

provide health insurance in instances where the custodial parent already provides such coverage and does not want the noncustodial parent's coverage. One of the commenters suggested allowing a waiver of the requirement to enforce the noncustodial parent's coverage. The commenter suggested that the waiver could include petitioning the court or administrative authority to include the custodial parent's coverage in the order, and pursuing coverage from the noncustodial parent only if the custodial parent does not have coverage other than Medicaid.

*Response:* If a support order requires a noncustodial parent to provide health insurance coverage, the only way for a IV-D agency to avoid enforcing that order is a change to the order. There is no authority under sections 466(a)(19) or 452(f) of the Act to waive the requirement to enforce noncustodial parents' health insurance coverage. Section 452(f) requires the Secretary of HHS to issue regulations requiring IV-D agencies to include medical support as part of any child support order and to enforce medical support whenever health care coverage is available to the noncustodial parent at a reasonable cost. Section 466(a)(19) of the Act requires the use of the National Medical Support Notice (NMSN) to enforce an order that contains a requirement for health care coverage. Unless the order allows for alternative coverage, a IV-D agency must send the NMSN to the noncustodial parent's employer, if known, as required in section 466(a)(19) of the Act and § 303.32, published December 27, 2000 and effective March 27, 2001 (*see* OCSE-AT-01-02).

2. *Comment:* Two commenters indicated that regulations should assure that all orders include health insurance, consistent with section 452(f) of the Act. Another commenter recommended that we revise paragraphs (b)(1), (2), and (4) to delete any references to "petition", just as CSPIA deleted the reference to "petition" in section 452(f) of the Act.

*Response:* We agree that CSPIA required the Secretary, in section 452(f), to issue regulations requiring IV-D agencies to include medical support as part of any child support order. Separate regulations will be issued that offer the public an opportunity for comment.

*Requests by the State Parent Locator Service (SPLS) for Information From the Federal Parent Locator Service (FPLS)—§ 303.70*

1. *Comment:* One commenter suggested we revise paragraph (d)(1) by replacing "to obtain information or to facilitate the discovery of any

individual" with "to obtain information on, or to facilitate the discovery of, the location of any individual". The commenter noted that paragraph (d)(1) does not track section 453(a)(3) of the Act which states that the FPLS may be used for the purpose of enforcing any Federal or State law with respect to the unlawful taking or restraint of a child. The commenter expressed concern if the change to paragraph (e)(1)(i), which governs fees for use of the FPLS, means that IV-D agencies will be charged fees for cases other than just non-IV-A, locate only, and parental kidnapping/child custody cases. The commenter indicated that IV-D agencies should not have to pay fees for use of the FPLS in IV-A cases. Finally, the commenter proposed that the paragraph (e)(1)(iii) cite should be to section 453(k)(3) of the Act, not to section 453(k) of the Act.

*Response:* We did not make the revision described in the first comment. While the regulation language is not exact, we believe it generally covers the requirement. We agree with the commenter's second comment and have added "Federal or" before "State" for consistency with the statute. Regarding the commenter's third concern about being charged additional fees for use of the FPLS, PRWORA changed the requirements on FPLS fees and now States must pay for all information received from the FPLS pursuant to section 453(k)(3) of the Act. (See DCL-00-73, dated June 28, 2000, which explains OCSE's charges to States for using the FPLS.) We agree with the commenter's final point and have revised paragraph (e)(1)(iii) by citing section 453(k)(3) of the Act.

*Requests for Collection of Past-Due Support by Federal Tax Refund Offset—§ 303.72*

1. *Comment:* One commenter noted three instances of "Secretary of the Treasury" that should be replaced by "Secretary of the U. S. Treasury".

*Response:* We agree with the comment and made this change throughout the section. In addition, we are making a technical change by revising "an title IV-A" to "a title IV-A" in paragraph (a)(3)(iv). Finally, paragraph (h)(3) is amended to delete the language "Secretary of the U.S. Treasury" which was included in the paragraph in error.

*Procedures for Income Withholding—§ 303.100*

1. *Comment:* Several commenters noted that some references to "wages" have not been replaced by "income".

*Response:* We will make these changes in paragraphs (e)(1)(i) and (g).

2. *Comment:* One commenter noted that the preamble does not explain that paragraphs (h)(5)(i) through (iii), (6) and (7) have been deleted or why.

*Response:* The interim final rule explained that former paragraph (h) was redesignated as paragraph (f) and revised to provide updated standards for program operations for both the traditional two-state interstate income withholding remedy and UIFSA's new one-state direct income withholding remedy. Former paragraphs (h)(5)(i)-(iii) were deleted because PRWORA revised section 466(b)(4) of the Act to remove the requirements for an advance notice in cases of initiated income withholding. We did not intend to delete former paragraphs (h)(6) and (7), which govern due process and which State law governs in interstate withholding situations. Since these paragraphs were inadvertently omitted in the interim final rule, they are reinstated in this regulation and redesignated as paragraphs (f)(4) and (5).

3. *Comment:* One commenter noted that throughout this section the term "wages" is replaced with the term "income", but the term "employer" was not similarly expanded upon. The continued use of the term "employer" seems to limit the impact of the requirements provided in this section to income derived only from employers.

*Response:* Use of the term "employer" is consistent with its use in section 466(b) of the Act.

4. *Comment:* One commenter asked whether the 14-day implementation time frame has been eliminated in paragraph (e)(1)(ix). If it has been eliminated, can State laws provide a time frame for employers to implement income withholding?

*Response:* The 14-day time frame was tied to the advance notice to the noncustodial parent that was eliminated by PRWORA. Section 466(b)(6)(A)(i) of the Act and § 303.100(e)(1)(ix) state that employers must pay the withheld amount to the SDU within 7 business days after the date the amount would have been paid or credited to the employee.

5. *Comment:* One commenter noted that Basic Housing Allowances/separate rations are not taxable and should not be included in income withholding; only basic pay should be included.

*Response:* Our regulations at § 302.56 say that a State shall have procedures for setting guidelines and that the guidelines must take into consideration all earnings and income of the noncustodial parent. Basic housing allowances and rations are not excluded from the definition of income subject to