

§213a.4

8 CFR Ch. I (1-1-07 Edition)

the Service may impose on the sponsor a civil penalty in an amount within the penalty range established in section 213A(d)(2)(A) of the Act.

(ii) If the sponsor, knowing that the sponsored immigrant has received any means-tested public benefit, fails to give notice in accordance with paragraph (a) of this section, the Service may impose on the sponsor a civil penalty in an amount within the penalty range established in section 213A(d)(2)(B) of the Act.

(2) *Procedure for imposing penalty.* The procedure for imposing a civil penalty under this paragraph follows that which is established at 8 CFR part 280.

(c) *Change of address.* If the sponsor is an alien, filing Form I-865 under this section does not satisfy or substitute for the change of address notice required under §265.1 of this chapter.

[62 FR 54352, Oct. 20, 1997, as amended at 71 FR 35755, June 21, 2006]

§213a.4 Actions for reimbursement, public notice, and congressional reports.

(a) *Requests for reimbursement; commencement of civil action.* (1) *By agencies.*

(i) If an agency that provides a means-tested public benefit to a sponsored immigrant wants to seek reimbursement from a sponsor, household member, or joint sponsor, the program official must arrange for service of a written request for reimbursement upon the sponsor, household member, or joint sponsor, by personal service, as defined by 8 CFR 103.5a(a)(2), except that the person making personal service need not be a Federal Government officer or employee.

(ii) The request for reimbursement must specify the date the sponsor, household member, or joint sponsor's support obligation commenced (this is the date the sponsored immigrant became a permanent resident), the sponsored immigrant's name, alien registration number, address, and date of birth, as well as the types of means-tested public benefit(s) that the sponsored immigrant received, the dates the sponsored immigrant received the means-tested public benefit(s), and the total amount of the means-tested public benefit(s) received.

(iii) It is not necessary to make a separate request for each type of means-tested public benefit, nor for each separate payment. The agency may instead aggregate in a single request all benefit payments the agency has made as of the date of the request. A state or local government may make a single reimbursement request on behalf of all of the state or local government agencies that have provided means-tested public benefits.

(iv) So that the sponsor, household member, or joint sponsor may verify the accuracy of the request, the request for reimbursement must include an itemized statement supporting the claim for reimbursement. The request for reimbursement must also include a notification to the sponsor, household member, or joint sponsor that the sponsor, household member, or joint sponsor must, within 45 days of the date of service, respond to the request for reimbursement either by paying the reimbursement or by arranging to commence payments pursuant to a payment schedule that is agreeable to the program official.

(v) Prior to filing a lawsuit against a sponsor, household member, or joint sponsor to enforce the sponsor, household member, or joint sponsor's support obligation under section 213A(b)(2) of the Act, a Federal, state, or local governmental agency or a private entity must wait 45 days from the date it serves a written request for reimbursement in accordance with this section.

(2) *By the sponsored immigrant.* Section 213A(b) of the Act does not require a sponsored immigrant to request the sponsor or joint sponsor to comply with the support obligation, before bringing an action to compel compliance.

(3) *Role of USCIS and DHS.* Upon the receipt of a duly issued subpoena, USCIS may provide a certified copy of a Form I-864 or Form I-864A that has been filed on behalf of a specific alien for use as evidence in a civil action to enforce the Form I-864 or Form I-864A, and may also disclose the last known address and social security number of the sponsor, substitute sponsor, or joint sponsor. Requesting information through the Systematic Alien Verification for Entitlement (SAVE)

Program is sufficient, and a subpoena is not required, to obtain the sponsored immigrant's current immigration or citizenship status or the name, social security number and last known address of a sponsor, substitute sponsor, or joint sponsor.

(b) *Designation of means-tested public benefits.*

Federal, State, and local government agencies should issue public notice of determinations regarding which benefits are considered "means-tested public benefits" prior to December 19, 1997, the date the new affidavit of support goes into effect, or as soon as possible thereafter. Additional notices should be issued whenever an agency revises its determination of which benefits are considered "means-tested public benefits." A sponsor, joint sponsor, or household member is not liable to reimburse any agency for any benefit with respect to which a public notice of the determination that the benefit is a means-tested public benefit was not published until after the date the benefit was first provided to the immigrant.

(c) *Congressional reports.* (1) For purposes of section 213A(i)(3) of the Act, USCIS will consider a sponsor or joint sponsor to be in compliance with the financial obligations of section 213A of the Act unless a party that has obtained a final judgment enforcing the sponsor or joint sponsor's obligations under section 213A(a)(1)(A) or 213A(b) of the Act has provided a copy of the final judgment to the USCIS by mailing a certified copy to the address listed in paragraph (c)(3) of this section. The copy should be accompanied by a cover letter that includes the reference "Civil Judgments for Congressional Reports under section 213A(i)(3) of the Act." Failure to file a certified copy of the final civil judgment in accordance with this section has no effect on the plaintiff's ability to collect on the judgment pursuant to law.

(2) If a Federal, state, or local agency or private entity that administers any means-tested public benefit makes a determination under section 421(e) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 in the case of any sponsored immigrant, the program official shall send

written notice of the determination, including the name of the sponsored immigrant and of the sponsor, to the address listed in paragraph (c)(3) of this section. The written notice should include the reference "Determinations under 421(e) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996."

(3) The address referred to in paragraphs (c)(1) and (c)(2) of this section is: Office of Program and Regulation Development, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue, NW., Washington, DC, 20529.

[62 FR 54352, Oct. 20, 1997, as amended at 71 FR 35755, June 21, 2006]

§213a.5 Relationship of this part to other affidavits of support.

Nothing in this part precludes the continued use of Form I-134, Affidavit of Support (other than INA section 213A), or of Form I-361, Affidavit of Financial Support and Intent to Petition for Legal Custody for Public Law 97-359 Amerasian, in any case, other than a case described in §213a.2(a)(2), in which these forms were used prior to enactment of section 213A of the Act. The obligations of section 213A of the Act do not bind a person who executes Form I-134 or Form I-361, although the person who executes Form I-361 remains subject to the provisions of section 204(f)(4)(B) of the Act and of §204.4(i) of this chapter.

PART 214—NONIMMIGRANT CLASSES

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