

collections to satisfy future support unless all assigned current and past-due support is paid. Q & A 41 of OCSE-AT-97-17 is not consistent with disbursement timeframes in section 454B of the Act and will be revised. Any collection in a former or never assistance case that is owed to the family must be sent to the family within 2 business days of receipt in the SDU. This would include future payments owed to the family. The 2-day time frame was required by PRWORA, which also required IV-D agencies to establish SDUs. Since the February 9, 1999 publication of the interim final regulation, implementation of the SDUs has allowed States to comply with the 2-day requirement without difficulty.

3. *Comment:* One commenter indicated that the requirement under paragraph (a)(4)(iii) to contact the employer when the employer fails to report the date of withholding is burdensome and jeopardizes disbursement within 2 days of receipt of the collection. The commenter indicated that the State should use the date of the employer's check or it should be left at State option to contact the employer.

*Response:* Pursuant to section 454B(c) of the Act, the date of collection for amounts collected and distributed is the date of receipt by the SDU. However, States have the option of deeming the date of withholding to be the date of collection when the current support is withheld by an employer in the month when due and received by the SDU in a month other than the month when due. Therefore, States are not required to use the date of withholding as the date of collection for distribution purposes. If a IV-D agency opts to use the date of withholding and an employer fails to supply that date, § 302.51(a)(4)(iii) allows the State to reconstruct the date either by contacting the employer or comparing the actual amounts collected with the pay schedule in the order. Thus, the State may reconstruct the date of withholding without contacting the employer.

4. *Comment:* Two commenters indicated that the preamble language describing changes to paragraph (a)(4) which defines the date of collection for distribution purposes is not consistent with the change made in the regulation itself.

*Response:* We agree that there is a discrepancy between the preamble and the regulation in paragraphs (a)(4)(i) and (ii). The preamble omitted the effective date of the new definition of date of collection. The regulatory language is correct: "Effective October 1, 1998 (or October 1, 1999 if applicable) except with respect to those collections

addressed under paragraph (a)(3) of this section and except as specified under paragraph (a)(4)(ii) of this section, with respect to amounts collected and distributed under title IV-D of the Act, the date of collection for distribution purposes in all IV-D cases is the date of receipt in the State disbursement unit established under section 454B of the Act."

5. *Comment:* One commenter indicated that former paragraph (b)(5) that read "if the amount collected is in excess of the amounts required to be distributed under paragraph (b)(1) through (4) of this section, such excess shall be paid to the family" should be retained. The commenter suggested that due to revisions to paragraphs (b)(1) and (b)(3), this paragraph needs rewording to retain its original intent.

*Response:* Section 302.51(b)(5) was deleted because it referred to paragraphs (b)(1) through (4) which were removed because of changes to the distribution rules pursuant to PRWORA. We deleted provisions inconsistent with the new section 457 of the Act and made a conscious decision not to repeat the statutory requirements in the regulations. However, the basic principle of ensuring that the State never retains more assigned support collections than the total amount of assistance paid to the custodial parent is still in effect. This provision is found in section 457(a)(1)(B) of the Act (see also two Action Transmittals on distribution, OCSE-AT-97-17 and OCSE-AT-98-24).

#### *Notice of Collection of Assigned Support—§ 302.54*

1. *Comment:* One commenter pointed out some inconsistencies in the interim final rule: paragraph (a)(1) refers to "conditions in paragraph (c)", but former paragraph (c) was deleted; paragraph (b)(1)(ii) refers to "information required under paragraph (b)(2)", but that information is now in paragraph (a); and paragraph (b)(2) refers to paragraphs (b)(1) and (b)(2), which are now paragraphs (a)(1) and (2).

*Response:* We agree with this commenter. A final rule which eliminated certain regulatory requirements was issued on December 20, 1996 in the **Federal Register** (61 FR 67235). That rule removed paragraph (a) and redesignated paragraphs (b) and (c) as (a) and (b). At that time, we neglected to make corresponding changes in later references to these redesignated paragraphs.

Therefore, we are now making the following technical corrections: in paragraph (a)(1), we are revising "paragraph (c)" to read "paragraph (b)";

in paragraph (b)(1)(ii), we are revising "paragraph (b)(2)" to read "paragraph (a)"; and in paragraph (b)(2), we are revising "(b)(1)" to read "(a)(1)" and "(b)(2)" to read "(a)(2)".

#### **§ 302.65 Withholding of Unemployment Compensation.**

In reviewing the regulations for corrections missed in the interim final rule, we found a typographical error in § 302.65. To correct this, we are making a technical change to correct the spelling of "criteria" in paragraph (c)(7).

#### *Required State Laws—§ 302.70*

1. *Comment:* Two commenters pointed out that since §§ 303.103 and 303.105 are eliminated, references to them in paragraphs (a)(4) and (7) should be eliminated.

*Response:* We agree and are deleting these references. In addition to the changes raised by commenters, we are making a similar technical correction to paragraph (c) by replacing "§§ 303.100 through 303.105 of this chapter" with "§§ 303.100 through 303.102 and § 303.104 of this chapter".

2. *Comment:* Two commenters noted that paragraph (a)(5)(ii) refers to obsolete "§§ 232.40 through 232.49 of this title" and should be changed to refer to section 454(29) of the Act.

*Response:* We have deleted the regulatory references in that clause and added the reference to section 454(29) of the Act.

3. *Comment:* One commenter recommended that we remove paragraphs (a)(1) through (a)(11) as they restate the provisions of the Act but retain introductory language in paragraph (a).

*Response:* Paragraphs (a)(1) through (11) not only restate provisions in section 466 of the Act, they also cross-reference related requirements in Part 303 of the regulations. We are looking at the best way to present these requirements and will address any needed changes during future revisions to this section.

4. *Comment:* One commenter noted that we should replace "wages" with "income" in paragraph (a)(8).

*Response:* We have made this technical revision for consistency with section 466(a)(1) and (b) of the Act.

#### *Procedures for the Imposition of Late Payment Fees on Noncustodial Parents Who Owe Overdue Support—§ 302.75*

1. *Comment:* A commenter noted that paragraph (b)(6) refers to § 305.50, which no longer exists.

*Response:* The reference to § 305.50 in the interim final regulation was a typographical error. In paragraph (b)(6),