

confusion and legal problems for the program. "Overdue support means a delinquency * * *" and "Past-due support means the amount of support * * * which has not been paid." Lack of clarity in these definitions and in use of the term "delinquency" in the regulations leaves interpretation of these terms to local courts. The commenter cites court rulings that: (1) Preclude use of Federal income tax refund offset when an individual is current in his court-ordered repayment plan; (2) past-due support is created by default in performance rather than by the existence of outstanding arrears; and (3) arrearages resulting from the retroactive application of the support order do not constitute past-due support subject to the Federal income tax refund intercept.

Response: These regulatory definitions restate the definitions used in the Act and were not changed by any recent amendments to the Act. "Overdue support" is a term defined in section 466(e) of the Act and is applicable to section 466 remedies. It was added when that section on mandatory State enforcement laws was first included in title IV-D by the 1984 amendments to the Act. The term "past-due support" is defined in section 464(c) of the Act and used in sections 454(6) and 454(18) and throughout section 464 to refer to delinquencies qualifying for Federal income tax refund offset. Because these are statutory definitions with particular meanings and applications, we have not altered them. According to Black's Law Dictionary, the term "delinquent" means due and unpaid at the time appointed by law. In the case of child support, a judgment for unpaid support or an arrearage amount would be a delinquency. Delinquency is used in these regulations as a general term to distinguish current support from other support.

2. *Comment:* One commenter suggested that, under definitions, the term "non-title IV-A Medicaid recipient" be amended to "non-IV-A Medicaid recipient".

Response: We agree and have made this revision. The term "Non-title IV-A Medicaid Recipient" is revised by removing "Non-title IV-A" and replacing it with "Non-IV-A".

Single and Separate Organizational Unit—§ 302.12

1. *Comment:* One commenter noted that paragraph (a)(1)(i) deletes reference to § 205.100 although there has been no amendment to that section. The commenter also indicated that the word "other" should be removed from paragraph (a)(1)(ii) for clarity.

Response: Section 205.100 is obsolete with respect to title IV-A as reauthorized under welfare reform. It is still permissible for the IV-D agency to be located within any agency designated to administer title IV-A, but there is no longer a requirement for a single State agency in the Temporary Assistance for Needy Families (TANF) program. Therefore, the word "other" in newly-designated paragraph (a)(1)(ii) is appropriate.

Establishing Paternity and Securing Support—§ 302.31

1. *Comment:* One commenter noted that the preamble to the interim final rule said that we were removing § 302.31(a)(4), but it was not removed. This reference appeared in the discussion of § 303.80.

Response: Reference to removal of § 302.31(a)(4) was incorrect. The content of § 302.31(a)(3) was removed and paragraph (a)(3) was reserved by the interim final rule. Because we have no plans to use the reserved paragraph (a)(3), we are deleting it in this final rule and have made a technical correction redesignating paragraph (a)(4) as (a)(3).

Collection and Disbursement of Support Payments by the IV-D Agency—§ 302.32

1. *Comment:* Two commenters indicated that disbursement timeframes in paragraphs (b)(1), (2) and (3) should start from the date of receipt by the State disbursement unit (SDU), pursuant to section 454B(c) of the Act.

Response: We agree with these comments and have revised the paragraphs, as needed, to make them consistent with the statute. We will revise paragraph (b)(1) by substituting "date" for "initial point". Paragraph (b)(1) already has the language "receipt by the SDU". We will revise paragraphs (b)(2)(ii), (b)(2)(iii) and (b)(3)(i) by changing references to receipt by the State to reference receipt by the SDU.

2. *Comment:* One commenter questioned if the language in § 302.32(b)(2)(i) "(other than payments sent to the family from the State share of assigned collections)" is in reference to States that pass through part of or all of the collection in TANF cases. Another commenter indicated that, regarding paragraph (b)(2)(i), collections in TANF cases cannot be disbursed to the family within 2 business days of receipt by the SDU or of the end of the month of receipt. The County Welfare Department must first determine total assistance paid to the family for the month. The commenter indicated that it is impossible to determine if a pass-through or other support payment is available to the family until the total

assistance paid to the family during the month is known. Once the total assistance paid is provided to the IV-D agency after the end of the month, the IV-D agency conducts the welfare payment distribution process to determine if the family is entitled to a pass-through or other support payment. The commenter requests that the regulations be amended so that States be allowed to make these payments within 2 business days of the determination of the amount of support payable to the family after the end of the month.

Response: The language quoted by the first commenter does refer to payments that States pass through to families. Section 454B of the Act, entitled Collection and Disbursement of Support Payments, requires the SDU to "distribute all amounts payable under section 457(a) within 2 business days after receipt from the employer or other source or periodic income, if sufficient information identifying the payee is provided." Addressing the issue raised by the second commenter goes beyond a technical change to the regulations and therefore cannot be dealt with in this document. We will consider these comments in future proposed rulemaking on this section.

3. *Comment:* One commenter asked that, since the SDU does not receive and disburse Federal income tax refund intercepts, could we include reference in paragraph (b)(2)(iv) to other entities (e.g., IV-D agencies) that may receive and disburse them?

Response: The commenter is correct that Federal income tax refund offset collections are not necessarily sent to the SDU; they are sent to an account designated by the State IV-D agency for receipt of these monies. However, payments made to the family from these funds must be disbursed by the SDU, therefore we have not made this change to the regulation.

4. *Comment:* The commenter also asked whether we plan to include in the regulations information from OCSE-AT-98-24 on the definition of "assistance paid to the family".

Response: Since this definition is addressed in existing agency issuances, we do not believe it is necessary to capture it in regulation. Please note that OCSE-AT-99-10 revised the definition of assistance for child support purposes in OCSE-AT-98-24, for consistency with the final TANF regulations.

State Parent Locator Service—§ 302.35

1. *Comment:* One commenter requested that the preamble clarify that reference to the removal of medical support obligations from § 302.35(c)(1), which addresses appropriate requests to