

4. Section 303.5 is amended by revising paragraph (g) to read as follows:

§303.5 Establishment of paternity.

\* \* \* \* \*

(g) Voluntary paternity establishment programs.

(1) The State must establish, in cooperation with <sup>every</sup> hospital ~~and~~ <sup>with all</sup> birth record agencies ~~and~~ <sup>and</sup> other entities participating in the State's voluntary paternity establishment program, a program for voluntary paternity establishment services. (i) The hospital-based portion of the voluntary paternity establishment services program must be operational in private and public birthing hospitals statewide and must provide voluntary paternity establishment services focusing on the period immediately before and after the birth of a child born out-of-wedlock.

(ii) The voluntary paternity establishment services program must also be available at the State birth record agency, <sup>every</sup> local birth record agencies ~~designated~~ <sup>within</sup> by the State, and at <sup>all</sup> other entities participating in the State's voluntary paternity establishment program. These entities may include the following types of entities:

(A) Public health clinics (including Supplementary Feeding Program for Women, Infants, and Children (WIC) and Maternal and Child Health (MCH) clinics), and private health care providers (including obstetricians, gynecologists, pediatricians, and midwives);

10/20/97

To : Cynthia Rice

From : Kristi Guillory

Cynthia,

I will be coordinating the review of this proposed rule. I am on detail here from HHS. Please call me at 395-4815 with any questions or concerns.

Thanks

REGULATORY REVIEW WORKSHEET

OMB NUMBER: 0970-A213  
RIN NUMBER: 0970-AB69  
CHRONOLOGY: No previous reference

RECEIVED: 09/29/1997  
E.O. DUE DATE: 12/28/1997  
EXTENDED: \_ (Y/N)  
APPEALED: \_\_/\_\_/\_\_

AGENCY : Department of Health and Human Services  
SUBAGENCY : Administration for Children and Families

TITLE: Procedures for Voluntary Establishment of Paternity

ECONOMICALLY SIGNIFICANT: No  
STAGE: Proposed Rule  
LEGAL DEADLINE: No

DESK OFFICER: Wendy Taylor  
ANALYST : Randy Lutter

ACTION:

- (1) Consistent Without Change
- (2) Consistent With Change
- (3) Withdrawn by Agency
- (7) Returned - Sent Improperly
- (9) Returned for Reconsideration
- (11) Emergency
- (12) Statutory or Judicial Deadline

REGULATORY IMPACT:

- (D) Deregulatory
- (R) Regulatory
- (N) Nonregulatory

Verified RIN  
\_\_\_\_\_

MAJOR under 5 USC 801 (PL 104-121):  Yes  No

UNFUNDED MANDATES: Sec 202, Unfunded Mandates Act:  Yes  No  
(If yes, check all that apply.)  
 State, local, or tribal governments  
 Private Sector

SIGNATURES AND DATES:

Budget	Desk Officer	Other	OIRA
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Date: _____	Date: _____	Date: _____	Date: _____

AGENCY NOTIFIED: \_\_/\_\_/\_\_

TITLE:  
State Law Concerning Paternity Establishment

RIN: 0970-AB69 (P)

REGULATORY PLAN: No

PRIORITY: Substantive, Nonsignificant

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY:

42 USC 666(a)(5)

CFR CITATION:

45 CFR 302.70; 45 CFR 303.5; 45 CFR 304.20

LEGAL DEADLINE: None

ABSTRACT:

This regulation covers voluntary paternity establishment services offered by hospitals and birth record agencies and specifies the types of other entities that may offer voluntary paternity establishment services. The provision of such services must include a requirement that such an entity use the same notice provision, materials, training, and evaluation as the ones used by the voluntary paternity establishment programs of hospitals and birth record agencies.

TIMETABLE:

ACTION	DATE	FR CITE
NPRM.....	12/00/97	

SMALL ENTITIES AFFECTED: None

GOVERNMENT LEVELS AFFECTED: State, Local

RIN: 0970-AB69

DATE 9/29/97

TITLE:

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State Law Concerning Paternity Establishment

AGENCY CONTACT:

Jan Rothstein,  
Program Specialist,  
Division of Policy and Planning,  
Department of Health and Human Services,  
Administration for Children and Families,  
OCSE, DHHS,  
370 L'Enfant Promenade SW.,  
Mail Stop: OCSE/DPP,  
Washington, DC 20447,  
202 401-5073,  
202 401-5559 (FAX),  
jrothstein@acf.dhhs.gov (EMAIL)

# EXECUTIVE ORDER 12866 SUBMISSION

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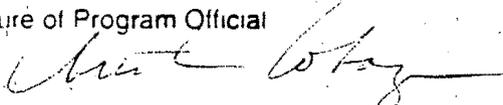
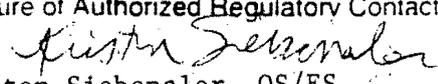
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<p>1. Agency/Subagency originating request Department of Health and Human Services Administration for Children and Families</p>	<p>2. Regulation Identifier Number (RIN) 0970-AB69 0970-A213</p>
<p>3. Title Procedures for Voluntary Establishment of Paternity</p>	
<p>4. Stage of Development</p> <p><input type="checkbox"/> Prerule <input checked="" type="checkbox"/> Proposed Rule <input type="checkbox"/> Interim Final Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Final Rule - No material change <input type="checkbox"/> Notice <input type="checkbox"/> Other</p> <p>Description of Other</p>	<p>5. Legal Deadline for this submission</p> <p>a) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>b) Date <input type="text"/> / <input type="text"/> / <input type="text"/> DD MM YY</p> <p>c) <input type="checkbox"/> Statutory <input type="checkbox"/> Judicial</p> <p>6. Economically Significant</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>7. Agency Contact (person who can best answer questions regarding the content of this submission)</p> <p>Jan Rothstein Phone (202) 401-5073</p>	

**Certification for Executive Order 12866 Submissions**

The authorized regulatory contact and the program official certify that the agency has complied with the requirements of E.O. 12866 and any applicable policy directives.

Signature of Program Official 	Date 9/22/97
Signature of Authorized Regulatory Contact  Kristen Siebenaler OS/ES	Date 9/24/97

[BILLING CODE: 4184-01]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 302, 303, and 304

RIN 0970-AB69

Child Support Enforcement Program; State Plan Requirements,  
Standards for Program Operations, and Federal Financial  
Participation

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Notice of Proposed Rulemaking

SUMMARY: This proposed rule would implement part of the paternity establishment provisions contained in section 331 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and amended by section 5539 of Pub. L. 105-33, which impose new statutory requirements for a State's voluntary paternity acknowledgement process and require the Secretary to promulgate regulations governing voluntary paternity establishment services and identifying the types of entities other than hospitals and birth record agencies that may be allowed to offer voluntary paternity establishment services.

States will be required to adopt laws and procedures that are in accordance with the statutory and regulatory provisions. These proposed regulations will address these procedures and related provisions.

**DATES:** Consideration will be given to written comments received by [Insert date 60 days after date of publication in the **FEDERAL REGISTER**].

**ADDRESSES:** Comments should be submitted in writing to the Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, SW, 4th Floor, Washington, DC 20447; Attention: Director of Policy and Planning Division, Mail Stop: OCSE/DPP. Comments may also be submitted by sending electronic mail (e-mail) to "jrothstein@acf.dhhs.gov.", or by telefaxing to 202-401-3444. This is not a toll-free number. Comments sent electronically must be in ASCII format. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m. on the 4th floor of the Department's offices at the above address.

**FOR FURTHER INFORMATION CONTACT:** Jan Rothstein, OCSE Division of Policy and Planning, (202) 401-5073. Hearing impaired individuals may call the Federal Dual Party Relay Service at 800-877-8339 between 8:00 a.m. and 7:00 p.m. Eastern time.

SUPPLEMENTARY INFORMATION:

**Paperwork Reduction Act**

Section 466(a)(5)(C) of the Social Security Act (the Act) as added by section 331 of Public Law 104-193 and amended by section 5539 of Pub. L. 105-33 contains a requirement that information be disclosed to a third party. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Administration for Children and Families has submitted a copy of this section to the Office of Management and Budget (OMB) for its review.

Section 466(a)(5)(C) of the Act as added by section 331 of Public Law 104-193 and amended by section 5539 of Pub. L. 105-33 requires States to pass laws ensuring 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 acknowledgement of paternity, the mother and putative father must be given notice, orally or through the use of 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. To comply with this requirement States must disclose information about these rights in written and oral formats or through the use of video or audio equipment to mothers and putative fathers. We estimate the time needed to

disclose the information to mothers and putative fathers to be approximately 10 minutes. In order to ensure effective disclosure of this information, States will need to provide training to other State employees and the employees of local governments, non-profits and for profit businesses. We estimate this training will take an additional 1,600 hours yearly for all entities. We have added these hours to the time estimated to be necessary for the third party disclosure in order to establish the total estimated burden hours for this requirement.

Likely respondents to the third party disclosure include hospitals, TANF agencies, Food Stamp agencies, WIC centers, Maternal and Child Health centers, doctors, lawyers, and secondary schools. While the total number of potential respondents is approximately 2,000,000, we expect the actual number of respondents will be closer to 100,000. We estimate that 448,600 paternities will be voluntarily established in 1998 and of that number half will be established in hospitals. The total burden hours estimated for the third party disclosure are 76,059.

To ensure that public comments have maximum effect in developing the final regulations, ACF urges that persons wishing to comment clearly identify the specific section or sections of the regulations that the comment addresses and that comments be in the same order as the regulations.

ACF will consider comments by the public on these proposed collections of information in:

- \* Evaluating whether the proposed collections are necessary for the proper performance of the functions of ACF, including whether the information will have practical utility;
- \* Evaluating the accuracy of ACF's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- \* Enhancing the quality, usefulness, and clarity of the information to be collected; and
- \* Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in this proposed regulation between 30 and 60 days after publication of this document in the FEDERAL REGISTER. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

This does not affect the deadline for the public to comment to the Department on the proposed regulations. Written comments to OMB for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington D.C. 20503, Attn: Ms. Wendy Taylor

### **Statutory Authority**

These proposed regulations are published under the authority of section 466(a)(5)(C) of the Act, as amended by section 331 of Pub.L. 104-193. Section 466(a)(5)(C)(iii) of the Act requires the Secretary to promulgate regulations governing voluntary paternity establishment services and identifying the types of entities other than hospitals and birth record agencies that may be allowed to offer voluntary paternity establishment services. States will be required to adopt laws and procedures that are in accordance with the statutory and regulatory provisions.

### **Background**

Paternity establishment is a necessary first step for obtaining child support in cases where a child is born out-of-wedlock. In addition to child support, there are other potential financial benefits to establishing paternity, including establishing a child's rights to the father's Social Security benefits,

veterans' benefits, pension benefits, and other rights of inheritance. Paternity establishment could also be the first step in developing a psychological and social bond between the father and child, in giving the child social and psychological advantages and a sense of family heritage, and in providing access to important medical history information.

Congress and the Federal government have long recognized the importance of paternity establishment. In 1975, Title IV-D of the Social Security Act was enacted to require States to establish public child support agencies. These IV-D agencies provide child support enforcement services, including paternity establishment services. The Child Support Enforcement Amendments of 1984 required States to permit paternity to be established until a child's 18th birthday.

The Family Support Act of 1988 contained several provisions designed to improve paternity establishment, including performance standards, timeframes for case processing, enhanced funding (90% Federal financial participation) for genetic testing, a requirement that States compel all parties in a contested paternity case to submit to genetic testing upon the request of a party, a requirement that States compel each parent to provide his or her social security number as part of the birth certificate issuance process, and a clarification of the earlier

expansion of the requirement permitting paternity establishment to 18 years of age.

The Omnibus Reconciliation Act of 1993 (OBRA '93) further reformed the child support enforcement program to increase the performance standards for both the number of paternities established for children born out-of-wedlock and the timeliness with which paternity establishment is accomplished. One major provision of OBRA '93 was the requirement that States have laws providing for voluntary paternity establishment services at birthing hospitals statewide.

Partly as a result of these Federal and State statutory provisions and their implementation, the number of paternities established each year by the IV-D Child Support Enforcement program has increased substantially from about 270,000 in fiscal year (FY) 1987 to over 553,000 in FY 1993, an increase of over 100 percent in just six years. Nearly a million paternities were established in FY 1996, an increase of over 80 percent in the three years since enactment of OBRA '93.

Finally, in section 101 of PRWORA, Congress cited a number of social and statistical findings relating to the need for paternity establishment. In 1992, only 54 percent of single-parent families with children had a child support order established and, of that number, only about one-half received the

full amount due. Of the cases enforced through the public child support enforcement system, only 18 percent of the caseload has a collection. The number of individuals receiving IV-D services more than tripled since 1965, and more than two-thirds of these recipients are children, with eighty-nine percent of children receiving Aid to Families with Dependent Children benefits living in homes in which no father is present. The increase in the number of children receiving public assistance is closely related to the increase in births to unmarried women. Congress further cited that between 1970 and 1991, the percentage of live births to unmarried women increased nearly threefold, from 10.7 percent to 29.5 percent, and if the current trend continues, 50 percent of all births by the year 2015 will be out-of-wedlock. The estimated rate of nonmarital teen pregnancy rose 23 percent from 54 pregnancies per 1,000 unmarried teenagers in 1976 to 66.7 pregnancies in 1991, while the overall rate of nonmarital pregnancy rose 14 percent from 90.8 pregnancies per 1,000 unmarried women in 1980 to 103 in both 1991 and 1992.

#### **Description of Statutory Provisions**

Section 466(a)(5)(C)(iii)(II)(aa) of the Act as amended by Pub. L. 104-193 requires that "(The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies." Section 466(a)(5)(C)(iii)(II)(bb) of the Act as amended by Pub. L. 104-

193 requires that "(T)he Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is evaluated by, voluntary paternity establishment programs of hospitals and birth record agencies."

The statute also requires that States develop procedures for a simple civil process for voluntarily acknowledging paternity. This process must ensure that a mother and a putative father do not sign an acknowledgement of paternity before they are both given notice orally or through the use of video or audio equipment and in writing of the alternatives to, the legal consequences of, and the rights (including those rights due to minority status) and responsibilities of acknowledging paternity. In addition, section 466(a)(5)(M) of the Act requires that States develop procedures under which voluntary acknowledgements and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry. These changes required by PRWORA are largely expansions on requirements previously established under OBRA '93. However, as noted above,

the Act now requires the Secretary to prescribe by regulations the types of other entities that may offer voluntary paternity establishment services and to write regulations governing the voluntary paternity establishment services offered by hospitals, birth record agencies, and other entities participating in the State's voluntary paternity establishment program.

We propose to implement the requirements of amended section 466(a)(5)(C) by amending §302.70, addressing State laws, §303.5, addressing establishment of paternity and §304.20, addressing availability and rate of Federal financial participation.

#### **Regulatory Philosophy**

Historically in the child support enforcement program, the Federal government had specified in detailed regulations how things must be done by States. The Federal Office of Child Support Enforcement (OCSE) has entered an era which necessitates a new philosophy with respect to Federal mandates through regulation. Because the President is committed to reducing the burden on States and streamlining regulations, OCSE's new watchwords are partnership, results, flexibility, and accountability.

Since OCSE's partnership with States is built on shared trust and the primary Federal concern is results, we believe our partners

in State and local government should have a significantly greater degree of flexibility, within the constraints of the Federal statute, than previously permitted. Striking the appropriate balance between flexibility and standardization will be a continuing challenge as OCSE strives for an environment that encourages and rewards rather than stifles creativity throughout the child support community.

These proposed regulations reflect OCSE's consultation with our partners and stakeholders on how detailed the required procedures should be and what other sources of voluntary paternity establishment services should be included in the list of entities. OCSE took into careful consideration the fact that so many of the Federal requirements in the new law will necessitate State legislation. In the past, there occasionally have been concerns when State legislatures enacted legislation in response to Federal statutory and regulatory requirements, but had to return in a later session to enact State laws in response to new or additional Federal regulations. We were concerned to avoid that situation here, if at all possible.

Because the Federal statute and regulations are fairly explicit with respect to State requirements governing paternity establishments, we believe it prudent to merely extend existing regulatory requirements which govern voluntary paternity acknowledgement in hospitals to govern birth record agencies and

~~other entities participating in the State's voluntary paternity establishment program as well.~~

Other paternity establishment provisions contained in section 331 of P.L. 104-193, as well as other portions of Pub.L. 104-193 that address paternity issues, are not addressed in this proposed rulemaking. ~~Necessary changes to existing regulations which are inconsistent with new Federal mandates will be addressed in a separate omnibus rule-making.~~ While we do not intend at this time to restate Federal statutory requirements in regulations, should the need arise based on unforeseen circumstances, we will work with our partners and stakeholders to determine if further regulation and guidance is needed to ensure consistent and effective compliance with Federal statutory requirements and expectations.

In considering how best to implement the statutory requirement that the Secretary promulgate regulations for expanding voluntary paternity establishment services to include not only birthing hospitals, but also birth record agencies and other entities, OCSE has looked for guidance from the President's National Performance Review guidelines for reinventing regulations. The guiding principles are to: cut obsolete regulations; reward results, not red tape; get out of Washington to create grass roots partnerships; and negotiate, not dictate.

## Consultation Process

With these guidelines and OCSE's watchwords of partnership, results, flexibility, and accountability, we elicited input from our partners, including State and local IV-D administrators, State and Federal birth record agencies, and others with empirical and applied knowledge of voluntary paternity establishment services. OCSE has consulted with the National Governors' Association, the American Public Welfare Association, the National Conference of State Legislatures, the National Association of Counties, the AFL-CIO, the Center for Law and Social Policy, the Children's Defense Fund, the Center for Budget and Policy Priorities, the United States Conference of Mayors, the National League of Cities, Child Trends, the Manpower Development Research Corporation, the Urban Institute, the Coalition on Human Needs, the National Association of Social Workers, the National Organization for Women's Legal Defense Fund, the American Association of University Women, and others. Some of our partners have long-term experience in the in-hospital program for voluntary paternity establishment services, others have a wider breadth of experience from a vital records perspective, and still others have come from a child support enforcement background with varied experience in working with and through their partners, and in achieving legislative enactments and implementation successes. With their help, we developed the

list of entities where States may make voluntary paternity establishment services available.

**Description of Regulatory Provisions -- Section 302.70(a)(5)(iii)**

Current Regulations

Current §302.70(a)(5)(iii) requires States to have in effect laws requiring the use of procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that the rights and responsibilities of acknowledging paternity are explained, and ensure that due process safeguards are afforded. Such procedures must include a hospital-based program for the voluntary acknowledgement of paternity in the period immediately before or after the birth of a child to an unmarried woman, and a requirement that all public and private birthing hospitals participate in the program. Such procedures must also include a process for voluntarily acknowledging paternity outside of hospitals.

Proposed Regulations

We propose that section 302.70(a)(5)(iii) be revised to require a State to have in effect laws requiring procedures for a simple civil process for voluntarily acknowledging paternity. Under these procedures, before a mother and putative father can sign a

voluntary acknowledgement of paternity, the mother and the putative father must be given notice, orally or through the use of 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. This section would be further revised to specify that both parents are to sign the voluntary acknowledgement.

We propose to revise paragraph (a) (5) (ii) (B) to require that State procedures must include a program for voluntary acknowledgement of paternity in birth record agencies and in other entities participating in the State's voluntary paternity establishment program. We propose to add a new paragraph (a) (5) (ii) (C) to require that State procedures governing hospital-based programs and birth record agencies must also apply to other entities 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.

Description of Regulatory Provisions -- Section 303.5(g)

Current Regulations

Current §303.5(g) requires States to establish, in cooperation with hospitals, a hospital-based program in every public and private birthing hospital, by January 1, 1995, for voluntary paternity acknowledgement during the period immediately before or after the birth of a child to an unmarried woman.

The hospital-based program:

(1) Must provide to both the mother and alleged father, if he is present in the hospital, written materials about paternity establishment, the forms necessary to voluntarily acknowledge paternity, a written description of the rights and responsibilities of acknowledging paternity, and the opportunity to speak with staff, either by telephone or in person, who are trained to clarify information and answer questions about paternity establishment;

(2) Must also provide the mother and alleged father, if he is present, the opportunity to voluntarily acknowledge paternity in the hospital, afford due process safeguards, and forward the completed acknowledgments or copies to the entity designated by the State; and

(3) Need not provide the voluntary paternity acknowledgement services in cases where the mother or alleged father is a minor or a legal action is already pending, if the provision of such services is precluded by State law.

The State must:

(1) Require that a voluntary acknowledgment obtained through a hospital-based program be signed by both parents, and that the parents' signatures be authenticated by a notary or witness(es);

(2) Provide to all public and private birthing hospitals in the State written materials about paternity establishment, forms necessary to voluntarily acknowledge paternity, and copies of a written description of the rights and responsibilities of acknowledging paternity;

(3) Provide training, guidance, and written instructions regarding voluntary acknowledgment of paternity, as necessary to operate the hospital-based program;

(4) Assess each birthing hospital's program on at least an annual basis; and

(5) Designate an entity to which hospital-based programs must forward completed voluntary acknowledgments or copies. Under the

State procedures, this entity must be responsible for promptly recording identifying information about the acknowledgments with a statewide database, and the IV-D agency must have timely access to whatever identifying information and documentation it needs to determine if an acknowledgment has been recorded and to seek a support order on the basis of a recorded acknowledgment.

### Proposed Regulations

We propose to revise 45 CFR 303.5(g)(1) to require that the State voluntary paternity establishment program also be available at the State birth record agency, local birth record agencies designated by the state and at other entities designated by the State. The designation of the particular entities that may offer voluntary paternity establishment services would be the responsibility of the State.

These entities to be identified by the State could include the following and similar entities: -- public health clinics (including Supplementary Feeding Program for Women, Infants, and Children (WIC) and Maternal and Child Health (MCH) clinics); private health care providers (including obstetricians, gynecologists, pediatricians, and midwives); agencies providing assistance or services under title IV-A of the Act; agencies providing food stamp eligibility services; agencies providing child support enforcement (IV-D) services; Head Start and child

care agencies (including child care information and referral providers); individual child care providers; Community Action Agencies and Community Action Programs; secondary education schools (particularly those that have parenthood education curricula); Legal Aid agencies; and private attorneys; and any similar public or private health, welfare, or social services organization.

Although the Secretary is required to prescribe in regulations the "types of entities" which States may designate to provide voluntary paternity services, we wish to allow States the broadest possible discretion to determine which entities within their jurisdiction should be designated, trained and empowered to provide this important service.

We also propose to revise §303.5(g), to replace the reference to the requirement that the State designate an entity to which the voluntary acknowledgement program must forward completed voluntary acknowledgement forms or copies with a requirement that the State designate the State registry of birth records as the entity to which the voluntary acknowledgement program must forward completed voluntary acknowledgement forms or copies. We also propose to replace references to the hospital-based voluntary paternity establishment program with references to hospitals, birth record agencies, and other entities.

participating in the State's voluntary paternity establishment program.

By making these changes, we propose to expand the applicability of all existing provisions in §303.5(g)(2)-(8) to birth record agencies and other entities participating in the State's voluntary paternity establishment program. This is consistent with the statutory requirement that the Secretary prescribe regulations governing the provision of services by the other entities. The statute specifies that the other entities participating in the State's voluntary paternity establishment program must use the same materials and be trained and evaluated in the same manner as the voluntary paternity establishment programs of hospitals and birth record agencies. We believe this consistency will greatly facilitate the establishment of paternities by entities other than hospitals and birth record agencies.

Additionally, to reflect other new statutory requirements, we propose to revise §303.5(g)(2)(i)(C) and §303.5(g)(5)(iii), to require that hospitals, birth record agencies, and other entities participating in the voluntary paternity establishment program provide to the mother, and the father if present, an oral as well as written description of the consequences of voluntarily acknowledging paternity. The information about consequences may also be provided through the use of video or audio equipment.

The description must address not only the rights and responsibilities of acknowledging paternity, but also the alternatives to, and the legal consequences of, acknowledging paternity. In addition, the description must ensure that due process safeguards are afforded and that any rights due to minority status be described to the parents if a parent is a minor.

**Description of Regulatory Provisions -- Section 304.20(b)(2)**

Current Regulations

Under current §304.20(b)(2)(vi), Federal financial participation is available for State administrative costs for paternity establishment services, including payments up to \$20 to birthing hospitals and other entities that provide prenatal or birthing services for each voluntary acknowledgment obtained pursuant to an agreement with the IV-D agency. Under current

§304.20(b)(2)(vii), Federal financial participation is available for developing and providing to birthing hospitals and other entities that provide prenatal or birthing services written and audiovisual materials about paternity establishment and forms

necessary to voluntarily acknowledge paternity. Under current §304.20(b)(2)(viii), Federal financial participation is available for reasonable and essential short-term training regarding

voluntary acknowledgment of paternity associated with a State's hospital-based program.

### Proposed Regulations

We propose to revise these paragraphs to allow Federal financial participation in these allowable costs with respect to birth record agencies and other entities participating in the voluntary paternity establishment program. This is consistent with our proposal to expand the applicability of all existing provisions in §303.5(g)(2) - (8) to birth record agencies and other entities participating in the State's voluntary paternity establishment program.

*What is the FFP - 66%.*

### Regulatory Flexibility Analysis

The primary impact of these regulations is on State governments and individuals, which are not considered small entities under the Regulatory Flexibility Act. Most of the requirements being imposed on entities are required by statute. The regulations require hospitals, birth record agencies and the other entities participating in the State's voluntary paternity establishment program to be subject only to certain minimal requirements.

These requirements include: undergoing training, being evaluated annually, providing oral and written information to mothers and putative fathers, and transmitting the acknowledgements to the

State registry of birth records. The information about consequences may also be provided through the use of video or audio equipment. The Federal regulations do not specify the nature or extent of the training, evaluation or materials to be provided. The States will furnish the training, conduct the evaluation, and provide the materials and forms to be used. The requirements imposed by the regulations do not result in a significant impact on a substantial number of small entities. Therefore, the Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that these proposed regulations will not result in a significant impact on a substantial number of small entities.

## **Executive Order 12866**

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. The proposed regulations are required by PRWORA and represent expansion of the existing regulations to cover birth record agencies and other entities.

## **Unfunded Mandates Act**

The Department has determined that this proposed rule is not a significant regulatory action within the meaning of the Unfunded Mandates Reform Act of 1995.

## **List of Subjects in 45 CFR Parts 302, 303, and 304**

Accounting; Child support; Grant programs--social programs, and Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program No. 93.563, Child Support Enforcement Program)

Dated: 7/30/97

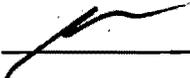
*Olivia A Golden*

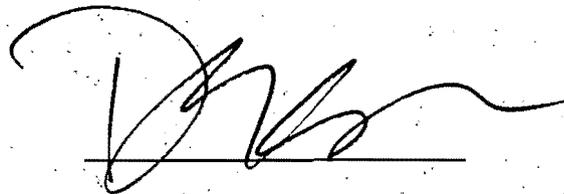
Olivia A. Golden

Principal Deputy

Assistant Secretary

for Children and Families

Approved:  SEP 25 1997



Donna E. Shalala

Secretary, Department of

Health and Human Services

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For the reasons stated in the preamble, we propose to amend title 45 CFR chapter III of the Code of Federal Regulations as follows:

PART 302 -- STATE PLAN REQUIREMENTS

1. The authority citation for Part 302 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

2. Section 302.70 is amended by revising paragraph (a) to read as follows:

§302.70 Required State Laws.

(a) \* \* \*

(5) \* \* \*

(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 acknowledgement 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) \* \* \*

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

(C) A requirement that the procedures governing hospital-based programs and birth record agencies must also apply to other entities 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.

\* \* \* \* \*

#### PART 303 -- STANDARDS FOR PROGRAM OPERATIONS

3. The authority citation for Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 653, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

4. Section 303.5 is amended by revising paragraph (g) to read as follows:

§303.5 Establishment of paternity.

\* \* \* \* \*

(g) Voluntary paternity establishment programs.

(1) The State must establish, in cooperation with hospitals, birth record agencies and other entities participating in the State's voluntary paternity establishment program, a program for voluntary paternity establishment services. (i) The hospital-based portion of the voluntary paternity establishment services program must be operational in private and public birthing hospitals statewide and must provide voluntary paternity establishment services focusing on the period immediately before and after the birth of a child born out-of-wedlock.

(ii) The voluntary paternity establishment services program must also be available at the State birth record agency, <sup>over</sup> local birth record agencies <sup>within</sup> ~~designated~~ by the State, and at other entities participating in the State's voluntary paternity establishment program. These entities may include the following types of entities:

(A) Public health clinics (including Supplementary Feeding Program for Women, Infants, and Children (WIC) and Maternal and Child Health (MCH) clinics), and private health care providers (including obstetricians, gynecologists, pediatricians, and midwives);

(B) Agencies providing assistance or services under title IV-A of the Act, agencies providing food stamp eligibility service; and agencies providing child support enforcement (IV-D) services;

(C) Head Start and child care agencies (including child care information and referral providers), and individual child care providers;

(D) Community Action Agencies and Community Action Programs;

(E) Secondary education schools (particularly those that have parenthood education curricula);

(F) Legal Aid agencies, and private attorneys; and

(G) Any similar public or private health, welfare or social services organization.

(2) The hospitals, birth record agencies, and other entities participating in the State's voluntary paternity establishment program must, at a minimum:

(i) Provide to both the mother and alleged father, if he is present:

(A) Written materials about paternity establishment,

(B) the forms necessary to voluntarily acknowledge paternity,

(C) a written and oral or through the use of video or audio equipment description of the alternatives to, the legal consequences of; and the rights (including any rights, if a

*Change from court log*

parent is a minor, due to minority status) and responsibilities of acknowledging paternity, and

(D) the opportunity to speak with staff, either by telephone or in person, who are trained to clarify information and answer questions about paternity establishment;

(ii) Provide the mother and alleged father, if he is present, the opportunity to voluntarily acknowledge paternity;

(iii) Afford due process safeguards; and

(iv) Forward completed acknowledgements or copies to the State registry of birth records.

(3) The hospitals, birth record agencies, and other entities participating in the State's voluntary paternity establishment program need not provide services specified in paragraph (g) (2) of this section in cases where the mother or alleged father is a minor or a legal action is already pending, if the provision of such services is precluded by State law.

(4) The State must require that a voluntary acknowledgement be signed by both parents, and that the parents' signatures be authenticated by a notary or witness(es).

(5) The State must provide to all hospitals, birth record agencies, and other entities participating in the State's voluntary paternity establishment program:

(i) written materials about paternity establishment;

(ii) forms necessary to voluntarily acknowledge paternity,

and

Same  
as prior  
law

(iii) copies of a written description 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.

*revised*

(6) The State must provide training, guidance, and written instructions regarding voluntary acknowledgment of paternity, as necessary to operate the voluntary paternity establishment services in the hospitals, birth record agencies, and other entities participating in the State's voluntary paternity establishment program.

(7) The State must assess each hospital, birth record agency, and other entity participating in the State's voluntary paternity establishment program that are providing voluntary paternity establishment services on at least an annual basis.

*new*  
(8) The State must designate the State registry of birth records as the entity to which hospitals, birth record agencies, and other entities that are participating in the State's voluntary paternity establishment program must forward completed voluntary acknowledgements or copies in accordance with section 303.5(g)(2)(iv). Under State procedures, the State registry of birth records must be responsible for promptly recording identifying information about the acknowledgements with a statewide database and the IV-D agency must have timely access to whatever identifying information and documentation it needs to determine in accordance with section 303.5(h) if an acknowledgement has been recorded and to seek a support order on

the basis of a recorded acknowledgement in accordance with section 303.4(f).

\* \* \* \* \*

PART 304 -- FEDERAL FINANCIAL PARTICIPATION

5. The authority citation for Part 304 continues to read as follows:

Authority: 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

6. Section 304.20 is amended, by revising paragraph (b) to read as follows:

§304.20 Availability and rate of Federal financial participation.

(b) \* \* \*

(2) \* \* \*

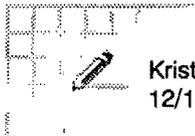
(vi) Payments up to \$20 to hospitals, birth record agencies, and other entities participating in the State's voluntary paternity establishment program, under §303.5(g) of this chapter, for each voluntary acknowledgement obtained pursuant to an agreement with the IV-D agency;

*New coding*

(vii) Developing and providing to hospitals, birth record agencies, and other entities participating in the State's voluntary paternity establishment program, under §303.5(g) of this chapter, written and audiovisual materials about paternity establishment and forms necessary to voluntarily acknowledge paternity; and

(viii) Reasonable and essential short-term training associated with the State's program of voluntary paternity establishment services under §303.5(g).

\* \* \* \* \*



Kristi C. Guillory  
12/12/97 03:59:44 PM

Record Type: Record

To: Edwin Lau/OMB/EOP, Cynthia A. Rice/OPD/EOP, Wendy A. Taylor/OMB/EOP  
cc:  
Subject: Voluntary Paternity Establishment REg

----- Forwarded by Kristi C. Guillory/OMB/EOP on 12/12/97 03:58 PM  
-----



Kristi C. Guillory  
12/12/97 03:31:19 PM

Record Type: Record

To: mmocko@acf.dhhs.gov @ inet  
cc:  
Subject: Voluntary Paternity Establishment REg

We have the following questions and comments.

OK  
will  
D

1) Every birthing hospital: The regulation now in effect says that "The State must establish, in cooperation with hospitals, a hospital-based program in every public and private birthing hospital." The proposed rule drops the word "every", which seems to possibly be a step in the wrong direction. The language in the proposed section 303.5 (g) (i) "must be operational in private and public birthing hospitals statewide" does not seem as strong because "statewide" could mean one hospital in every county instead of every hospital. What does OCSE intend here?

OK  
will  
D

2) Every State and Local Birth Record Agency: We suggest the following clarifications on pg. 29 (303.5 (ii)). Please revise the first sentence to read : "The voluntary paternity establishment services program must also be available at the State birth record agency, every local birth record agency within the State, and at all other entities participating in the State's voluntary paternity establishment program."

OK  
No change

3) Other Entities: Do we need to clarify at 303.5 (ii) that it does not meet every type of entity designated by the State (e.g. all public health clinics within the state)?

4) Is the amount for the current \$20 payment for hospitals and other entities (sec 304.20(b)(2)(vi)) set by regulation or statute? Does this payment serve as an incentive to hospitals or other entities to participate in the program or to increase paternities established? *It's an option to state in current law. State has to decide it next*

5) Outside of this regulation, we would like to hear from OCSE what else they are doing or planning to do to assist states and other public and private entities in encouraging voluntary paternity establishment.

For example, does OCSE provide model materials and public service announcements?

6) In several places in the rule (sec 302.70(iii) on p. 27 (also on pgs. 30, and 32) there is proposed language describing the procedures a State must put in place in all voluntary paternity establishment settings. This language includes a requirements that "the mother and the putative father must be given notice...of the alternatives to...acknowledging paternity" How does HHS interpret the meaning of "alternatives" and does the term need further clarification in the rule?

*genetic testing or court actions*

7) What State laws exist that preclude minors from receiving paternity establishment services? (See pg. 31, sec. 303.5 (g)).

*Border state laws re minors entering into contracts*

*Becomes a legal finding of paternity  
if "ripens" after time.*

proceedings to establish paternity or to establish, modify, or enforce support orders:

**(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—**Procedures under which—

(i) each party to any paternity or child support proceeding is required (subject to privacy safeguards) to file with the tribunal and the State case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including Social Security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer; and

(ii) in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the tribunal may deem State due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal pursuant to clause (i).

**(B) STATEWIDE JURISDICTION.—**Procedures under which—

(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties; and

(ii) in a State in which orders are issued by courts or administrative tribunals, a case may be transferred between local jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.

**(3) COORDINATION WITH ERISA.—**Notwithstanding subsection (d) of section 514 of the Employee Retirement Income Security Act of 1974 (relating to effect on other laws), nothing in this subsection shall be construed to alter, amend, modify, invalidate, impair, or supersede subsections (a), (b), and (c) of such section 514 as it applies with respect to any procedure referred to in paragraph (1) and any expedited procedure referred to in paragraph (2), except to the extent that such procedure would be consistent with the requirements of section 206(d)(3) of such Act (relating to qualified domestic relations orders) or the requirements of section 609(a) of such Act (relating to qualified medical child support orders) if the reference in such section 206(d)(3) to a domestic relations order and the reference in such section 609(a) to a medical child support order were a reference to a support order referred to in paragraphs (1) and (2) relating to the same matters, respectively.

**(b) AUTOMATION OF STATE AGENCY FUNCTIONS.—**Section 454A, as added by section 344(a)(2) and as amended by sections 311 and 312(c) of this Act, is amended by adding at the end the following new subsection:

**(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—**The automated system required by this section shall be used, to the maximum

extent feasible, to implement the expedited administrative procedures required by section 466(c)."

### Subtitle D—Paternity Establishment

#### SEC. 331. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended to read as follows: *[State shall have laws requiring the following]*

**(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—**

**(A) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE 18.—**

(i) Procedures which permit the establishment of the paternity of a child at any time before the child attains 18 years of age.

(ii) As of August 16, 1984, clause (i) shall also apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.

**(B) PROCEDURES CONCERNING GENETIC TESTING.—**

(i) GENETIC TESTING REQUIRED IN CERTAIN CONTESTED CASES.—Procedures under which the State is required, in a contested paternity case (unless otherwise barred by State law) to require the child and all other parties (other than individuals found under section 454(29) to have good cause and other exceptions for refusing to cooperate) to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party—

(I) alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

(II) denying paternity, and setting forth facts establishing a reasonable possibility of the non-existence of sexual contact between the parties.

(ii) OTHER REQUIREMENTS.—Procedures which require the State agency, in any case in which the agency orders genetic testing—

(I) to pay costs of such tests, subject to recoupment (if the State so elects) from the alleged father if paternity is established; and

(II) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.

**(C) VOLUNTARY PATERNITY ACKNOWLEDGMENT.—**

(i) SIMPLE CIVIL PROCESS.—Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

*prev law*

*new*

*revised*

*"or through the use of video or audio equipment"*

*(BBA) 553A*

*pr*

(ii) HOSPITAL-BASED PROGRAM.—Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child.

(iii) PATERNITY ESTABLISHMENT SERVICES.—

(I) STATE-OFFERED SERVICES.—Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

(II) REGULATIONS.—

(aa) SERVICES OFFERED BY HOSPITALS AND BIRTH RECORD AGENCIES.—The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies.

(bb) SERVICES OFFERED BY OTHER ENTITIES.—The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is evaluated by, voluntary paternity establishment programs of hospitals and birth record agencies.

*New*

(iv) USE OF PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Such procedures must require the State to develop and use an affidavit for the voluntary acknowledgment of paternity which includes the minimum requirements of the affidavit specified by the Secretary under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State according to its procedures.

(D) STATUS OF SIGNED PATERNITY ACKNOWLEDGMENT.—

(i) INCLUSION IN BIRTH RECORDS.—Procedures under which the name of the father shall be included on the record of birth of the child of unmarried parents only if—

(I) the father and mother have signed a voluntary acknowledgment of paternity; or

(II) a court or an administrative agency of competent jurisdiction has issued an adjudication of paternity.

Nothing in this clause shall preclude a State agency from obtaining an admission of paternity from the father for submission in a judicial or administrative proceeding, or prohibit the issuance of an order in a judicial or administrative proceeding which bases a legal finding of paternity on an admission of paternity

by the father and any other additional showing required by State law.

(ii) LEGAL FINDING OF PATERNITY.—Procedures under which a signed voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within the earlier of—

(I) 60 days; or

(II) the date of an administrative or judicial proceeding relating to the child (including a proceeding to establish a support order) in which the signatory is a party.

(iii) CONTEST.—Procedures under which, after the 60-day period referred to in clause (ii), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

(i) requiring the admission into evidence, for purposes of establishing paternity, of the results of any genetic test that is—

(I) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary; and

(II) performed by a laboratory approved by such an accreditation body;

(ii) requiring an objection to genetic testing results to be made in writing not later than a specified number of days before any hearing at which the results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of the results); and

(iii) making the test results admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made.

(G) PRESUMPTION OF PATERNITY IN CERTAIN CASES.—Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.

(H) DEFAULT ORDERS.—Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.

From BBA

SEC. 5539. VOLUNTARY PATERNITY ACKNOWLEDGEMENT.

Section 466(a)(5)(C)(i) (42 U.S.C. 666(a)(5)(C)(i)) is amended by inserting ', or through the use of video or audio equipment,' after 'orally'.

SESA'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 SESA 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 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 SESA a copy of the voluntary agreement.

(3) Establish and use written criteria for selecting cases to pursue via the withholding of unemployment compensation for support purposes. These criteria must be designed to insure 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 SESA in its State:

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

(ii) By receiving all amounts withheld by the SESA 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 SESA 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 SESA 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 SESA to improve program and cost effectiveness.

[49 FR 8927, Mar. 9, 1984]

#### § 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, the State has in effect laws providing for and has implemented the following procedures to improve program effectiveness:

(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 absent 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 absent parents who owe overdue support, in accordance with the requirements set forth in § 303.103 of this chapter;

(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 §§ 232.40 through 232.49 of this title or 42 CFR 433.147 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 the rights and responsibilities of acknowledging paternity are explained, 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 voluntarily acknowledging paternity outside of hospitals.

(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 written report of the test results 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 an absent 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 an absent parent available to consumer reporting agencies, in accordance with § 303.105 of this chapter;

(8) Procedures under which all child support orders which are issued or modified in the State will include provision for withholding from wages, 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 of this part, in accordance with § 303.100(i) 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:

(i) Effective on October 13, 1990 until October 12, 1993, in accordance with the requirements of §§ 303.8 (a) and (b) of this chapter; and

(ii) Effective October 13, 1993, or an earlier date the State may select, in accordance with the requirements of

§ 303.8 (a) and (c) through (f) of this chapter.

(1) 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 absent 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 303.105 of this chapter.

(d)(1) *Exemption.* A State may apply for an exemption from any of the requirements of paragraph (a) of this section 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 paragraph (a)(2) of this section, an exemption from any of the requirements of paragraph (a) of this section for a period not to exceed three 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 political 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]

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

(a) Effective September 1, 1984, the State plan may provide for imposition of late payment fees on absent 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 absent 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 § 232.11 of this title 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 § 305.50 of this chapter.

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

[50 FR 19650, May 9, 1985, as amended at 51 FR 37731, Oct. 24, 1986; 56 FR 8004, Feb. 26, 1991]

#### § 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. Cooperative agreements must comply with the requirements contained in Part 306 of this chapter.

(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]

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

(a) *General.* The State plan shall provide that, if the State did not have in effect, by October 13, 1988, a computerized support enforcement system that meets the requirements in § 307.10 of this chapter, the State will:

(1) By October 1, 1991, submit to the Secretary an advance planning document (APD) or APD update in accordance with § 307.5 of this chapter; and

(2) By October 1, 1995, have in effect and approved by the Secretary, a certified operational computerized support enforcement system in accordance with § 307.5 and § 307.10 of this chapter and the OCSE guideline entitled "Automated Systems for Child Support Enforcement: A Guide for States." This guide is available from the Office of Child Support Information Systems, ACF, 370 L'Enfant Promenade, SW., Washington, DC 20047.

(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 written assurances that steps will be taken to otherwise improve the State's Child Support Enforcement program.

[57 FR 47002, Oct. 14, 1992]

### PART 303—STANDARDS FOR PROGRAM OPERATIONS

Sec.	
303.0	Scope and applicability of this part.
303.1	Definitions.
303.2	Establishment of cases and maintenance of case records.
303.3	Location of absent parents.
303.4	Establishment of support obligation.
303.5	Establishment of paternity.
303.6	Enforcement of support obligations.
303.7	Provision of services in interstate IV-D cases.
303.8	Review and adjustment of child support orders.

cessful attempts to serve process, in accordance with the State's guidelines defining diligent efforts under § 303.3(c).

(e) If the court or administrative authority dismisses a petition for a support order without prejudice, the IV-D agency must, at the time of dismissal, examine the reasons for dismissal and determine when it would be appropriate to seek an order in the future, and seek a support order at that time.

(f) Seek a support order based on a voluntary acknowledgment in accordance with § 302.70(a)(5)(viii).

[40 FR 27164, June 26, 1975, as amended at 50 FR 19650, May 9, 1985; 54 FR 32310, Aug. 4, 1989; 57 FR 30681, July 10, 1992; 59 FR 66250, Dec. 23, 1994]

### § 303.5 Establishment of paternity.

(a) For all cases referred to the IV-D agency or applying for services under § 302.33 of this chapter in which paternity has not been established, the IV-D agency must, as appropriate:

(1) Provide an alleged father the opportunity to voluntarily acknowledge paternity in accordance with § 302.70(a)(5)(iii); and

(2) Attempt to establish paternity by legal process established under State law.

(b) The IV-D agency need not attempt to establish paternity in any case involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending, if, in the opinion of the IV-D agency, it would not be in the best interests of the child to establish paternity.

(c) The IV-D agency must identify and use through competitive procurement laboratories which perform, at reasonable cost, legally and medically acceptable genetic tests which tend to identify the father or exclude the alleged father. The IV-D agency must make available a list of such laboratories to appropriate courts and law enforcement officials, and to the public upon request.

(d)(1) Upon the request of any party in a contested paternity case, the IV-D agency, if the agency lacks the authority to order such tests, shall petition the court or administrative authority to require all parties to submit to genetic tests unless, in the case of an in-

dividual receiving aid under the State's title IV-A or XIX plan, there has been a determination of good cause for refusal to cooperate under §§ 232.40 through 232.49 of this title or 42 CFR 433.147, respectively, or if, in accordance with § 303.5(b), 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.

(2) A contested paternity case is any legal action in which the issue of paternity may be raised under State law and one party denies paternity.

(e)(1) The IV-D agency may charge any individual who is not a recipient of aid under the State's title IV-A or XIX plan a reasonable fee for performing genetic tests.

(2) Any fee charged must be reasonable so as not to discourage those in need of paternity establishment services from seeking them and may not exceed the actual costs of the genetic tests.

(3) If paternity is established and genetic tests were performed, the IV-D agency must attempt to obtain a judgment for the costs of the genetic tests from the party who denied paternity or, at State option, from each party so long as the total amount requested does not exceed the actual costs of the genetic tests.

(4) The IV-D agency must use any amount collected under paragraphs (e)(1) and (3) of this section that exceeds the costs of performing genetic tests to reimburse any fee paid under paragraph (e)(1) of this chapter.

(f) The IV-D agency must seek entry of a default order by the court or administrative authority in a paternity case by showing that process has been served on the defendant in accordance with State law, that the defendant has failed to respond to service in accordance with State procedures, and any additional showing required by State law, in accordance with § 302.70(a)(5)(viii).

#### (g) Hospital-based program.

(1) The State must establish, in cooperation with hospitals, a hospital-based program in every public and private birthing hospital. These programs

must be operational in birthing hospitals statewide no later than January 1, 1995 (unless Federal law governing the effective date gives the State additional time).

(2) During the period immediately before or after the birth of a child to an unmarried woman in the hospital, a hospital-based program must, at a minimum:

(i) Provide to both the mother and alleged father, if he is present in the hospital:

(A) Written materials about paternity establishment,

(B) the forms necessary to voluntarily acknowledge paternity.

(C) a written description of the rights and responsibilities of acknowledging paternity, and

(D) the opportunity to speak with staff, either by telephone or in person, who are trained to clarify information and answer questions about paternity establishment;

(i) Provide the mother and alleged father, if he is present, the opportunity to voluntarily acknowledge paternity in the hospital;

(ii) Afford due process safeguards; and

(iv) Forward completed acknowledgments or copies to the entity designated under § 303.5(g)(8).

(3) A hospital-based program need not provide services specified in paragraph (g)(2) of this section in cases where the mother or alleged father is a minor or a legal action is already pending, if the provision of such services is precluded by State law.

(4) The State must require that a voluntary acknowledgment obtained through a hospital-based program be signed by both parents, and that the parents' signatures be authenticated by a notary or witness(es).

(5) The State must provide to all public and private birthing hospitals in the State:

(i) written materials about paternity establishment,

(ii) forms necessary to voluntarily acknowledge paternity, and

(iii) copies of a written description of the rights and responsibilities of acknowledging paternity.

(6) The State must provide training, guidance, and written instructions re-

garding voluntary acknowledgment of paternity, as necessary to operate the hospital-based program.

(7) The State must assess each birthing hospital's program on at least an annual basis.

(8) The State must designate an entity to which hospital-based programs must forward completed voluntary acknowledgments or copies in accordance with § 303.5(g)(2)(iv). Under State procedures, this entity must be responsible for promptly recording identifying information about the acknowledgments with a statewide database, and the IV-D agency must have timely access to whatever identifying information and documentation it needs to determine in accordance with § 303.5(h) if an acknowledgment has been recorded and to seek a support order on the basis of a recorded acknowledgment in accordance with § 303.4(f).

(h) In IV-D cases needing paternity establishment, the IV-D agency must determine if identifying information about a voluntary acknowledgment has been recorded in the statewide database in accordance with § 303.5(g)(8).

[40 FR 27164, June 26, 1975, as amended at 50 FR 19650, May 9, 1985; 54 FR 32310, Aug. 4, 1989; 56 FR 22354, May 15, 1991; 59 FR 66250, Dec. 23, 1994]

### § 303.6 Enforcement of support obligations.

For all cases referred to the IV-D agency or applying for services under § 302.33 in which the obligation to support and the amount of the obligation have been established, the IV-D agency must maintain and use an effective system for:

(a) Monitoring compliance with the support obligation;

(b) Identifying on the date the parent fails to make payments in an amount equal to the support payable for one month, or on an earlier date in accordance with State law, those cases in which there is a failure to comply with the support obligation; and

(c) Enforcing the obligation by:

(1) Initiating income withholding, in accordance with § 303.100;

(2) Taking any appropriate enforcement action (except income withholding and Federal and State income tax

erwise be paid to the Federal government to reimburse its share of assistance payments under §§ 302.51 and 302.52 of this chapter.

(3) Following the end of a fiscal year, the Office will calculate the actual incentive payment the State should have received based on the reports submitted for that fiscal year. If adjustments to the estimate made under paragraph (c)(1) of this section are necessary, the State's IV-A grant award will be reduced or increased because of over- or under-estimates for prior quarters and for other adjustments.

(4) For FY 1985, the Office will calculate a State's incentive payment based on AFDC collections retained by the State and paid to the family under § 302.51(b)(1) of this chapter.

(5) For FY 1986 and 1987, a State will receive the higher of the amount due it under the incentive system and Federal matching rate in effect as of FY 1986 or 80 percent of what it would have received under the incentive system and Federal matching rate in effect during FY 1985.

[54 FR 32312, Aug. 4, 1989, as amended at 56 FR 8005, Feb. 26, 1991]

#### § 304.15 Cost allocation.

A State agency in support of its claims under Title IV-D of the Social Security Act must have an approved cost allocation plan on file with the Department in accordance with the requirements contained in Subpart E of 45 CFR Part 95. Subpart E also sets forth the effect on FFP if the requirements contained in that subpart are not met.

[47 FR 17509, Apr. 23, 1982]

#### § 304.20 Availability and rate of Federal financial participation.

(a) Federal financial participation at the applicable matching rate is available for:

(1) Necessary expenditures under the State title IV-D plan for the support enforcement services and activities specified in this section and § 304.21 provided to individuals from whom an assignment of support rights as defined in § 301.1 of this chapter has been obtained;

(2) Parent locator services for individuals eligible pursuant to § 302.33 of this title;

(3) Paternity and support services under the State plan for individuals eligible pursuant to § 302.33 of this chapter.

(b) Services and activities for which Federal financial participation will be available shall be those made pursuant to the approved title IV-D State plan which are determined by the Secretary to be necessary expenditures properly attributable to the Child Support Enforcement program, except any expenditure incurred in providing location services to individuals listed in § 302.35(c)(4) of this title, including the following:

(1) The administration of the State Child Support Enforcement program, including but not limited to the following:

(i) The establishment and administration of the State plan;

(ii) Monitoring the progress of program development and operations and evaluating the quality, efficiency, effectiveness and scope of support enforcement services available in each political subdivision;

(iii) The establishment of all necessary agreements with other State and local agencies or private providers for the provision of services in support of support enforcement in accordance with Subpart P, Procurement Standards, 45 CFR Part 74. These agreements may include:

(A) Necessary administrative agreements for support services;

(B) Utilization of State and local information resources;

(C) Cooperation with courts and law enforcement officials pursuant to § 302.34 of this chapter;

(iv) Securing compliance with the requirements of the State plan in operations under any agreements;

(v) The development and maintenance of systems for fiscal and program records and reports required to be made to the Office based on these records;

(vi) The development of a cost allocation system pursuant to § 302.16 of this chapter;

(vii) The financial control of the State plan including the administra-

tion of Federal grants pursuant to § 301.15 of this chapter;

(viii) The establishment of agreements with agencies administering the State's title IV-A and IV-E plans in order to establish criteria for:

(A) Referral of cases to the IV-D agency;

(B) Reporting on a timely basis information necessary to the determination and redetermination of eligibility and amount of assistance payments;

(C) Determining if individuals receiving assistance under the IV-A plan are cooperating adequately as required in § 232.12 of this title;

(D) The procedures to be used to transfer collections from the IV-D agency to the IV-A or IV-E agency before or after the distribution described in § 302.51 or § 302.52, respectively, of this chapter.

(ix) The establishment of agreements with Medicaid agencies necessary to carry out required IV-D activities and to establish criteria for:

(A) Referring cases to the IV-D agency;

(B) Reporting on a timely basis information necessary for the determination and redetermination of eligibility for Medicaid;

(C) Determining if individuals receiving Medicaid are cooperating adequately;

(D) Transferring collections from the IV-D agency to the Medicaid agency in accordance with § 302.51(e) of this chapter.

(2) The establishment of paternity including:

(i) Reasonable attempts to determine the identity of the child's father such as:

(A) Investigation;

(B) The development of evidence including the use of the polygraph and genetic tests;

(C) Pre-trial discovery;

(ii) Court or other actions to establish paternity pursuant to procedures established under State statutes or regulations having the effect of law;

(iii) Identifying competent laboratories that perform genetic tests as described in § 303.5(c) of this chapter and making a list of those laboratories available;

(iv) Referral of cases to the IV-D agency of another State to establish paternity when appropriate;

(v) Cooperation with other States in determining paternity;

(vi) Payments up to \$20 to birthing hospitals and other entities that provide prenatal or birthing services for each voluntary acknowledgment obtained pursuant to an agreement with the IV-D agency;

(vii) Developing and providing to birthing hospitals and other entities that provide prenatal or birthing services written and audiovisual materials about paternity establishment and forms necessary to voluntarily acknowledge paternity; and

(viii) Reasonable and essential short-term training regarding voluntary acknowledgment of paternity associated with a State's hospital-based program as defined by § 303.5(g)(2).

(3) The establishment and enforcement of support obligations including:

(i) Investigation, the development of evidence and when appropriate, bringing court actions;

(ii) Determination of the amount of the child support obligation including developing the information needed for a financial assessment;

(iii) Referral of cases to the IV-D agency of another State to establish a child support obligation when appropriate;

(iv) Enforcement of a support obligation including those activities associated with collections and the enforcement of court orders, such as contempt citations, issuance of warrants, investigation, wage attachment and processing, and the obtaining and enforcing of court-ordered support through civil or criminal proceedings either in the State that granted the order or in another State;

(v) Investigation and prosecution of fraud related to child and spousal support.

(4) The collection and distribution of support payments including:

(i) An effective system for making collections of established support obligations and identifying delinquent cases and attempting to collect support from these cases;

(ii) Referral of cases to the IV-D agency of another State for collection when appropriate;

(iii) Making collections for another State;

(iv) The distribution of funds as required by this chapter;

(v) Making the IV-A agency aware of the amounts collected and distributed to the family for the purposes of determining eligibility for, and amount of, assistance under the State title IV-A plan;

(vi) Making the Medicaid agency aware of amounts collected and distributed to the family for the purposes of determining eligibility for assistance under the State XIX plan.

(5) The establishment and operation of the State parent locator service including:

(i) Utilization of appropriate State and local locate sources to locate absent parents;

(ii) Utilization of the Federal Parent Locator Service;

(iii) Collection of the fee pursuant to § 303.70(e) of this chapter;

(iv) Referral of requests for location of an absent parent to the IV-D agency of another State;

(v) Cooperation with another State in locating an absent parent;

(6) Activities related to requests for certification of collection of support delinquencies by the Secretary of the Treasury pursuant to § 303.71 of this chapter.

(7) Activities related to requests for utilization of the United States district courts pursuant to § 303.73 of this chapter.

(8) Establishing and maintaining case records as required by § 302.2 of this chapter.

(9) The operation of systems that meet the conditions of § 307.35(a) of this chapter; and

(10) Systems approved in accordance with 45 CFR Part 95, Subpart F. (See § 307.35(b) of this chapter.)

(11) Required medical support activities as specified in Part 306, Subpart B, of this chapter.

(c) Until September 30, 1995, Federal financial participation is available at the 90 percent rate for the planning design, development, installation and enhancement of computerized support en-

forcement systems that meet the requirements in § 307.30(a) of this chapter.

(d) Federal financial participation at the 90 percent rate is available for laboratory costs incurred in determining paternity on or after October 1, 1988, including the costs of obtaining and transporting blood and other samples of genetic material, repeated testing when necessary, analysis of test results, and the costs for expert witnesses in a paternity determination proceeding, but only if the expert witness costs are included as part of the genetic testing contract.

[40 FR 27166, June 26, 1975, as amended at 46 FR 1276, Jan. 6, 1981; 47 FR 24719, June 8, 1982; 47 FR 57282, Dec. 23, 1982; 49 FR 33263, Aug. 22, 1984; 50 FR 19656, May 9, 1985; 50 FR 41894, Oct. 16, 1985; 54 FR 32313, Aug. 4, 1989; 56 FR 8005, Feb. 26, 1991; 56 FR 22355, May 15, 1991; 57 FR 47002, Oct. 14, 1992; 59 FR 66251, Dec. 23, 1994]

**§ 304.21 Federal financial participation in the costs of cooperative arrangements with courts and law enforcement officials.**

(a) *General.* Subject to the conditions and limitations specified in this part, Federal financial participation (FFP) at the applicable matching rate is available in the costs of cooperative agreements with appropriate courts and law enforcement officials in accordance with the requirements of § 302.34 of this chapter. *Law enforcement officials* means district attorneys, attorneys general, and similar public attorneys and prosecutors and their staff. Then performed under written agreement, costs of the following activities are subject to reimbursement:

(1) The activities, including administration of such activities, specified in § 304.20(b)(2) through (8) of this chapter;

(2) Reasonable and essential short term training of court and law enforcement staff assigned on a full or part time basis to support enforcement functions under the cooperative agreement.

(b) *Limitations.* Federal financial participation is not available in:

(1) Service of process and court filing fees unless the court or law enforcement agency would normally be required to pay the cost of such fees;

(2) Costs of compensation (salary and fringe benefits) of judges;

(3) Costs of travel and training related to the judicial determination process incurred by judges;

(4) Office-related costs, such as space, equipment, furnishings and supplies, incurred by judges;

(5) Compensation (salary and fringe benefits), travel and training, and office-related costs incurred by administrative and support staffs of judges;

(6) Costs of cooperative arrangements that do not meet the requirements of § 303.107 of this chapter.

(c) *Methods of determining costs.* The State IV-D agency has discretion with respect to the method of calculating eligible expenditures by courts and law enforcement officials under cooperative agreements. However, any method used must account for specific costs incurred on behalf of cases receiving services under the IV-D State plan.

(d) *When agreements take effect.* FFP is available in IV-D costs incurred as of the first day of the calendar quarter in which a cooperative agreement or amendment is signed by parties sufficient to create a contractual arrangement under State law.

[47 FR 53017, Nov. 24, 1982, as amended at 47 FR 57284, Dec. 23, 1982; 50 FR 19656, May 9, 1985; 54 FR 30223, July 19, 1989]

**§ 304.22 Federal financial participation in purchased support enforcement services.**

Federal financial participation is available at the applicable matching rate for the purchase of support enforcement services as provided for in the State plan to the extent that payment for such purchased services is in accordance with rates of payment established by the State which do not exceed the amounts reasonable and necessary to assure quality of such service and in the case of such services purchased from other public agencies, the cost reasonably assignable to such services. The determination that the amounts are reasonable and necessary and that the costs are reasonably assignable must be fully documented in the IV-D agency records. Support enforcement services which may be purchased with Federal financial participation are those for which Federal financial participation is otherwise available under § 304.20 and which are

included under the approved State plan.

[40 FR 27166, June 26, 1975, as amended at 47 FR 57282, Dec. 23, 1982; 50 FR 19656, May 9, 1985]

**§ 304.23 Expenditures for which Federal financial participation is not available.**

Federal financial participation at the applicable matching rate is not available for:

(a) Activities related to administering title I, IV-A, X, XIV, XVI, XIX or XX of the Act.

(b) Purchased support enforcement services which are not secured in accordance with § 304.22.

(c) Construction and major renovations.

(d) Education and training programs and educational services except direct cost of short term training provided to IV-D agency staff or pursuant to §§ 304.20(b)(2)(viii) and 304.21.

(e) Any expenditures which have been reimbursed by fees collected as required by this chapter.

(f) Any costs of caseworkers as described in § 303.20(e) of this part.

(g) Medical support enforcement activities performed under cooperative agreements in accordance with Part 306 of this chapter.

(h) Any expenditures made to carry out an agreement under § 303.15 of this chapter.

(i) Any expenditures for jailing of parents in child support enforcement cases.

(j) The costs of counsel for indigent defendants in IV-D actions.

(k) The costs of guardians ad litem in IV-D actions.

[46 FR 54559, Nov. 3, 1981; as amended at 47 FR 57282, Dec. 23, 1982; 50 FR 41894, Oct. 16, 1985; 52 FR 32132, Aug. 26, 1987; 54 FR 32313, Aug. 4, 1989; 57 FR 54525, Nov. 19, 1992; 59 FR 66251, Dec. 23, 1994]

**§ 304.24 Equipment—Federal financial participation.**

Claims for Federal financial participation in the cost of equipment under the Child Support Enforcement Program are to be determined in accordance with Subpart G of 45 CFR Part 95. Requirements concerning the management and disposition of equipment



Cynthia A. Rice

12/11/97 01:56:24 PM

Record Type: Record

To: Kristi C. Guillory/OMB/EOP, Edwin Lau/OMB/EOP, Wendy A. Taylor/OMB/EOP  
cc: Diana Fortuna/OPD/EOP, Andrea Kane/OPD/EOP  
Subject: Paternity Establishment Reg

271,000  
voluntary  
each year  
not all hospitals  
est 198 224,000  
in hospitals  
\$ 4 1/2 million

I have several comments regarding the proposed paternity establishment rule. I would like to discuss them with you all to see if you think they are feasible.

In general, I think our policy goal should be to have voluntary paternity establishment services offered in as many locations as possible. To that end, I think these changes would be helpful:

"Every" Birthing Hospital: The regulation now in effect says that "The State must establish, in cooperation with hospitals, a hospital-based program in every public and private birthing hospital." The proposed reg drops the word "every", which seems to me to be a step in the wrong direction. I don't think the language in proposed section 303.5(g)(i) "must be operational in private and public birthing hospitals statewide" is as strong because "statewide" could mean one hospital in every county instead of every hospital. What did OCSE intend here?

Every State and Local Birth Record Agency: Similarly, I think the language at 303.5(ii) should make clear that voluntary paternity establishment should be available at "every" state birth record agency and local birth record agency. I don't think the current language "must also be available" is strong enough.

Other Entities: I think the proposed reg does the right thing by allowing states to designate a wide variety of public and private entities as paternity establishment locations. Under the proposed reg, if a state designates, say, public health clinics, does then "every" public health clinic in the state have to provide voluntary paternity establishment services?

Encouraging New Sites: I would like to do more to encourage states to create voluntary paternity establishment services sites. What about increasing the current \$20 payment for hospitals and other entities for each voluntary acknowledgment obtained (section 304.20(b)(2)(vi))? This amount seems to be set by regulation, not statute -- is that true? When was the \$20 payment established? Has it been \$20 from the beginning? What would that number be today if adjusted for inflation? How much more would it cost if we doubled or tripled the payment? Would an increased payment be likely to increase the number of entities participating and the number of paternities established?

Other Policies: Outside of this regulation, I would like to hear from OCSE what else they are doing or planning to do to assist states and other public and private entities in encouraging voluntary paternity establishment. For example, does OCSE provide model materials and public service announcements?

Explaining "Alternatives": In several places in the reg (section 302.70 (iii) on p. 27; also p. 30, 32) there is proposed language describing the procedures a state must put in place in all voluntary paternity establishment settings. This language is revised from the current regulations, and one of the changes includes a requirement that "the mother and the putative father must be given notice....of the alternatives to.....acknowledging paternity." I would like OCSE to explain what these "alternatives" are -- will they discourage people from acknowledging paternity? Also, what are "rights ... due to minority status?"

↓ in statute  
ASK HHS = how they interpret it?

Excluding Minors: This proposed reg (section 303.5(g)(3), p. 31) maintains language now in the regs saying hospitals, etc. "need not provide services...in cases where the mother or alleged father is a minor....if the provision of such services is precluded by State law." What is the purpose of this language? Shouldn't unwed teen parents -- who are the most likely to become long-term welfare recipients -- be a group for which we try hardest to establish paternity?

# Paternity Establishment Reg

12/10

→ Allow states to offer ~~per~~ voluntary paternity establishment in a wide variety of settings

- public health clinics
- food stamp offices
- WIC programs
- child support offices
- private health providers
- Head Start
- welfare agencies
- schools

→ Will pay 66% of costs of

- legal fees
- any public or private health, welfare, or social services
- developing + providing materials
- training

Will also pay fee of \$20 / \$ paternity established

→ is FFP 66% of costs?

Ask: has fed govt helped by providing template materials / posters, etc.

Also: is there any thing more that this reg can do to encourage states to offer paternity est services at as many entities as possible?

→ no it

→ more

(2)

~~at~~

→ is it the reg that requires in-hospital  
paternity establishment at every  
hospital?

→ Does this reg require every local birth  
record agency to offer these services?

→ Does this reg require every one of  
a type of entity designated  
by a state to offer these services?

---

Reg itself (p. 27)

Why do we want to explain ~~the~~

new — "the alternatives to" voluntary p. ~~at~~

Does this mean ~~a~~ a stick (i.e. court order)

or does this mean "you don't really have to"

what are "rights due to minority status?"

→ also on p. 30 → p. 32

p.29

why does the language re:

(i) birthing hospitals change?

Current reg "the state must establish, in cooperation with hospitals, a hospital-based program in every public and private birthing hospital

(ii) → Does this mean it must be at every state or local birth record agency? what about other entities?

p 31

(3) This is the same as current reg but what does it mean?

→ why would we want to exclude minors?

Policy Q - What can we do to encourage  
as many entities as possible to  
participate in a paternity est.?

→ Through reg

→ Through other means

Through reg

→ <sup>OCSE</sup> Annual publishes list of each  
state + how many entities?

→ Bonuses / \$20

→ allow state to increase

→ increase ourselves in 304.20 (vi) of reg.

→ if entity volunteers, state must

include, provide materials, etc

→ must have public hearing  
meeting entities to discuss  
paternity est. program

data from  
annual document  
p. 32

Ask → How much do we spend now  
on \$20 payments?

→ How much would it cost  
to double?

→ For how long has it been  
\$20 [has it kept up  
w/ inflation?]

11/3

Requires states to offer paternity est

- vital stats
- hospitals (already true)
- long list of other things

---

" Sect shall prescribe reg listing other types of entities "

Reg lists possible types of entities

Stat reg = state law that allows paternity

466 (a) (5)

Other part: parents informed of rights & responsibilities

(2)

This is revising existing reg (from 1994)

→ adding more places

→ to the same rules in effect for hospitals

**Law:** states have to offer paternity est  
@ birth records and other entities  
~~under same rules as hospitals~~ under same rules as hospitals

**Reg** - Provides examples of other entities

**Notification** - can now be done through video taping → new born prior

