

§ 303.20

45 CFR Ch. III (10-1-06 Edition)

(iii) Any agent or attorney of the United States, or of a State having an agreement under this section, who has the duty or authority to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child.

(2) *Custody or visitation determination* means a judgment, decree, or other order of a court providing for custody or visitation of a child, and includes permanent and temporary orders, and initial orders and modifications.

(b) A State shall enter into an agreement with the Office that meets the requirements of section 463 of the Act and this section of the regulations so that the State IV-D agency may request information from the Federal PLS for the purpose of:

(1) Enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

(2) Making or enforcing a child custody or visitation determination.

(c) An agreement under section 463 of the Act must contain the following provisions:

(1) The Director will provide the State IV-D agency with the most recent home address and place of employment of a parent or child if the information is requested for the purposes specified in paragraph (b) of this section.

(2) The State shall make requests for information under the agreement only for the purposes specified in paragraph (b) of this section.

(3) The State shall make requests to the Federal PLS through the State PLS established under §302.35 of this chapter.

(4) The State shall submit requests in the standard format and exchange media normally available to or used by the State PLS.

(5) The State shall identify requests in a manner prescribed by the Office in instructions so that requests can be distinguished from other types of requests submitted to the Federal PLS.

(6) The State shall impose, collect and account for fees to offset the costs to the State and the Office incurred in processing requests.

(7) The State shall periodically transmit the fees collected to cover the costs to the Federal PLS of processing

requests. Fees shall be transmitted in the amount and in the manner prescribed by the Office in instructions.

(8) The State shall adopt policies and procedures to ensure that information shall be used and disclosed solely for the purposes specified in paragraph (b) of this section. Under this requirement, the State shall:

(i) Restrict access to the information to authorized persons whose duties or responsibilities require access in connection with child custody and parental kidnapping cases;

(ii) Store the information during nonduty hours, or when not in use, in a locked container within a secure area that is safe from access by unauthorized persons;

(iii) Process the information under the immediate supervision and control of authorized personnel, in a manner which will protect the confidentiality of the information, and in such a way that unauthorized persons cannot retrieve the information by computer, remote terminal, or other means;

(iv) Brief all employees who will have access to the data on security procedures and instructions;

(v) Send the information directly to the requestor and make no other use of the information;

(vi) After the information is sent to the requestor, destroy any confidential records and information related to the request.

(d)(1) An agreement under section 463 of the Act must be signed by the Governor of the State or the Governor's designee.

(2) The agreement must also be signed by the Attorney General of the State who must certify that the signing State official has the authority under State law to commit the State to the agreement.

[46 FR 54557, Nov. 3, 1981, as amended at 64 FR 6250, Feb. 9, 1999; 68 FR 25304, May 12, 2003]

**§303.20 Minimum organizational and staffing requirements.**

(a) The organizational structure of the IV-D agency (see §302.12) provides for administration or supervision of all

the functions for which it is responsible under the State plan, is appropriate to the size and scope of the program in the State, and contains clearly established lines for administrative and supervisory authority.

(b) There is an organizational structure and sufficient staff to fulfill the following required State level functions:

(1) The establishment and administration of the State plan.

(2) Formal evaluation of the quality, efficiency, effectiveness, and scope of services provided under the plan.

(3) Coordination of activities pursuant to, and assurance of compliance with, the requirements of the State's Uniform Interstate Family Support Act for cases pursuant to a State plan.

(4) Requests to the DHHS Office of Child Support Enforcement for use of the Federal Parent Locator Service, the U.S. District Courts, and Secretary of the U.S. Treasury collection procedures.

(5) Preparation and submission of reports required by the Office.

(6) Financial control of the operation of the plan.

(7) Operation of the State Parent Locator Service as required under §302.35 of this chapter.

(c) There is an organizational structure and sufficient resources at the State and local level to meet the performance and time standards contained in this part and to provide for the administration or supervision of the following support enforcement functions:

(1) *Intake.* Activities associated with initial support case opening.

(2) *Establishing the legal obligation to support.* Activities related to determining the noncustodial parent's legal obligation to support his or her dependent children, including paternity determination when necessary.

(3) *Locate.* Activities associated with locating a noncustodial parent.

(4) *Financial assessment.* Activities related to determining a noncustodial parent's ability to provide support.

(5) *Establishment of the amount of support.* Activities related to determining a noncustodial parent's child support obligation, including methods and terms of payment.

(6) *Collection.* Activities related to monitoring payment activities and processing cash flow.

(7) *Enforcement.* Activities to enforce collection of support, including income withholding and other available enforcement techniques.

(8) *Investigation.* Activities related to investigation necessary to accomplish the functions of this paragraph.

(d) The functions referred to in paragraphs (b) (1), (2) and (6) of this section may not be delegated by the IV-D agency. The functions referred to in paragraph (b)(5) of this section may be delegated to the extent necessary to report on activities delegated by the IV-D agency.

(e) No functions under the State plan may be delegated by the IV-D agency if such functions are to be performed by caseworkers who are also performing the assistance payments or social services functions under title IV-A or XX of the Act.

In the case of a sparsely populated geographic area, upon justification by the IV-D agency documenting a lack of administrative feasibility in not utilizing staff of the IV-A agency, the Office may approve alternate arrangements that include sufficient reporting and cost allocation methods that will assure compliance with Federal requirements and proper claims for Federal financial participation. Under this provision:

(1) *Caseworker* means any person who has decision-making authority over individual cases on a day-to-day basis and includes, but is not limited to such designations as intake worker, eligibility technician, caseworker, and social worker.

(2) The *assistance payments function* means activities related to determination of eligibility for, and amount of financial assistance under the approved State plan under title I, IV-A, X, XIV, or XVI, State Supplemental income payments under title XVI of the Act, and State or local General Assistance programs. It includes the complete process of determining initial and continuing eligibility for financial and medical assistance and commodities distribution or food stamps.

**§ 303.30**

**45 CFR Ch. III (10–1–06 Edition)**

(3) The *social services function* means those activities included in the approved State plan and carried out pursuant to title XX of the Act. It includes determination of eligibility for, and delivery of services to, families and individuals under the approved State plan or under title XX of the Act.

(f) There are the following types of staff in sufficient numbers to achieve the standards for an effective program prescribed in this part:

(1) Attorneys or prosecutors to represent the agency in court or administrative proceedings with respect to the establishment and enforcement of orders of paternity and support, and

(2) Other personnel such as legal, interviewer, investigative, accounting, clerical, and other supportive staff.

(g) If it is determined as a result of an audit conducted under part 305 of this chapter that a State is not in substantial compliance with the requirements of title IV-D of the Act, the Secretary will evaluate whether inadequate resources was a major contributing factor and, if necessary, may set resource standards for the State.

[40 FR 27164, June 26, 1975, as amended at 47 FR 57282, Dec. 23, 1982; 54 FR 32312, Aug. 4, 1989; 64 FR 6250, Feb. 9, 1999; 68 FR 25304, May 12, 2003]

**§ 303.30 Securing medical support information.**

(a) If the IV-A or IV-E agency does not provide the information specified in this paragraph to the Medicaid agency and if the information is available or can be obtained in a IV-D case for which an assignment as defined under § 301.1 of this chapter is in effect, the IV-D agency shall obtain the following information on the case:

(1) Title IV-A case number, title IV-E foster care case number, Medicaid number or the individual's social security number;

(2) Name of noncustodial parent;

(3) Social security number of noncustodial parent;

(4) Name and social security number of child(ren);

(5) Home address of noncustodial parent;

(6) Name and address of noncustodial parent's place of employment;

(7) Whether the noncustodial parent has a health insurance policy and, if so, the policy name(s) and number(s) and name(s) of person(s) covered.

(b) The IV-D agency shall provide the information obtained under paragraph (a) of this section to the Medicaid agency in a timely manner by the most efficient and cost-effective means available, using manual or automated systems.

(Approved by the Office of Management and Budget under control numbers 0960-0420 and 0970-0107)

[50 FR 41895, Oct. 15, 1985, as amended at 51 FR 37732, Oct. 24, 1986. Redesignated at 54 FR 32312, Aug. 4, 1989; 56 FR 8004, Feb. 26, 1991; 64 FR 6250, Feb. 9, 1999]

**§ 303.31 Securing and enforcing medical support obligations.**

(a) For purposes of this section:

(1) Health insurance is considered reasonable in cost if it is employment-related or other group health insurance, regardless of service delivery mechanism.

(2) Health insurance includes fee for service, health maintenance organization, preferred provider organization, and other types of coverage under which medical services could be provided to the dependent child(ren) of a noncustodial parent.

(b) With respect to cases for which there is an assignment as defined in § 301.1 of this chapter in effect, the IV-D agency shall:

(1) Unless the custodial parent and child(ren) have satisfactory health insurance other than Medicaid, petition the court or administrative authority to include health insurance that is available to the noncustodial parent at reasonable cost in new or modified court or administrative orders for support.

(2) Petition the court or administrative authority to include medical support as required under paragraph (b)(1) of this section whether or not—

(i) Health insurance at reasonable cost is actually available to the noncustodial parent at the time the order is entered; or

(ii) Modification of current coverage to include the child(ren) in question is immediately possible.