

**Office of Family Assistance, ACF, HHS**

**§ 212.10**

(c) A determination that an individual is not required to repay the cost of temporary assistance shall be final and binding, unless such determination was procured by fraud or misrepresentation of the individual or some other person, or the individual voluntarily offers to repay.

(d) A determination that an individual is required to repay any or all of the cost of temporary assistance may be reconsidered at any time prior to repayment of the required amount. A further determination shall be made with respect to his liability to repay the balance of such amount on the basis of new evidence as to whether (1) he has, or is expected within a reasonable time to have, income and financial resources sufficient for more than ordinary needs, or (2) recovery would be against equity and good conscience.

**§ 212.8 Federal payments.**

(a) The agreement made by the Assistant Secretary with an agency for carrying out the purposes of the Act shall provide for payment to such agency, either in advance or by way of reimbursement, of the cost of temporary assistance provided pursuant to the Act, and payment of the cost of other expenditures necessarily and reasonably related to providing the same. Such agreement shall include the cost of other expenditures necessarily and reasonably related to providing the same. Such agreement shall include the method for determining such costs, as well as the methods and procedures for determining the amounts of advances or reimbursement and for remittance and adjustment thereof.

(b) To receive reimbursements, States, or other agencies, shall request and receive prior approval from the Assistant Secretary for administrative expenses incurred in developing or preparing to implement repatriation plans for groups of eligible persons. Such requests should include a description of the activities to be undertaken, an estimate of the expenses and a rationale for the expenditures. In reviewing requests, the Assistant Secretary will consider the necessity and reasonableness of the costs. Prior approval is not required for administrative expenditures incurred by a State in imple-

menting approved repatriation plans as a result of Federal notification that an evacuation may be necessary.

[39 FR 26548, July 19, 1974, as amended at 60 FR 19864, Apr. 21, 1995]

**§ 212.9 Disclosure of information.**

(a) No disclosures of any information of a personal and private nature with respect to an individual obtained at any time by any person, organization, or institution in the course of discharging the duties of the Secretary under the Act shall be made except insofar:

(1) As the individual or his legal guardian, if any (or, if he is a minor, his parent or legal guardian), shall consent;

(2) As disclosure may be necessary to carry out any functions of the Secretary under the Act;

(3) As disclosure may be necessary to carry out any functions of any agency of the United States which are related to the return of the individual from a foreign country, or his entry into the United States; or

(4) As expressly authorized by the Assistant Secretary.

(b) An agreement made with an agency for the provision of temporary assistance pursuant to the Act shall provide that no disclosure will be made of any information of a personal and private nature received by such agency in the course of discharging the duties under such agreement except as is provided therein, or is otherwise specifically authorized by the Assistant Secretary.

[39 FR 26548, July 19, 1974, as amended at 60 FR 19864, Apr. 21, 1995]

**§ 212.10 Nondiscrimination.**

(a) No eligible person shall, on the ground of race, color, or national origin be excluded from participation, be denied any benefits, or otherwise be subjected to discrimination of any nature or form in the provision of any benefits under the Act.

(b) The prohibition in paragraph (a) of this section precludes discrimination either in the selection of individuals to receive the benefits, in the scope of benefits, or in the manner of

**Pt. 213**

providing them. It extends to all facilities and services provided by the Administration or an agency to an individual, and to the arrangements and the procedures under this part relating thereto, in connection with reception and temporary assistance under the Act.

[39 FR 26548, July 19, 1974, as amended at 60 FR 19864, Apr. 21, 1995]

**PART 213—PRACTICE AND PROCEDURE FOR HEARINGS TO STATES ON CONFORMITY OF PUBLIC ASSISTANCE PLANS TO FEDERAL REQUIREMENTS**

**Subpart A—General**

Sec.

- 213.1 Scope of rules.
- 213.2 Records to be public.
- 213.3 Use of gender and number.
- 213.4 Suspension of rules.
- 213.5 Filing and service of papers.

**Subpart B—Preliminary Matters—Notice and Parties**

- 213.11 Notice of hearing or opportunity for hearing.
- 213.12 Time of hearing.
- 213.13 Place.
- 213.14 Issues at hearing.
- 213.15 Request to participate in hearing.

**Subpart C—Hearing Procedures**

- 213.21 Who presides.
- 213.22 Authority of presiding officer.
- 213.23 Rights of parties.
- 213.23a Discovery.
- 213.24 Evidentiary purpose.
- 213.25 Evidence.
- 213.26 Exclusion from hearing for misconduct.
- 213.27 Un-sponsored written material.
- 213.28 Official transcript.
- 213.29 Record for decision.

**Subpart D—Posthearing Procedures, Decisions**

- 213.31 Posthearing briefs.
- 213.32 Decisions following hearing.
- 213.33 Effective date of Administrator's decision.

AUTHORITY: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.

SOURCE: 36 FR 1454, Jan. 29, 1971, unless otherwise noted.

**45 CFR Ch. II (10–1–03 Edition)**

**Subpart A—General**

**§ 213.1 Scope of rules.**

(a) The rules of procedure in this part govern the practice for hearings afforded by the Department to States pursuant to § 201.4 or § 201.6 (a) or (b) of this chapter, and the practice relating to decisions upon such hearings. These rules may also be applied to hearings afforded by the Department to States in other Federal-State programs for which Federal administrative responsibility has been delegated to the Service.

(b) Nothing in this part is intended to preclude or limit negotiations between the Department and the State, whether before, during, or after the hearing to resolve the issues which are, or otherwise would be, considered at the hearing. Such negotiations and resolution of issues are not part of the hearing, and are not governed by the rules in this part, except as expressly provided herein.

**§ 213.2 Records to be public.**

All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copied in the office of the FSA Hearing Clerk. Inquiries may be made at the Central Information Center, Department of Health and Human Services, 330 Independence Avenue SW., Washington, DC 20201.

[36 FR 1454, Jan. 29, 1971, as amended at 53 FR 36580, Sept. 21, 1988]

**§ 213.3 Use of gender and number.**

As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa. Words importing the masculine gender may be applied to females or organizations.

**§ 213.4 Suspension of rules.**

Upon notice to all parties, the Administrator or the presiding officer, with respect to matters pending before him and within his jurisdiction, may modify or waive any rule in this part upon determination that no party will