

**§ 304.50**

share. The remaining amount of the repayment shall be in quarterly amounts not less than those for the 9th through 12th quarters.

(7) The amount of a retroactive claim to be paid a State will be offset against any amounts to be, or already being, repaid by the State in installments, under the same title of the Social Security Act. Under this provision the State may choose to:

(i) Suspend payments until the retroactive claim due the State has, in fact, been offset; or

(ii) Continue payments until the reduced amount of its debt (remaining after the offset), has been paid in full. This second option would result in a shorter payment period.

A retroactive claim for the purpose of this regulation is a claim applicable to any period ending 12 months or more prior to the beginning of the quarter in which the payment is to be made by the Service.

[42 FR 28885, June 6, 1977, as amended at 52 FR 273, Jan. 5, 1987; 64 FR 6253, Feb. 9, 1999; 68 FR 25305, May 12, 2003]

**§ 304.50 Treatment of program income.**

The IV-D agency must exclude from its quarterly expenditure claims an amount equal to:

(a) All fees which are collected during the quarter under the title IV-D State plan; and

(b) All interest and other income earned during the quarter resulting from services provided under the IV-D State plan.

[49 FR 36772, Sept. 19, 1984]

**§ 304.95 [Reserved]**

**PART 305—PROGRAM PERFORMANCE MEASURES, STANDARDS, FINANCIAL INCENTIVES, AND PENALTIES**

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AUTHORITY: 42 U.S.C. 609(a)(8), 652(a)(4) and (g), 658A and 1302.

SOURCE: At 65 FR 82208, Dec. 27, 2000, unless otherwise noted.

**§ 305.0 Scope.**

This part implements the incentive system requirements as described in section 458A (to be redesignated as section 458 effective October 1, 2001) of the Act and the penalty provisions as required in sections 409(a)(8) and 452(g) of the Act. This part also implements Federal audit requirements under sections 409(a)(8) and 452(a)(4) of the Act. Sections 305.0 through 305.2 contain general provisions applicable to this part. Sections 305.31 through 305.36 of this part describe the incentive system. Sections 305.40 through 305.42 and §§ 305.60 through 305.66 describe the penalty and audit processes.

**§ 305.1 Definitions.**

The definitions found in § 301.1 of this chapter are also applicable to this part. In addition, for purposes of this part:

(a) The term *IV-D case* means a parent (mother, father, or putative father) who is now or eventually may be obligated under law for the support of a child or children receiving services under the title IV-D program. A parent is a separate IV-D case for each family with a dependent child or children that the parent may be obligated to support. If both parents are absent and liable or potentially liable for support of a child or children receiving services under the IV-D program, each parent is considered a separate IV-D case. In counting cases for the purposes of this part, States may exclude cases closed under § 303.11 and cases over which the

State has no jurisdiction. Lack of jurisdiction cases are those in which a non-custodial parent resides in the civil jurisdictional boundaries of another country or federally recognized Indian Tribe and no income or assets of this individual are located or derived from outside that jurisdiction and the State has no other means through which to enforce the order.

(b) The term *Current Assistance collections* means collections received and distributed on behalf of individuals whose rights to support are required to be assigned to the State under title IV-A of the Act, under title IV-E of the Act, or under title XIX of the Act. In addition, a referral to the State's IV-D agency must have been made.

(c) The term *Former Assistance collections* means collections received and distributed on behalf of individuals whose rights to support were formerly required to be assigned to the State under title IV-A (TANF or Aid to Families with Dependent Children, AFDC), title IV-E (Foster Care), or title XIX (Medicaid) of the Act.

(d) The term *Never Assistance/Other collections* means all other collections received and distributed on behalf of individuals who are receiving child support enforcement services under title IV-D of the Act.

(e) The term *total IV-D dollars expended* means total IV-D administrative expenditures claimed by a State in a specified fiscal year adjusted in accordance with § 305.32 of this part.

(f) The term *Consumer Price Index or CPI* means the last Consumer Price Index for all-urban consumers published by the Department of Labor. The CPI for a fiscal year is the average of the Consumer Price Index for the 12-month period ending on September 30 of the fiscal year.

(g) The term *State incentive payment share for a fiscal year* means the incentive base amount for the State for the fiscal year divided by the sum of the incentive base amounts for all of the States for the fiscal year.

(h) The term *incentive base amount for a fiscal year* means the sum of the State's performance level percentages (determined in accordance with § 305.33) multiplied by the State's cor-

responding maximum incentive base on each of the following measures:

(1) The paternity establishment performance level;

(2) The support order performance level;

(3) The current collections performance level;

(4) The arrears collections performance level; and

(5) the cost-effectiveness performance level.

(i) The term *reliable data*, means the most recent data available which are found by the Secretary to be reliable and is a state that exists when data are sufficiently complete and error free to be convincing for their purpose and context. State data must meet a 95 percent standard of reliability effective beginning in fiscal year 2001. This is with the recognition that data may contain errors as long as they are not of a magnitude that would cause a reasonable person, aware of the errors, to doubt a finding or conclusion based on the data.

(j) The term *complete data* means all reporting elements from OCSE reporting forms, necessary to compute a State's performance levels, incentive base amount, and maximum incentive base amount, have been provided within timeframes established in instructions to these forms and § 305.32(f) of this part.

#### § 305.2 Performance measures.

(a) The child support incentive system measures State performance levels in five program areas:

Paternity establishment; support order establishment; current collections; arrearage collections; and cost-effectiveness. The penalty system measures State performance in three of these areas: Paternity establishment; establishment of support orders; and current collections.

(1) *Paternity Establishment Performance Level*. States have the choice of being evaluated on one of the following two measures for their paternity establishment percentage (commonly known as the PEP). The count of children shall not include any child who is a dependent by reason of the death of a parent (unless paternity is established for that child). It shall also not include