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any provision of the Act that is enacted after issuance of these regulations and that provides, on an entitlement basis, for Federal financial participation in expenditures made under State plans or programs.

(c) This subpart explains under what conditions the Secretary may decide to extend the time limit for filing claims when a State believes it has good cause for not meeting the time limit.

[46 FR 3529, Jan. 15, 1981, as amended at 65 FR 33632, May 24, 2000]

§ 95.4 Definitions.

In this subpart—

Adjustment to prior year costs means an adjustment in the amount of a particular cost item that was previously claimed under an interim rate concept and for which it is later determined that the cost is greater or less than that originally claimed.

Audit exception means a proposed adjustment by the responsible Federal agency to any expenditure claimed by a State by virtue of an audit.

Claim means a request for Federal financial participation in the manner and format required by our program regulations, and instructions or directives issued thereunder.

Court-ordered retroactive payment means either a retroactive payment the State makes to an assistance recipient or an individual, under a Federal or State court order or a retroactive payment we make to a State under a Federal court order. Although we may accept these claims as timely, this provision does not mean that we necessarily agree to be bound by a State or Federal decision when we were not a party to the action.

Federal financial participation means the Federal government's share of an expenditure made by a State agency under any of the programs listed in § 95.1.

State means the 50 States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa and the Trust Territories of the Pacific.

State agency for the purposes of expenditures for financial assistance under title IV-A and for support enforcement services under title IV-D

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means any agency or organization of the State or local government which is authorized to incur matchable expenses; for purposes of expenditures under titles XIX and XXI, means any agency of the State, including the State Medicaid agency or State Child Health Agency, its fiscal agents, a State health agency, or any other State or local organization which incurs matchable expenses; for purposes of expenditures under all other titles, see the definitions in the appropriate program's regulations.

The Act means the Social Security Act, as amended.

We, our, and us refer to HHS's Centers for Medicare & Medicaid Services, Office of Child Support Enforcement, Office of Human Development Services, or the Social Security Administration, depending on the program involved.

[46 FR 3529, Jan. 15, 1981, as amended at 65 FR 33632, May 24, 2000]

§ 95.7 Time limit for claiming payment for expenditures made after September 30, 1979.

Under the programs listed in § 95.1, we will pay a State for a State agency expenditure made after September 30, 1979, only if the State files a claim with us for that expenditure within 2 years after the calendar quarter in which the State agency made the expenditure. Section 95.19 lists the exceptions to this rule.

§ 95.10 Time limit for claiming payment for expenditures made before October 1, 1979.

Under the programs listed in § 95.1, we will pay a State for a State agency expenditure made before October 1, 1979, only if the State filed or files a claim with us for that expenditure before January 1, 1981. Section 95.19 lists the exceptions to this rule.

§ 95.11 Payment of claims subject to appropriations restrictions.

Notwithstanding any other provision of this Subpart, we will pay States' otherwise allowable claims for Federal financial participation under the programs covered by this Subpart, subject to the availability of funds (as provided in Acts appropriating funds to the Department in effect at the time in which

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such claims are being considered for payment), and subject to conditions or restrictions applicable to payments out of such funds, including provisions of the first and second continuing resolutions for FY 1981 (Pub. L. 96-369 and Pub. L. 96-536) and the Supplemental Appropriations and Rescission Act, 1981 (Pub. L. 97-12) that make funds under those Acts available to pay for a State agency expenditure made before September 30, 1978, only if the State had filed a claim for that expenditure with us within one year of the expenditure.

(Pub. L. 96-369, 94 Stat. 1351; Pub. L. 96-536, 94 Stat. 3166; and Pub. L. 97-12, 95 Stat. 14)

[46 FR 46136, Sept. 17, 1981]

§ 95.13 In which quarter we consider an expenditure made.

In this subpart—

(a) We consider a State agency's expenditure for assistance payments under title I, IV-A, IV-E, X, XIV, or XVI (AABD) to have been made in the quarter in which a payment was made to the assistance recipient, his or her protective payee, or a vendor payee, even if the payment was for a month in a previous quarter.

(b) We consider a State agency's expenditure for services under title I, IV-A, IV-B, IV-D, IV-E, X, XIV, XVI (AABD), XIX, or XXI to have been made in the quarter in which any State agency made a payment to the service provider.

(c) For purposes of title XX, the date of expenditure is governed by 45 CFR 1396.52(d).

(d) We consider a State agency's expenditure for administration or training under titles I, IV-A, IV-B, IV-D, IV-E, X, XIV, XVI (AABD), XIX, or XXI to have been made in the quarter payment was made by a State agency to a private agency or individual; or in the quarter to which the costs were allocated in accordance with the regulations for each program. We consider a State agency's expenditure under these titles for non-cash expenditures such as depreciation to have been made in the quarter the expenditure was recorded in the accounting records of any State

agency in accordance with generally accepted accounting principles.

[46 FR 3529, Jan. 15, 1981, as amended at 65 FR 33632, May 24, 2000]

§ 95.19 Exceptions to time limits.

The time limits in §§ 95.7 and 95.10 do not apply to any of the following—

(a) Any claim for an adjustment to prior year costs.

(b) Any claim resulting from an audit exception.

(c) Any claim resulting from a court-ordered retroactive payment.

(d) Any claim for which the Secretary decides there was good cause for the State's not filing it within the time limit.

§ 95.22 Meaning of good cause.

(a) Good cause for the late filing of a claim is lateness due to circumstances beyond the State's control.

(b) Examples of circumstances beyond the State's control include:

(1) Acts of God;

(2) Documented action or inaction of the Federal government.

(c) Circumstances beyond the State's control do not include neglect or administrative inadequacy on the part of the State, State agencies, the State legislature or any of their offices, officers, or employees.

§ 95.25 When to request a waiver for good cause.

The State should request a waiver in writing as soon as the State recognizes that it will be unable to submit a claim within the appropriate time limit.

§ 95.28 What a waiver request for good cause must include.

The State's request for waiver must include a specific explanation, justification or documentation of why the claim is or will be late. This request must establish that the lateness in filing the claim is for good cause as defined in § 95.22 and not due to neglect or administrative inadequacy. If the claim has not been filed, the State must also tell us when the claim will be filed.