

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 433

[CMS–2343–F]

RIN 0938–AR92

Administration for Children and Families

45 CFR Parts 301, 302, 303, 304, 305, 307, 308, and 309

RIN 0970–AC50

Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs

**AGENCY:** Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF) and the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

**ACTION:** Final rule.

**SUMMARY:** This rule is intended to carry out the President's directives in *Executive Order 13563: Improving Regulation and Regulatory Review*. The final rule will make Child Support Enforcement program operations and enforcement procedures more flexible, more effective, and more efficient by recognizing the strength of existing State enforcement programs, advancements in technology that can enable improved collection rates, and the move toward electronic communication and document management. This final rule will improve and simplify program operations, and remove outmoded limitations to program innovations to better serve families. In addition, the final rule clarifies and corrects technical provisions in existing regulations. The rule makes significant changes to the regulations on case closure, child support guidelines, and medical support enforcement. It will improve child support collection rates because support orders will reflect the noncustodial parent's ability to pay support, and more noncustodial parents will support their children.

**DATES:** This final rule is effective on January 19, 2017. States may comply any time after the effective date, but before the final compliance date, **except for the amendment to § 433.152, which is effective on January 20, 2017.** The compliance dates, or the dates that States must comply with the final rule, vary for the various sections of the Federal regulations. The reasons for

delaying compliance dates include State legislative changes, system modifications, avoiding the need for a special guidelines commission review, etc.

The compliance date, or the date by which the States must follow the rule, will be February 21, 2017 except, as noted below:

- *Guidelines for setting child support orders* [§ 302.56(a)–(g)], *Establishment of support obligations* [§ 303.4], and *Review and adjustment of child support orders* [§ 303.8(c) and (d)]: The compliance date is 1 year after completion of the first quadrennial review of the State's guidelines that commences more than 1 year after publication of the final rule.
  - The requirements for reviewing guidelines for setting child support awards [§ 302.56(h)]: The compliance date is for the first quadrennial review of the guidelines commencing after the State's guidelines have initially been revised under this final rule.
  - Continuation of service for IV–E cases [§ 302.33(a)(4)], Location of noncustodial parents in IV–D cases [§ 303.3], Mandatory notice under Review and adjustment of child support orders [§ 303.8(b)(7)(ii)], Mandatory provisions of *Case closure criteria* [§ 303.11(c) and (d)], and *Functional requirements for computerized support enforcement systems in operation by October 1, 2000* [§ 307.11(c)(3)(i) and (ii)]: The compliance date is 1 year from date of publication of the final rule, or December 20, 2017. However, if State law changes are needed, then the compliance date will be the first day of the second calendar quarter beginning after the close of the first regular session of the State legislature that begins after the effective date of the final rule.
    - Optional provisions (such as *Paternity-only Limited Service* [§ 302.33(a)(6)], *Case closure criteria* [§ 303.11(b)], *Review and adjustment of child support orders* [§ 303.8(b)(2)], *Availability and rate of Federal financial participation* [§ 304.20], and Topic 2 Revisions): There is no specific compliance date for optional provisions.
      - *Payments to the family* [§ 302.38], *Enforcement of support obligations* [§ 303.6(c)(4)], and *Securing and enforcing medical support obligations* [§ 303.31]: If State law revisions are needed, the compliance date is the first day of the second calendar quarter beginning after the close of the first regular session of the State legislature that begins after the effective date of the regulation. If State law revisions are not needed, the compliance date is 60 days after publication of the final rule.

- *Collection and disbursement of support payments by the IV–D agency* [§ 302.32], *Required State laws* [§ 302.70], *Procedures for income withholding* [§ 303.100], *Expenditures for which Federal financial participation is not available* [§ 304.23], and Topic 3 revisions: The compliance date is the same as the effective date for the regulation since these revisions reflect existing requirements.

**FOR FURTHER INFORMATION CONTACT:** The OCSE Division of Policy and Training at [OCSE.DPT@acf.hhs.gov](mailto:OCSE.DPT@acf.hhs.gov). Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m. eastern time.

**SUPPLEMENTARY INFORMATION:**

**I. Statutory Authority**

This final rule is published under the authority granted to the Secretary of the Department of Health and Human Services by section 1102 of the Social Security Act (Act), 42 U.S.C. 1302. Section 1102 of the Act authorizes the Secretary to publish regulations, not inconsistent with the Act, which may be necessary for the efficient administration of the functions for which the Secretary is responsible under the Act. **Additionally, the Secretary has authority under section 452(a)(1) of the Act to “establish such standards for State programs for locating noncustodial parents, establishing paternity, and obtaining child support . . . as he[she] determines to be necessary to assure that such programs will be effective.”** Rules promulgated under section 452(a)(1) must meet two conditions. First, the Secretary's designee must find that the rule meets one of the statutory objectives of “locating noncustodial parents, establishing paternity, and obtaining child support.” Second, the Secretary's designee must determine that the rule is necessary to “assure that such programs will be effective.”

Section 454(13) requires a State plan to “provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating noncustodial parents, establishing paternity, obtaining support orders, and collecting support payments and provide that information requests by parents who are residents of other States be treated with the same priority as requests by parents who are residents of the State submitting the plan.”

This final rule is published in accordance with the following sections of the Act: Section 451—Appropriation;