

the inmate is in administrative detention or special housing.

Inmates Without Funds. The proposed regulations also allow for exceptions to be made for inmates without funds. In the final rule, we define an inmate without funds as one who has had an average daily trust fund account balance of less than \$6.00 for the past 30 days. This definition is similar to that used in the Bureau's inmate telephone regulations (*see* § 540.105(b)) and in implementing instructions for payment of postage procedures (§ 540.21(d) and (e)). We believe this definition has proved to be both warranted and reasonable.

Interactions. Federal law and Bureau policy addresses issues on drug interactions between prescribed and OTC medications. These laws and our policy require verbal and/or written counseling information for all prescription drugs. When we prescribe such drugs, we give inmates information about potential drug-drug and drug-food interactions, including those with OTC medications.

Also, the regulations specify that Bureau medical centers (that is, the U.S. Medical Center for Federal Prisoners, other Federal Medical Centers, and psychiatric referral centers) will continue dispensing OTC medications through sick call, where inmates taking complex medication regimens, or inmates with cognitive impairments, would be at higher risk of inadvertent drug interactions with OTC medications.

Commissary procedures on the amount of items sold through the commissary serve to minimize the potential for misuse of purchased OTC medications.

Miscellaneous Issues. We believe that our discipline policy (*see* 28 CFR part 541, subpart B) will discourage inmates from violating Bureau regulations.

Concerns expressed over possible abuse of the administration of the proposed regulations, training available to staff, or over the general quality of staff are not relevant to the procedures of this specific proposed rule. Our administrative remedy program (*see* 28 CFR part 542) permits inmates to seek formal review of issues which relate to their confinement and is the appropriate channel to seek redress.

One commenter alleged that the administrative remedy program itself is outdated and improperly followed by staff. We disagree. Nevertheless, we will be revising the regulations for the administrative remedy program as part of the "plain language" initiative.

Members of the public may submit further comments concerning this rule

by writing to the previously cited address. We will consider but not respond to these comments in the **Federal Register**.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review", section 1(b), Principles of Regulation. The Director of the Bureau of Prisons has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have sufficient federalism implications for which we would prepare a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation. By approving it, the Director certifies that it will not have a significant economic impact upon a substantial number of small entities because: This rule is about the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not cause State, local and tribal governments, or the private sector, to spend \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. We do not need to take action under the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based

companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

We want to make Bureau documents easier to read and understand. If you can suggest how to improve the clarity of these regulations, call or write to Sarah Qureshi at the address or telephone number listed above.

List of Subjects in 28 CFR Part 549

Prisoners.

Harley G. Lappin,

Director, Bureau of Prisons.

■ Under the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, we amend 28 CFR part 549 as follows.

Subchapter C—Institutional Management

PART 549—MEDICAL SERVICES

■ 1. Revise the authority citation for 28 CFR part 549 to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4005, 4042, 4045, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4241–4247, 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

■ 2. Add a new Subpart B, consisting of §§ 549.30 and 549.31, to read as follows:

Subpart B—Over-The-Counter (OTC) Medications

Sec.

549.30 Purpose and scope.

549.31 Inmates without funds.

Subpart B—Over-The-Counter (OTC) Medications

§ 549.30 Purpose and scope.

This subpart establishes procedures governing inmate access to Over-The-Counter (OTC) medications for all inmates except those in inpatient status at Federal Medical Centers. Inmates may buy OTC medications which are available at the commissary. Inmates may also obtain OTC medications at sick call if the inmate does not already have the OTC medication and:

(a) Health services staff determine that the inmate has an immediate medical need which must be addressed before his or her regularly scheduled commissary visit; or

(b) The inmate is without funds.

§ 549.31 Inmates without funds.

(a) The Warden must establish procedures to provide up to two OTC medications per week for an inmate without funds. An inmate without funds