

consistent with simplicity of administration and the best interests of recipients. CMS was concerned that approval of a retroactive effective date could, in some circumstances, adversely impact beneficiary access and would be inconsistent with these provisions.

Based on the above, and after consultation with the Secretary of the Department of Health and Human Services as required under Federal regulations at 42 CFR 430.15(c)(2), CMS disapproved Vermont SPA 03-015a.

Section 1116 of the Act and 42 CFR part 430 establish Departmental procedures that provide an administrative hearing for reconsideration of a disapproval of a state plan or plan amendment. CMS is required to publish a copy of the notice to a state Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The notice to Vermont announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mr. Charles P. Smith, Secretary, Vermont
Agency of Human Services 103 South Main
Street, Waterbury, VT 05671-0204.

Dear Mr. Smith: I am responding to your request for reconsideration of the decision to disapprove Vermont State Plan Amendment (SPA) 03-015a, which Vermont submitted on September 30, 2003. In SPA 03-15a, Vermont proposes to establish State-only Medicaid supplemental rebate agreements under which pharmaceutical manufacturers would pay supplemental rebates to the State based on Medicaid utilization in the State, for the period from October 1, 2002, through June 30, 2003. The level of the supplemental rebates would also be based on a "multi-state pooling" arrangement to take into account aggregate utilization levels among several participating states. The Centers for Medicare & Medicaid Services (CMS) reviewed this proposal and was unable to approve SPA 03-015a for the reasons set forth below.

At issue is whether the requested effective date of October 1, 2002, is consistent with statutory and regulatory requirements. States receiving Federal Medicaid funding must

have approved state plans that describe the nature and scope of the state Medicaid program and must fulfill the requirements for approval as set forth in section 1902(a) of the Social Security Act (the Act) and pertinent regulations as set forth in 42 CFR 430.15(a). Federal regulations at 42 CFR 430.20(b) provide that the rules of 42 CFR 447.256 apply with respect to the effective date of a plan amendment that changes the state's payment methods and standards. Federal regulations at 42 CFR 447.256 provide that the effective date of such amendments may not be earlier than the first day of the calendar quarter in which an approvable plan is submitted.

CMS concluded that the change proposed by Vermont amounted to a change in the State's payment methods and standards, and that the earliest approvable effective date would be the first day of the calendar quarter in which the SPA was submitted, or July 1, 2003. In a separate action, CMS approved SPA 03-15b, which authorized State-only Medicaid supplemental rebate agreements and participation in a multi-state pooling arrangement effective July 1, 2003.

In addition, section 1902(a)(19) of the Act requires that care and services under the plan be provided in a manner consistent with simplicity of administration and the best interests of recipients. CMS was concerned that approval of a retroactive effective date could, in some circumstances, adversely impact beneficiary access and would be inconsistent with these provisions.

Based on the above, and after consultation with the Secretary of the Department of Health and Human Services as required under Federal regulations at 42 CFR 430.15(c)(2), CMS disapproved Vermont SPA 03-015a.

I am scheduling a hearing to be held on August 25, 2004, at 10:00 a.m., JFK Federal Building, Room 2325, Boston, Massachusetts 02203-0003, to reconsider our decision to disapprove Vermont SPA 03-015a.

If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR Part 430.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication that may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. The presiding officer may be reached at (410) 786-2055.

Sincerely,
Mark B. McClellan, M.D., Ph.D.

Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR Section 430.18. (Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program.)

Dated: July 21, 2004.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Administration for Children and Families

Office of Child Support Enforcement

Privacy Act of 1974; Amended System of Records

AGENCY: Office of Child Support Enforcement, ACF, HHS.

ACTION: Notice of amended system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Office of Child Support Enforcement (OCSE) is publishing a notice of its amendment of its system of records, 09-80-0202, entitled "Federal Case Registry of Child Support Orders."

DATES: HHS invites interested parties to submit comments on the proposed notice until September 2, 2004. As required by the Privacy Act (5 U.S.C. 552a(r)), HHS on July 23, 2004 sent a report of an Amended System of Records to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget. The amendments described in this notice are effective upon publication unless HHS receives comments that would result in a contrary determination.

ADDRESSES: Please address comments to: Donna Bonar, Associate Commissioner, Office of Automation and Program Operations, Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, SW., 2nd Floor West, Washington, DC 20447, (202) 401-9271.

Comments received will be available for inspection at the address specified above from 9 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Donna Bonar, Associate Commissioner, Office of Automation and Program Operations, Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, SW., 2nd Floor West, Washington, DC 20447, (202) 401-9271.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Office of Child Support Enforcement (OCSE) is amending one of its Systems of Records, "Federal Case Registry of Child Support Orders" (FCR). DHHS/OCSE No. 09-80-0202, last published at 63 FR 45070 on August 24, 1998.

Consistent with sections 453(e) of the Social Security Act (the Act), for the purpose of establishing parentage, setting the amount of, modifying or enforcing child support obligations, information in the FCR pertaining to an individual who is under an obligation to pay child support, against whom such an obligation is sought or to whom such an obligation is owed may be matched against information held by any of the departments, agencies, or instrumentalities of the United States or of any State to obtain and transmit to an authorized person information on, or facilitating the discovery of, the location of the individual, the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage) and information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual. If any information is obtained the disclosure of which would contravene national policy or security interests of the United States or the confidentiality of census data, such information shall not be transmitted by the department, agency or instrumentality.

The complete system notice is republished below.

Dated: July 27, 2004.

Sherri Z. Heller,
Commissioner.

09-80-0202

SYSTEM NAME:

Federal Case Registry of Child Support Orders (FCR), HHS, OCSE.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Child Support Enforcement, 370 L'Enfant Promenade, SW., 2nd Floor, Washington, DC 20447; Social Security Administration, 6200 Security Boulevard, Baltimore, Maryland 21235.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained with respect to all cases or orders submitted by States to the Federal Case Registry. The cases and orders which States submit to the FCR include each case in which services are being provided by the State under

the State plan approved pursuant to Title IV-D of the Act, and each support order established or modified in the State on or after October 1, 1998.

CATEGORIES OF RECORDS IN THE SYSTEM:

The FCR system of records includes records that contain the following information: Names (including alternative names); social security numbers (including alternative numbers); birth dates; participant type (custodial party, noncustodial parent, putative father, child); sex; case type (IV-D, non-IV-D); indication of an order; family violence indicator (domestic violence or child abuse); locate request type (reason for locate); locate source (source which State wishes to check for data); State Federal Information Processing Standard code; county code; State case identification number; and State member identification number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 452 and 453 of the Social Security Act (42 U.S.C. 652 and 653) require the Secretary of HHS to establish and conduct the Federal Parent Locator Service, a computerized national location network which provides location and asset information, including addresses and social security numbers, to State and local CSE agencies.

PURPOSE(S):

The primary purpose of the FCR is to improve States' abilities to locate parents and collect child support. The FCR consists of State case registry information, and contains abstracts of case and order information with respect to each case and order in each State Case Registry. At least every two business days, the FCR is matched against the National Directory of New Hires (NDNH), another component of the Federal Parent Locator Service, to determine if a newly hired employee included in the NDNH is a participant in a child support case anywhere in the country. Within two business days after a comparison reveals a match with respect to an individual, the Service reports the match as well as the information regarding the individual's current employment and other pertinent information to the State agency or agencies responsible for the case. The Service also alerts States when other States have registered the same individuals on the FCR.

The system of records includes a Family Violence (FV) indicator in the FCR to prevent disclosure of the records of any person a State associates with FV. When a State notifies the FCR that there

is reasonable evidence of domestic violence or child abuse, and that disclosure could be harmful to the party or the child, the FCR does not disclose any information from the records. In this instance, the FCR returns a notice indicating that "Disclosure is Prohibited." A FV designation can only be removed by the State that placed the designation, and the designation may be placed by more than one State on the same person. However, information from the records containing a FV designation may be disclosed by court order pursuant to section 453(b)(2)(B) of the Act (42 U.S.C. 653(b)(2)(B)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The routine uses for this system are compatible with the stated purpose of the system. Information from the Federal Case Registry may be disclosed to the following entities: (1) Under section 453(c)(1) of the Act (42 U.S.C. 653(c)(1)), to agents and attorney of a State which has in effect an approved plan under Title IV-D of the Act who have duty or authority to collect child and spousal support; (2) Under section 453(c)(2) of the Act (42 U.S.C. 653(c)(2)), to a Court or its agent which has authority to issue an order against a noncustodial parent for child support or to serve as the initiating court in an action to seek a child support order against a noncustodial parent; (3) Under section 453(c)(3) of the Act (42 U.S.C. 653(c)(3)), to a resident parent, legal guardian, or attorney or agent of a child not receiving TANF benefits; (4) Under section 453(c)(4) of the Act (42 U.S.C. 653(c)(4)), to a State agency administering a child welfare program operated under a State plan pursuant to subchapter 1 of Title IV-B of the Act or a State plan pursuant to subchapter 2 of Title IV-B of the Act, or to a State agency that is administering a program operated under a State plan pursuant to Title IV-E of the Act; (5) Under section 653(j)(1)(B) of the Act (42 U.S.C. 653(j)(1)(B)), to the Social Security Administration for verification of name, social security number, and birth dates; and employer identification number; (6) Under section 453(j)(2)(B) of the Act (42 U.S.C. 653(j)(2)(B)), to State agencies responsible for paternity establishment or child support cases; (7) Under section 453(j)(3)(B) of the Act (42 U.S.C. 653(j)(3)(B)), to State agencies for the purpose of assisting States to carry out their responsibilities under programs operated under Title IV-D and IV-A of the Act; (8) Under section 463(d)(2)(A) of the Act (42 U.S.C. 663(d)(2)(A)), to

agents or attorneys of States who have the duty or authority to enforce child custody or visitation determinations; (9) Under section 463(d)(2)(B) of the Act (42 U.S.C. 663(d)(2)(B)), to a Court or its agent with the jurisdiction to make or enforce a child custody or visitation determination; (10) Under section 463(d)(2)(C) of the Act (42 U.S.C. 663(d)(2)(C)), to agents or attorney of the U.S. or of a State who have the authority or duty to investigate, enforce, or prosecute the unlawful taking or restraint of a child; (11) Under section 463(e) of the Act (42 U.S.C. 663(e)), to the U.S. Central Authority for the purpose of locating any parent or child on behalf of an applicant to the Central Authority; (12) Pursuant to Public Law 105-34, Title X, sections 1090(a)(2) and (4), to the Secretary of Treasury for the purpose of administering sections of Title 26 which grant tax benefits based on support or residence of children; (13) Where permitted by law, to researchers for the purpose of conducting research consistent with the pertinent statutory authority; and (14) Under section 453(e) to any of the departments, agencies, or instrumentalities of the United States or of any State for the purpose of locating information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage) and information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Secretary of Health and Human Services houses the FCR in the Social Security Administration's National Computer Center in Baltimore, Maryland. A Direct Access Storage Data (DASD) unit is used for storage. FCR records are maintained on disc and computer tape, and hard copy.

RETRIEVABILITY:

System records can be accessed by either an assigned case identification number or Social Security Number.

SAFEGUARDS:

1. Authorized Users: Data stored on computer files are accessed by passwords known only to persons who are responsible for implementing the FCR. Access to information in the FCR system is limited to approved users

whose official duties require access to this information.

2. Physical Safeguards: Rooms where records are stored will be locked when not in use. During regular business hours rooms will be unlocked but controlled by on-site personnel.

3. Procedural and Technical Safeguards: A password is required to access the terminal and a data set name restricts the release of the data to only approved users. All users of the FCR system are required to have in effect safeguards, applicable to all confidential information that are designed to protect the privacy rights of the parties; they must also have safeguards against any unapproved use or disclosure of information contained in the FCR.

RETENTION AND DISPOSAL:

(1) Records pertaining to a child are deleted from the FCR when a State dissociates the last custodial parent, non-custodial parent, or putative father from the case or order, and no child included in the case or order is associated with any other FCR case or order; (2) Records containing a Family Violence Indicator are removed from the FCR when the State that initiated the indicator requests that the record be removed from the FCR or when the State closes the last case or order including the person connected to an indicator; (3) Records of information provided by the FCR to authorized persons are maintained only long enough to communicate the information to the appropriate State or Federal agent. Thereafter, the information provided will be destroyed; (4) Records pertaining to disclosures (including information provided by States, Federal agencies contacted, and an indication of the type(s) of information returned), are stored on a history tape and in hard copy for two years and then destroyed; and (5) Any record relating or potentially relating to a fraud or abuse investigation or a pending or ongoing legal action including a class action, is retained until conclusion of the investigation or legal action. This exception will protect information relevant to a pending case from being prematurely destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Automation and Program Operations, Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, SW., 2nd Floor West, Washington, DC 20447.

NOTIFICATION PROCEDURES:

To determine if a record exists, write to the System Manager listed above. The

requester must provide his or her full name and address. Additional information, such as Social Security Number, date of birth or mother's maiden name, may be requested by the system manager in order to distinguish between individuals having the same or similar names.

RECORD ACCESS PROCEDURES:

Individuals may have access to their records by making a written request, addressed to the System Manager specified above. The envelope containing the written request must be marked "Privacy Act Request" or "Freedom of Information Act Request" or both, in the bottom left-hand corner. The letter requesting access to FCR records must state the following: (1) That the request is being made under the Privacy Act; Freedom of Information Act, or both, (2) the name, address, and signature of the requester; and (3) a detailed description of the record contents they are seeking.

CONTESTING RECORD PROCEDURE:

Individuals may request an amendment of a record which is not accurate, relevant, timely, or complete by writing to the System Manager at the address specified above. The envelope containing the written request must be marked "Privacy Act Amendment Request" or "Freedom of Information Act Request" or both, in the bottom left-hand corner. The letter requesting an amendment to FCR records must state the following: (1) That the request to amend the record is being made under the Privacy Act; Freedom of Information Act, or both, (2) the individual's name, address, and signature; (3) a description of the contested information; (4) the reason why the information should be amended; and (5) documentation to show that the information is inaccurate, irrelevant, untimely, or incomplete. Individuals who are contesting records must also be able to prove their identity.

RECORD SOURCE CATEGORIES:

Information is obtained from departments, agencies, or instrumentalities of the United States or any State.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

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