support order for medical purposes. Under this requirement, any medical support collection made by the IV-D agency under this paragraph shall be forwarded to the Medicaid agency for distribution under 42 CFR 433.154.

[64 FR 6248, Feb. 9, 1999, as amended at 68 FR 25303, May 12, 2003; 73 FR 74920, Dec. 9, 2008; 85 FR 35207, June 9, 2020]

**§ 302.52 Distribution of support collected in Title IV-E foster care maintenance cases.**

Effective October 1, 1984, the State plan shall provide as follows:

(a) For purposes of distribution under this section, amounts collected in foster care maintenance cases shall be treated in accordance with the provisions of § 302.51(a) of this part.

(b) The amounts collected as support by the IV-D agency under the State plan on behalf of children for whom the State is making foster care maintenance payments under the title IV-E State plan and for whom an assignment under section 471(a)(17) of the Act is effective shall be distributed as follows:

(1) Any amount that is collected in a month which represents payment on the required support obligation for that month shall be retained by the State to reimburse itself for foster care maintenance payments. Of that amount retained by the State as reimbursement for that month's foster care maintenance payment, the State IV-D agency shall determine the Federal

government's share so that the State may reimburse the Federal government to the extent of its participation in financing of the foster care maintenance payment.

(2) If the amount collected is in excess of the monthly amount of the foster care maintenance payment but not more than the monthly support obligation, the State must pay the excess to the State agency responsible for supervising the child's placement and care under section 472(a)(2) of the Act. The State agency must use the money in the manner it determines will serve the best interests of the child including:

(i) Setting aside amounts for the child's future needs; or

(ii) Making all or part of the amount available to the person responsible for meeting the child's daily needs to be used for the child's benefit.

(3) If the amount collected exceeds the amount required to be distributed under paragraphs (b) (1) and (2) of this section, but not the total unreimbursed foster care maintenance payments provided under title IV-E or unreimbursed assistance payments provided under title IV-A, the State shall retain the excess to reimburse itself for these payments. If past assistance or foster care maintenance payments are greater than the total support obligation owed, the maximum amount the State may retain as reimbursement for such payments is the amount of such obligation. If amounts are collected which represent the required support obligation for periods prior to the first month in which the family received assistance under the State's title IV-A plan or foster care maintenance payments under the State's title IV-E plan, such amounts may be retained by the State to reimburse the difference between such support obligation and such payments. Of the amounts retained by the State, the State IV-D agency shall determine the Federal government's share of the amount so that the State may reimburse the Federal government to the extent of its participation in financing the assistance payments and foster care maintenance payments.

(4) Any balance shall be paid to the State agency responsible for supervising the child's placement and care

and shall be used to serve the best interests of the child as specified in paragraph (b)(2) of this section.

(5) If an amount collected as support represents payment on the required support obligation for future months, the amount shall be applied to those future months. However, no amounts shall be applied to future months unless amounts have been collected which fully satisfy the support obligation assigned under sections 408(a)(3) and 471(a)(17) of the Act for the current month and all past months.

(c) When a State ceases making foster care maintenance payments under the State's title IV-E State plan, the assignment of support rights under section 471(a)(17) of the Act terminates except for the amount of any unpaid support that has accrued under the assignment. The IV-D agency shall attempt to collect such unpaid support. Under this requirement, any collection made by the State under this paragraph must be distributed in accordance with paragraph (b)(3) of this section.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19648, May 9, 1985, as amended at 50 FR 31719, Aug. 6, 1985; 51 FR 37731, Oct. 24, 1986; 64 FR 6249, Feb. 9, 1999]

**§302.54 Notice of collection of assigned support.**

(a) Effective January 1, 1993, the State plan shall provide that the State has in effect procedures for issuing notices of collections as follows:

(1) The IV-D agency must provide a monthly notice of the amount of support payments collected for each month to individuals who have assigned rights to support under section 408(a)(3) of the Act, unless no collection is made in the month, the assignment is no longer in effect and there are no longer any assigned arrearages, or the conditions in paragraph (b) of this section are met.

(2) The monthly notice must list separately payments collected from each noncustodial parent when more than one noncustodial parent owes support to the family and must indicate the amount of current support collected, the amount of arrearages collected and the amount of support collected which was paid to the family.

(b)(1) The Office may grant a waiver to permit a State to provide quarterly, rather than monthly, notices, if the State:

(i) Until September 30, 1997, does not have an automated system that performs child support enforcement activities consistent with §302.85 or has an automated system that is unable to generate monthly notices; or

(ii) Uses a toll-free automated voice response system which provides the information required under paragraph (a) of this section.

(2) A quarterly notice must be provided in accordance with conditions set forth in paragraph (a)(1) of this section and such notice must contain the information set forth in paragraph (a)(2) of this section.

[57 FR 30681, July 10, 1992, as amended at 61 FR 67241, Dec. 20, 1996; 64 FR 6249, Feb. 9, 1999; 68 FR 25303, May 12, 2003]

**§302.55 Incentive payments to States and political subdivisions.**

Effective October 1, 1985, in order for the State to be eligible to receive any incentive payments under §304.12 and part 305 of this chapter, the State plan shall provide that, if one or more political subdivisions of the State participate in the costs of carrying out the activities under the State plan during any period, each such subdivision shall be entitled to receive an appropriate share of any incentive payments made to the State for such period, as determined by the State in accordance with §303.52 of this chapter, taking into account the efficiency and effectiveness of the political subdivision in carrying out the activities under the State plan.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19649, May 9, 1985; 50 FR 23958, June 7, 1985, as amended at 51 FR 37731, Oct. 24, 1986; 54 FR 32309, Aug. 4, 1989; 65 FR 82208, Dec. 27, 2000]

**§302.56 Guidelines for setting child support orders.**

(a) Within 1 year after completion of the State's next quadrennial review of its child support guidelines, that commences more than 1 year after publication of the final rule, in accordance with §302.56(e), as a condition of approval of its State plan, the State must

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establish one set of child support guidelines by law or by judicial or administrative action for setting and modifying child support order amounts within the State that meet the requirements in this section.

(b) The State must have procedures for making the guidelines available to all persons in the State.

(c) The child support guidelines established under paragraph (a) of this section must at a minimum:

(1) Provide that the child support order is based on the noncustodial parent's earnings, income, and other evidence of ability to pay that:

(i) Takes into consideration all earnings and income of the noncustodial parent (and at the State's discretion, the custodial parent);

(ii) Takes into consideration the basic subsistence needs of the noncustodial parent (and at the State's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve or some other method determined by the State; and

(iii) If imputation of income is authorized, takes into consideration the specific circumstances of the noncustodial parent (and at the State's discretion, the custodial parent) to the extent known, including such factors as the noncustodial parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.

(2) Address how the parents will provide for the child's health care needs through private or public health care coverage and/or through cash medical support;

(3) Provide that incarceration may not be treated as voluntary unemployment in establishing or modifying support orders; and

(4) Be based on specific descriptive and numeric criteria and result in a

computation of the child support obligation.

(d) The State must include a copy of the child support guidelines in its State plan.

(e) The State must review, and revise, if appropriate, the child support guidelines established under paragraph (a) of this section at least once every four years to ensure that their application results in the determination of appropriate child support order amounts. The State shall publish on the internet and make accessible to the public all reports of the guidelines reviewing body, the membership of the reviewing body, the effective date of the guidelines, and the date of the next quadrennial review.

(f) The State must provide that there will be a rebuttable presumption, in any judicial or administrative proceeding for the establishment and modification of a child support order, that the amount of the order which would result from the application of the child support guidelines established under paragraph (a) of this section is the correct amount of child support to be ordered.

(g) A written finding or specific finding on the record of a judicial or administrative proceeding for the establishment or modification of a child support order that the application of the child support guidelines established under paragraph (a) of this section would be unjust or inappropriate in a particular case will be sufficient to rebut the presumption in that case, as determined under criteria established by the State. Such criteria must take into consideration the best interests of the child. Findings that rebut the child support guidelines shall state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.

(h) As part of the review of a State's child support guidelines required under paragraph (e) of this section, a State must:

(1) Consider economic data on the cost of raising children, labor market data (such as unemployment rates, employment rates, hours worked, and earnings) by occupation and skill-level for the State and local job markets,

the impact of guidelines policies and amounts on custodial and noncustodial parents who have family incomes below 200 percent of the Federal poverty level, and factors that influence employment rates among noncustodial parents and compliance with child support orders;

(2) Analyze case data, gathered through sampling or other methods, on the application of and deviations from the child support guidelines, as well as the rates of default and imputed child support orders and orders determined using the low-income adjustment required under paragraph (c)(1)(ii) of this section. The analysis must also include a comparison of payments on child support orders by case characteristics, including whether the order was entered by default, based on imputed income, or determined using the low-income adjustment required under paragraph (c)(1)(ii). The analysis of the data must be used in the State's review of the child support guidelines to ensure that deviations from the guidelines are limited and guideline amounts are appropriate based on criteria established by the State under paragraph (g); and

(3) Provide a meaningful opportunity for public input, including input from low-income custodial and noncustodial parents and their representatives. The State must also obtain the views and advice of the State child support agency funded under title IV-D of the Act.

[81 FR 93562, Dec. 20, 2016]

**§ 302.60 Collection of past-due support from Federal tax refunds.**

The State plan shall provide that:

(a) The IV-D agency has in effect procedures necessary to obtain payment of past-due support from Federal tax refunds as set forth in section 464 of the Act, § 303.72 of this chapter, and regulations of the Internal Revenue Service at 26 CFR 304.6402-1; and

(b) The IV-D agency shall take the steps necessary to implement and use these procedures.

(Approved by the Office of Management and Budget under control number 0960-0253)

[47 FR 7428, Feb. 19, 1982]

**§ 302.65 Withholding of unemployment compensation.**

The State plan shall provide that the requirements of this section are met.

(a) *Definitions.* When used in this section:

*Legal process* means a writ, order, summons or other similar process in the nature of a garnishment, which is issued by a court of competent jurisdiction or by an authorized official pursuant to an order of such court or pursuant to State or local law.

*State workforce agency* or *SWA* means the State agency charged with the administration of the State unemployment compensation laws in accordance with title III of the Act.

*Unemployment compensation* means any compensation payable under State unemployment compensation law (including amounts payable in accordance with agreements under any Federal unemployment compensation law). It includes extended benefits, unemployment compensation for Federal employees, unemployment compensation for ex-servicemen, trade readjustment allowances, disaster unemployment assistance, and payments under the Redwood National Park Expansion Act.

(b) *Agreement.* The State IV-D agency shall enter into an agreement, which is reflected in a record, with the SWA in its State for the purpose of withholding unemployment compensation from individuals with unmet support obligations being enforced by the IV-D agency. The IV-D agency shall agree only to a withholding program that it expects to be cost effective and to reimbursement for the SWA's actual, incremental costs of providing services to the IV-D agency.

(c) *Functions to be performed by the IV-D agency.* The IV-D agency shall:

(1) Determine periodically from information provided by the SWA under section 508 of the Unemployment Compensation Amendments of 1976 whether individuals applying for or receiving unemployment compensation owe support obligations that are being enforced by the IV-D agency.

(2) Enforce unmet support obligations by arranging for the withholding of unemployment compensation based on a voluntary agreement with the individual who owes the support, or in

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appropriate cases which meet the case selection criteria established under paragraph (c)(3), through legal process pursuant to State or local law. If a voluntary agreement is obtained, the IV-D agency must give the SWA a copy of the voluntary agreement.

(3) Establish and use criteria, which are reflected in a record, for selecting cases to pursue via the withholding of unemployment compensation for support purposes. These criteria must be designed to ensure maximum case selection and minimal discretion in the selection process.

(4) Provide a receipt at least annually to an individual who requests a receipt for the support paid via the withholding of unemployment compensation, if receipts are not provided through other means.

(5) Maintain direct contact with the SWA in its State:

(i) By processing cases through the SWA in its own State or through IV-D agencies in other States; and

(ii) By receiving all amounts withheld by the SWA in its own State and forwarding any amounts withheld on behalf of IV-D agencies in other States to those agencies.

(6) Reimburse the administrative costs incurred by the SWA that are actual, incremental costs attributable to the process of withholding unemployment compensation for support purposes insofar as these costs have been agreed upon by the SWA and the IV-D agency.

(7) Review and document, at least annually, program operations, including case selection criteria established under paragraph (c)(3), and costs of the withholding process versus the amounts collected and, as necessary, modify procedures and renegotiate the services provided by the SWA to improve program and cost effectiveness.

[49 FR 8927, Mar. 9, 1984, as amended at 68 FR 25303, May 12, 2003; 81 FR 93563, Dec. 20, 2016]

### § 302.70 Required State laws.

(a) *Required Laws.* The State plan shall provide that, in accordance with sections 454(20) and 466 of the Act and part 303 of this chapter, the State has in effect laws providing for, and has implemented procedures to improve, program effectiveness:

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(1) Procedures for carrying out a program of withholding under which new or existing support orders are subject to the State law governing withholding so that a portion of the noncustodial parent's wages may be withheld, in accordance with the requirements set forth in § 303.100 of this chapter;

(2) Expedited processes to establish paternity and to establish and enforce child support orders having the same force and effect as those established through full judicial process, in accordance with the requirements set forth in § 303.101 of this chapter;

(3) Procedures for obtaining overdue support from State income tax refunds on behalf of individuals receiving IV-D services, in accordance with the requirements set forth in § 303.102 of this chapter;

(4) Procedures for the imposition of liens against the real and personal property of noncustodial parents who owe overdue support;

(5)(i) Procedures for the establishment of paternity for any child at least to the child's 18th birthday, including any child for whom paternity has not yet been established and any child for whom a paternity action was previously dismissed under a statute of limitations of less than 18 years; and

(ii) Effective November 1, 1989, procedures under which the State is required (except in cases where the individual involved has been found under section 454(29) of the Act to have good cause for refusing to cooperate or if, in accordance with § 303.5(b) of this chapter the IV-D agency has determined that it would not be in the best interest of the child to establish paternity in a case involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending) to require the child and all other parties in a contested paternity case to submit to genetic tests upon the request of any such party, in accordance with § 303.5 (d) and (e) of this chapter.

(iii) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and putative father can sign a voluntary acknowledgment of paternity, the mother and the putative father must be given notice, orally or through video or

audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights (including any rights, if a parent is a minor, due to minority status) and responsibilities of acknowledging paternity, and ensure that due process safeguards are afforded. Such procedures must include:

(A) A hospital-based program in accordance with §303.5(g) for the voluntary acknowledgment of paternity during the period immediately before or after the birth of a child to an unmarried mother, and a requirement that all public and private birthing hospitals participate in the hospital-based program defined in §303.5(g)(2); and

(B) A process for voluntary acknowledgment of paternity in hospitals, State birth record agencies, and in other entities designated by the State and participating in the State's voluntary paternity establishment program; and

(C) A requirement that the procedures governing hospital-based programs and State birth record agencies must also apply to other entities designated by the State and participating in the State's voluntary paternity establishment program, including the use of the same notice provisions, the same materials, the same evaluation methods, and the same training for the personnel of these other entities providing voluntary paternity establishment services.

(iv) Procedures under which the voluntary acknowledgment of paternity creates a rebuttable or, at the option of the State, conclusive presumption of paternity, and under which such voluntary acknowledgment is admissible as evidence of paternity;

(v) Procedures which provide that any objection to genetic testing results must be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence; and if no objection is made, a report of the test results, which is reflected in a record, is admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy;

(vi) Procedures which create a rebuttable or, at the option of the State,

conclusive presumption of paternity upon genetic testing results indicating a threshold probability of the alleged father being the father of the child;

(vii) Procedures under which a voluntary acknowledgment must be recognized as a basis for seeking a support order without requiring any further proceedings to establish paternity; and

(viii) Procedures requiring a default order to be entered in a paternity case upon a showing that process was served on the defendant in accordance with State law, that the defendant failed to respond to service in accordance with State procedures, and any additional showing required by State law.

(6) Procedures which require that a noncustodial parent give security, post a bond, or give some other guarantee to secure payment of support, in accordance with the procedures set forth in §303.104 of this chapter;

(7) Procedures for making information regarding the amount of overdue support owed by a noncustodial parent available to consumer reporting agencies;

(8) Procedures under which all child support orders which are issued or modified in the State will include provision for withholding from income, in order to assure that withholding as a means of collecting child support is available if arrearages occur without the necessity of filing an application for services under §302.33, in accordance with §303.100(g) of this chapter.

(9) Procedures which require that any payment or installment of support under any child support order, whether ordered through the State judicial system or through the expedited processes required by paragraph (a)(2) of this section, is (on and after the date it is due):

(i) A judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced;

(ii) Entitled as a judgment to full faith and credit in such State and in any other State; and

(iii) Not subject to retroactive modification by such State or by any other State, except as provided in §303.106(b).

(10) Procedures for the review and adjustment of child support orders in accordance with §303.8(b) of this chapter.

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(11) Procedures under which the State must give full faith and credit to a determination of paternity made by any other State, whether established through voluntary acknowledgment or through administrative or judicial processes.

(b) A State need not apply a procedure required under paragraphs (a) (3), (4), (6) and (7) of this section in an individual case if the State determines that it is not appropriate using guidelines generally available to the public which take into account the payment record of the noncustodial parent, the availability of other remedies, and other relevant considerations. The guidelines may not determine a majority of cases in which no other remedy is being used to be inappropriate.

(c) State laws enacted under this section must give States sufficient authority to comply with the requirements of §§ 303.100 through 303.102 and § 303.104 of this chapter.

(d)(1) *Exemption.* A State may apply for an exemption from any of the requirements of section 466 of the Act by the submittal of a request for exemption to the appropriate Regional Office.

(2) *Basis for granting exemption.* The Secretary will grant a State, or political subdivision in the case of section 466(a)(2) of the Act, an exemption from any of the requirements of paragraph (a) of this section for a period not to exceed 5 years if the State demonstrates that compliance would not increase the effectiveness and efficiency of its Child Support Enforcement program. Demonstration of the program's efficiency and effectiveness must be shown by actual, or, if actual is not available, estimated data pertaining to caseloads, processing times, administrative costs, and average support collections or such other actual or estimated data as the Office may request. The State must demonstrate to the satisfaction of the Secretary that the program's effectiveness would not improve by using these procedures. Disapproval of a request for exemption is not subject to appeal.

(3) *Review of exemption.* The exemption is subject to continuing review by the Secretary and may be terminated upon a change in circumstances or reduced effectiveness in the State or po-

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litical subdivision, if the State cannot demonstrate that the changed circumstances continue to warrant an exemption in accordance with this section.

(4) *Request for extension.* The State must request an extension of the exemption by submitting current data in accordance with paragraph (d)(2) of this section 90 days prior to the end of the exemption period granted under paragraph (d)(2) of this section.

(5) *When an exemption is revoked or an extension is denied.* If the Secretary revokes an exemption or does not grant an extension of an exemption, the State must enact the appropriate laws and procedures to implement the mandatory practice by the beginning of the fourth month after the end of the first regular, special, budget or other session of the State's legislature which ends after the date the exemption is revoked or the extension is denied. If no State law is necessary, the State must establish and be using the procedure by the beginning of the fourth month after the date the exemption is revoked.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19649, May 9, 1985, as amended at 51 FR 37731, Oct. 24, 1986; 54 FR 15764, Apr. 19, 1989; 56 FR 8004, Feb. 26, 1991; 56 FR 22354, May 15, 1991; 57 FR 30681, July 10, 1992; 57 FR 61581, Dec. 28, 1992; 59 FR 66249, Dec. 23, 1994; 64 FR 6249, Feb. 9, 1999; 64 FR 11809, Mar. 10, 1999; 68 FR 25303, May 12, 2003; 68 FR 53052, Sept. 9, 2003; 73 FR 74920, Dec. 9, 2008; 81 FR 93563, Dec. 20, 2016]

### **§ 302.75 Procedures for the imposition of late payment fees on noncustodial parents who owe overdue support.**

(a) Effective September 1, 1984, the State plan may provide for imposition of late payment fees on noncustodial parents who owe overdue support.

(b) If a State opts to impose late payment fees—

(1) The late payment fee must be uniformly applied in an amount not less than 3 percent nor more than 6 percent of overdue support.

(2) The fee shall accrue as arrearages accumulate and shall not be reduced upon partial payment of arrears. The fee may be collected only after the full amount of overdue support is paid and

any requirements under State law for notice to the noncustodial parent have been met.

(3) The collection of the fee must not directly or indirectly reduce the amount of current or overdue support paid to the individual to whom it is owed.

(4) The late payment fee must be imposed in cases where there has been an assignment under section 408(a)(3) of the Act or section 471(a)(17) of the Act or the IV-D agency is providing services under §302.33 of this chapter.

(5) The State may allow fees collected to be retained by the jurisdiction making the collection.

(6) The State must reduce its expenditures claimed under the Child Support Enforcement program by any fees collected under this section in accordance with §304.50 of this chapter.

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[50 FR 19650, May 9, 1985, as amended at 51 FR 37731, Oct. 24, 1986; 56 FR 8004, Feb. 26, 1991; 64 FR 6249, Feb. 9, 1999; 68 FR 25303, May 12, 2003]

**§ 302.80 Medical support enforcement.**

(a) The State plan may provide that the IV-D agency will secure and enforce medical support obligations under a cooperative agreement between the IV-D agency and the State Medicaid agency.

(b) The State plan must provide that the IV-D agency shall secure medical support information and establish and enforce medical support obligations in accordance with the requirements contained in §§303.30 and 303.31 of this chapter.

(Approved by the Office of Management and Budget under control number 0960-0420)

[50 FR 41894, Oct. 16, 1985, as amended at 51 FR 37731, Oct. 24, 1986; 54 FR 32309, Aug. 4, 1989; 61 FR 67241, Dec. 20, 1996; 64 FR 6249, Feb. 9, 1999]

**§ 302.85 Mandatory computerized support enforcement system.**

(a) *General.* The State plan shall provide that the State will have in effect a computerized support enforcement system:

(1) This guide is available on the OCSE Web site; and

(2) By October 1, 2000, which meets all the requirements of title IV-D of the Act enacted on or before the date of enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, in accordance with §§307.5 and 307.11 of this chapter and the OCSE guideline referenced in paragraph (a)(1) of this section.

(b) *Waiver*—(1) *Request for waiver.* The State may apply for a waiver of any condition for initial approval of an APD in §307.15(b) of this chapter, or any system functional requirement in §307.10 of this chapter, by the submission of a request for waiver under §307.5 of this chapter.

(2) *Basis for granting waiver.* The Secretary will grant a State a waiver if a State demonstrates that it has an alternative approach to APD requirements or an alternative system configuration, as defined in §307.1 of this chapter, that enables the State, in accordance with part 305 of this chapter, to be in substantial compliance with all other requirements of this chapter; and either:

(i) The waiver request meets the criteria set forth in section 1115(c)(1), (2) and (3) of the Act; or

(ii) The State provides assurances, which are reflected in a record, that steps will be taken to otherwise improve the State's Child Support Enforcement program.

[57 FR 47002, Oct. 14, 1992, as amended at 61 FR 67241, Dec. 20, 1996; 63 FR 44814, Aug. 21, 1998; 81 FR 93563, Dec. 20, 2016]

**PART 303—STANDARDS FOR PROGRAM OPERATIONS**

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