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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 253

[FNS–2011–0036]

RIN 0584–AE05

Food Distribution Program on Indian Reservations: Income Deductions and Resource Eligibility

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rulemaking establishes requirements to simplify and improve the administration of and expand access to the Food Distribution Program on Indian Reservations and the Food Distribution Program for Indian Households in Oklahoma, both of which are referred to as “FDPIR” in this rulemaking. The rulemaking amends FDPIR regulations to promote conformity with the Supplemental Nutrition Assistance Program (SNAP). First, the final rule revises FDPIR regulations to eliminate household resources from consideration when determining FDPIR eligibility. Second, the final rule will expand the current FDPIR income deduction for Medicare Part B Medical Insurance and Part D Prescription Drug Coverage premiums to include other monthly medical expenses in excess of \$35 for households with elderly and/or disabled members. Third, the final rule will establish an income deduction for shelter and utility expenses. Finally, the final rule will provide new verification requirements related to the new income deductions, and provide revisions to the household reporting requirements that will more closely align FDPIR and SNAP regulations.

DATES: This rule is effective September 26, 2013.

FOR FURTHER INFORMATION CONTACT:

Dana Rasmussen, Chief, Policy Branch, Food Distribution Division, Food and Nutrition Service, 3101 Park Center Drive, Room 506, Alexandria, Virginia 22302, or by telephone (703) 305–2662.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion of Final Rule
II. Procedural Matters

I. Background and Discussion of the Final Rule

A. Why is the Department adopting this final rule?

The Department issued a Notice of Proposed Rulemaking (NPRM) on January 11, 2012, at 77 FR 1642. In the NPRM, the Department proposed to amend regulations at 7 CFR Part 253 to simplify, improve and expand access to FDPIR, while promoting conformity with SNAP. The final rule will achieve these objectives by amending the regulations at 7 CFR Part 253 to:

- Eliminate the household resource eligibility criterion.
- Expand the current deductions for medical expenses.
- Establish a deduction for shelter and utility expenses.
- Add household verification requirements relating to the proposed medical and shelter/utility expense deductions.
- Revise household reporting requirements.

B. Summary of Comments on January 11, 2012 Proposed Rule

The comment period on the proposed rule ended on April 10, 2012. These comments are discussed below and are available for review at www.regulations.gov. To view the comments received, enter “FNS–2011–0036” in the search field on the main page of www.regulations.gov. Then click on “Search.” Under “Document Type”, select “Public Submission”.

The Department received 98 written comments from seven elected Tribal leaders, seven FDPIR program administrators, three Tribal Associations, 68 Tribal members, nine non-profit and community-based organizations, two academics/students, and two comments from private citizens regarding the proposed provisions.

Ninety-seven commenters supported the provisions in the proposed rule. Of the comments received, 89 commenters supported the provisions to align FDPIR

with SNAP policy; 91 commenters specifically supported eliminating household resources from consideration when determining FDPIR eligibility; 89 commenters supported expanding income deductions for medical expenses; and 88 commenters supported the new income deductions for shelter and utility expenses. Six supporting commenters cited the provisions as a positive change for current and prospective FDPIR participants, while four commenters cited the provisions as a positive change for the elderly and disabled population specifically. One commenter cited the provisions in the proposed rule as well explained and easily understood. Finally, two commenters cited the provisions as a positive response to Resolution 2009–01 passed by the membership of the National Association of Food Distribution Program on Indian Reservations (NAFDPIR) in 2009.

One commenter objected to the proposal to eliminate household resources from consideration when determining FDPIR eligibility. The commenter stated that removal of the resource test may allow non-needy participants to receive benefits. Regarding the commenter’s objection, the Department will continue to require the income test to certify program eligibility among all participants and ensure services are targeted to the neediest in accordance with Program statutory and regulatory requirements. The Department also estimates that eliminating the household resource test would increase FDPIR participation by less than one percent. Removal of the resource test will streamline the certification process for new applicants and currently participating households. In addition, this action will simplify program administration, reducing the burden on State agency certification staff while improving program access to those individuals in need of nutrition assistance. The vast majority of commenters (97) specifically cited support for eliminating the household resource test to determine FDPIR eligibility. Thus, the proposed removal of the resource test is retained without change.

However, FNS will continue to pay close attention to the issue as well as to similar concerns expressed by Congress regarding the ability for individuals in receipt of substantial windfalls to be

eligible to the program. FNS will continue to evaluate ways to improve both program integrity and efficiency. Further, FNS will remain attentive to any future changes in related programs such as SNAP and consider similar adjustments within FDPIR as appropriate.

Two commenters expressed concern with regard to the proposed provision which would require households to report changes in income exceeding \$100. Both commenters cited this provision as creating additional paperwork burdens for staff while diverging from SNAP policy. The current provision at 7 CFR 253.7(c)(1) requires households to report changes in income that would necessitate a change in the eligibility determination. The Department believes this methodology is impractical because households cannot be expected to know when their income eligibility changes based on a net monthly income calculation. Furthermore, the proposed provision conforms with SNAP regulations at 7 CFR 273.12(a)(1)(i)(C)(2), where a change in earned income exceeding

\$100 must be reported for certified change reporting households. Although SNAP allows for additional State options regarding income change reporting, the FDPIR provision, as proposed, offers a uniform, streamlined approach which is simple and easy to understand, while at the same time promoting program integrity. The provision will provide households with a more effective guideline for determining when changes in income must be reported. Thus, the proposed provision is retained without change in this final rule.

Two commenters expressed concern regarding the proposed provision which would require an applicant household to show proof of at least one allowable shelter/utility expense to receive the FDPIR standard deduction. Both commenters observed that an applicant's statement is acceptable as proof to receive the standard deduction under SNAP. SNAP allows for self-declaration of shelter/utility expenses at or below the applicable standard. However in SNAP, all expenses a household wishes to claim or which are

questionable and which are beyond that applicable standard must be verified. The Department believes the FDPIR provision, as proposed, is simple and easy to understand, without creating an undue burden on FDPIR certification staff and applicants. Thus, the proposed provision is retained without change in this final rule.

As proposed, FNS would set region-specific standard income deductions for monthly shelter and utility expenses. An explanation regarding the Department's methodology for setting the Regional shelter/utility deduction amounts may be found in the preamble of the proposed rule. If implemented in Fiscal Year (FY) 2013, the Department does not anticipate significant changes to the Regional amounts set in the proposed rule, with the exception to the amount proposed for the Northeast/Midwest region, which was projected to be \$350 for FY 2013 in the proposed rule. This amount is revised to \$400 in this final rule to reflect the most recent data available. The Regional amounts are listed below:

FY 2013 FDPIR STANDARD SHELTER/UTILITY EXPENSE DEDUCTIONS BASELINE BY REGION

Region	States currently with FDPIR programs	Shelter/utility deduction
Northeast/Midwest	Michigan, Minnesota, New York, Wisconsin	\$400
Southeast/Southwest	Mississippi, New Mexico, North Carolina, Oklahoma, Texas	300
Mountain Plains	Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming.	400
West	Alaska, Arizona, California, Idaho, Nevada, Oregon, Washington	350

C. Regulatory Revisions, 7 CFR 253.6 and 253.7

In the following discussion and regulatory text, the term "State agency," as defined at 7 CFR 253.2, is used to include Indian Tribal Organizations (TOs) authorized to operate FDPIR and Food Distribution Program for Indian Households in Oklahoma (FDPIHO) in accordance with 7 CFR Parts 253 and 254. This final rulemaking amends the regulations for FDPIR at 7 CFR 253.6 and 253.7 as follows:

1. Eliminate the Eligibility Criterion Based on Household Resources—7 CFR 253.6(d)

In the proposed rule, to eliminate the resource standard from current regulations, the Department proposed to remove the regulatory provisions at 7 CFR 253.6(d). Removal of the resource test would streamline the certification process for new and currently participating households and simplify program administration, reducing the burden on State agency certification

staff and improving service to those in need of nutrition assistance. Based on the comments discussed, which reflect vast majority support for eliminating the eligibility criterion based on household resources, the proposed removal of 7 CFR 253.6(d) is included without change in this final rule.

This final rule makes conforming amendments to 7 CFR 253.6(c) on categorical eligibility and removes reference to resource eligibility. This final rule also removes 7 CFR 253.7(f)(2)(i), which currently references resources of disqualified household members, and redesignates the current paragraphs at 7 CFR 253.7(f)(2)(ii) and (iii) as paragraphs (f)(2)(i) and (ii), respectively.

The Department also proposed to redesignate 7 CFR 253.6(e)(3)(viii) as 7 CFR 253.6(d)(3)(viii), and remove the provision which currently counts non-recurring lump sum payments as resources in the month received. The Department proposed similar treatment of periodic per capita payments that are

derived from the profits of Tribal enterprises and distributed to Tribal members less frequently than monthly. Therefore, non-recurring lump sum payments and non-monthly per capita payments will not be considered in determining the eligibility of households for FDPIR. No comments were received on these proposed changes. Thus, the proposed changes are retained in this final rule. Furthermore, this final rule redesignates 7 CFR 253.6(e)(2)(ii) as 7 CFR 253.6(d)(2)(ii), and clarifies that per capita payments received monthly are considered unearned income in the month received. This is consistent with current program policy. No comments were received on this proposed provision. Thus, the proposed change is retained in this final rule.

2. Medical Expense Deduction—7 CFR 253.6(f) (To Be Redesignated as 7 CFR 253.6(e))

In the proposed rule, the Department proposed to redesignate 7 CFR

253.6(f)(4) as 7 CFR 253.6(e)(4) and expand the current deduction for Medicare Part B Medical Insurance and Part D Prescription Drug Coverage premiums to include other monthly medical expenses in excess of \$35 incurred by any household member who is elderly or disabled as defined in 7 CFR 253.2. As provided above, in order to reflect the elimination of 7 CFR 253.6(d), this final rule redesignates current 7 CFR 253.6(f) as paragraph (e). All comments received on this provision were in support of expanding medical expenses as proposed. Thus, the proposed changes are retained in this final rule.

In the proposed rule, the Department also proposed to adopt SNAP position codified at 7 CFR 273.9(d)(3) in regards to allowable medical costs. A vast majority of comments received support aligning FDIPIR with SNAP policy. Thus, the proposed changes are retained in this final rule.

3. Shelter and Utility Expense Deduction—7 CFR 253.6(f) (To Be Redesignated as 7 CFR 253.6(e))

In the proposed rule, the Department proposed to redesignate 7 CFR 253.6(f) as 7 CFR 253.6(e), and establish region-specific standard income deductions for monthly shelter and utility expenses, with all States within each designated region receiving the same deduction amount. All comments received regarding this provision were in support of establishing regional shelter and utility expense deductions, as proposed. Thus, the proposed changes are retained in this final rule.

In the proposed rule, the Department also proposed to adopt SNAP policy under 7 CFR 273.9(d)(6)(ii) for allowable shelter and utility expenses. A vast majority of comments received support aligning FDIPIR with SNAP policy. Thus, the proposed changes are retained in this final rule.

4. Verification Requirements and Household Reporting—7 CFR 253.7(a)(6)(i) and 7 CFR 253.7(c)(1)

In the proposed rule, the Department proposed to amend 7 CFR 253.7(a)(6)(i) to revise the current verification requirements for Medicare Part B and Part D premiums to reflect the expanded medical expense deduction. No comments were received specific to this provision for expanded medical expenses. The Department also proposed to amend 7 CFR 253.7(a)(6)(i) to add a verification requirement for shelter and utility expenses. Although two commenters expressed concern with this verification requirement, the vast majority of commenters were

generally in support of the proposed provisions. As discussed in Section I.B. of the preamble, the Department believes that requiring minimal verification of shelter/utility expenses is important to ensure Program integrity. The proposed verification requirements are included without change in 7 CFR 253.7(a)(6)(i) of this final rule.

In the proposed rule, the Department proposed to amend the reporting requirements at 7 CFR 253.7(c)(1) and require a household to report a change in residence; changes in shelter/utility expenses when the household no longer incurs shelter/utility costs; changes in the legal obligation to pay child support; and changes in income that result in an increase of more than \$100 in gross monthly income. The Department believes these provisions, as proposed, will provide for better comprehension, and improve the administration of FDIPIR. Although two commenters expressed concern with the requirement to report a change in income exceeding \$100 in gross monthly income, the vast majority of commenters were generally in support of the proposed reporting requirements. As discussed in Section I.B. of the preamble, the Department believes this reporting requirement provides a more effective guideline for households to determine when changes in income must be reported. The proposed reporting requirements are included without change in 7 CFR 253.7(c)(1) of this final rule.

II. Procedural Matters

A. Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This final rule has been determined to be not significant for purposes of Executive Order 12866. Therefore, it was not reviewed by the Office of Management and Budget (OMB).

B. Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). It has been certified that this action will not have a significant impact

on a substantial number of small entities. While program participants and ITOs and State agencies that administer FDIPIR will be affected by this rulemaking, the economic effect will not be significant.

C. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under Section 202 of the UMRA, the Food and Nutrition Service (FNS) generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local, or Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and Tribal governments or the private sector of \$100 million or more in any one year. This final rule is, therefore, not subject to the requirements of Sections 202 and 205 of the UMRA.

D. Executive Order 12372

The program addressed in this action is listed in the Catalog of Federal Domestic Assistance under No. 10.567. For the reasons set forth in the final rule in 7 CFR Part 3015, Subpart V and related Notice published at 48 FR 29115 on June 24, 1983, the donation of foods in such programs is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

E. Executive Order 13132

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13132.

1. Prior Consultation With Tribal/State Officials

The Programs affected by the provisions in this final rule are all Tribal or State-administered federally funded programs. FNS' national and regional offices have formal and informal discussions with State agency officials and representatives on an ongoing basis regarding program issues relating to FDPIR. FNS meets annually with the NAFDPIR membership, a national group of Tribal and State-appointed FDPIR Program Directors, to discuss issues relating to FDPIR. FNS also meets with the NAFDPIR Board on a more frequent basis.

The changes in this final rulemaking related to the deduction for shelter and utility expenses are based on a resolution passed by the NAFDPIR membership in June 2009, and were discussed with the NAFDPIR Board and its membership. This rulemaking was also the subject of formal consultation sessions with Tribal officials held in seven locations in October 2010 through January 2011, as well as an additional consultation session held on February 29, 2012. Section J below, provides additional information on FNS' consultation efforts as it relates specifically to this rule.

2. Nature of Concerns and the Need To Issue This Rule

Eligible low-income households living in areas served by FDPIR may choose to participate in either FDPIR or SNAP. SNAP regulations offer an income deduction for excess shelter expenses and an income deduction for allowable monthly medical expenses in excess of \$35 for households with elderly and/or disabled members. This final rulemaking responds to a resolution passed by the membership of the NAFDPIR in June 2009 that requested income deductions for home heating expenses and utilities, prescription medications, and other out-of-pocket medical expenses. The NAFDPIR resolution read that the FDPIR income eligibility criterion unfairly penalizes households whose net monthly income is determined to be over the income standard by as little as one dollar, while many of these households have monthly shelter, utility and/or medical expenses. NAFDPIR believes that some low-income households are forced to choose between paying for food and paying for heat and/or medicine.

FNS also received numerous public comments in response to separate proposed rulemaking supporting elimination of the FDPIR resource test

or alignment of FDPIR and SNAP policies. This final rulemaking responds to the concerns raised by commenters.

3. Extent to Which We Address Those Concerns

The Department has considered the impact of this final rule on Indian Tribal Organizations and State agencies that administer FDPIR. The Department does not expect the provisions of this final rule to conflict with any State or local law, regulations, or policies. The overall effect of this final rule is to ensure that low-income households living on or near Indian reservations receive nutrition assistance.

F. Executive Order 12988

This final rule has been reviewed under Executive Order 12988, "Civil Justice Reform." Although the provisions of this rule are not expected to conflict with any State or local law, regulations, or policies, the rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect. Prior to any judicial challenge to the provisions of this rule or the applications of its provisions, all applicable administrative procedures must be exhausted.

G. Civil Rights Impact Analysis

The Department has reviewed this final rule in accordance with the Department Regulation 4300-4, "Civil Rights Impact Analysis," to identify and address any major civil rights impacts the rule might have on minorities, women, and persons with disabilities. Consistent with current SNAP regulations, the provision to expand the current income deduction for Medicare Part B Medical Insurance and Part D Prescription Drug Coverage premiums to include other allowable monthly medical expenses in excess of \$35 would apply only to households with elderly and/or disabled members, as defined at 7 CFR 253.2. However, after a careful review of the rule's intent and provisions, the Department has determined that this final rule will not in any way limit or reduce the ability of participants to receive the benefits of donated foods in food distribution programs on the basis of an individual's or group's race, color, national origin, sex, age, political beliefs, religious creed, or disability. The Department found no factors that would negatively affect any group of individuals.

H. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35; see 5 CFR part 1320) requires that OMB approve all collections of information by a Federal agency from the public before they can be implemented. Information collections related to the provisions in this final rule are approved under OMB No. 0584-0293 (Expiration date: December 31, 2014).

This final rule would impact the reporting and recordkeeping burden for Indian Tribal Organizations and State agencies under OMB No. 0584-0293 due to an expected change in number of households participating in FDPIR as a result of this rule and related changes to verification and household reporting requirements. Documentation supporting the eligibility of all participating households must be maintained by the Indian Tribal Organizations and State agencies.

The approved information collection estimates under OMB No. 0584-0293 are as follows:

Estimated total annual burden:
1,079,172.92.

Estimated annual recordkeeping burden: 746,400.42.

Estimated annual reporting burden:
332,772.49.

Changes resulting from this final rule would result in the following changes to OMB No. 0584-0293:

Estimated total annual burden:
1,081,071.76.

Estimated annual recordkeeping burden: 746,428.44.

Estimated annual reporting burden:
334,643.32.

These information collection requirements will not become effective until approved by OMB. Once they have been approved, FNS will publish a separate action in the **Federal Register** announcing OMB's approval.

I. E-Government Act Compliance

The Department is committed to complying with the E-Government Act 2002 to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

J. Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that

have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

In late 2010 and early 2011, USDA engaged in a series of consultative sessions to obtain input by Tribal officials or their designees concerning the effect of this and other rules on Tribes or Indian Tribal governments, or whether this rule may preempt Tribal law. The Department provided an additional consultation session on February 29, 2012, as part of its quarterly consultation meetings for FY 2012 and discussed the proposed provisions of this rule with Tribal officials, their designees, and Tribal members. Reports from the consultative sessions will be made part of the USDA annual reporting on Tribal Consultation and Collaboration. USDA will offer future opportunities, such as webinars and teleconferences, for collaborative conversations with Tribal leaders and their representatives concerning ways to improve rules with regard to their affect on Indian country.

We are unaware of any current Tribal laws that could be in conflict with the final rule.

List of Subjects in 7 CFR Part 253

Administrative practice and procedure, Food assistance programs, Grant programs, Social programs, Indians, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR Part 253 is amended as follows:

PART 253—ADMINISTRATION OF THE FOOD DISTRIBUTION PROGRAM FOR HOUSEHOLDS ON INDIAN RESERVATIONS

■ 1. The authority citation for part 253 continues to read as follows:

Authority: 91 Stat. 958 (7 U.S.C. 2011–2036).

■ 2. In § 253.6:

- a. Amend the heading of paragraph (c) introductory text by removing the words “and resource”;
- b. Amend paragraph (c)(1) by removing the words “and resources”;
- c. Amend paragraph (c)(2) by removing the words “and resources”;
- d. Remove paragraph (d) and redesignate paragraphs (e) and (f) as paragraphs (d) and (e), respectively;
- e. In newly redesignated paragraph (d), redesignate paragraph (d)(2)(ii)(F) as paragraph (d)(2)(ii)(G), and add new paragraph (d)(2)(ii)(F);

■ f. Amend redesignated paragraph (d)(3)(viii) by removing the second sentence;

■ g. Add paragraph (d)(3)(xii);

■ h. Revise newly redesignated paragraph (e)(4) and add paragraph (e)(5).

The revision and additions read as follows:

§ 253.6 Eligibility of households.

* * * * *

(d) * * *

(2) * * *

(ii) * * *

(F) Per capita payments that are derived from the profits of Tribal enterprises and distributed to Tribal members on a monthly basis.

* * * * *

(3) * * *

(xii) Per capita payments that are derived from the profits of Tribal enterprises and distributed to Tribal members less frequently than monthly (e.g., quarterly, semiannually or annually) are excluded from consideration as income.

* * * * *

(e) * * *

(4) Households must receive a medical deduction for that portion of medical expenses in excess of \$35 per month, excluding special diets, incurred by any household member who is elderly or disabled as defined in § 253.2 of this chapter. Spouses or other persons receiving benefits as a dependent of a Supplemental Security Income (SSI), or disability and blindness recipient are not eligible to receive this deduction; however, persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction. The allowable medical costs are those permitted at 7 CFR 273.9(d)(3) for the Supplemental Nutrition Assistance Program (SNAP).

(5) Households that incur monthly shelter and utility expenses will receive a shelter/utility standard deduction, subject to the provisions below.

(i) The household must incur, on a monthly basis, at least one allowable shelter/utility expense. The allowable shelter/utility expenses are those permitted at 7 CFR 273.9(d)(6)(ii) for SNAP.

(ii) The shelter/utility standard deduction amounts are set by FNS on a regional basis. The standard deductions are adjusted annually to reflect changes to SNAP Quality Control data. FNS will advise the State agencies of the updates prior to October 1 of each year.

(iii) If eligible to receive a shelter/utility standard deduction, the applicant household may opt to receive the

appropriate deduction amount for the State in which the household resides or the State in which the State agency's central administrative office is located.

■ 3. In § 253.7:

■ a. Revise paragraph (a)(6)(i)(C);

■ b. Add paragraph (a)(6)(i)(D);

■ c. Revise paragraph (c)(1);

■ d. Remove paragraph (f)(2)(i) and redesignate paragraphs (f)(2)(ii) and (iii) as paragraphs (f)(2)(i) and (ii), respectively.

The revisions and addition read as follows:

§ 253.7 Certification of households.

(a) * * *

(6) * * *

(i) * * *

(C) *Excess medical expense*

deduction. The State agency must obtain verification for those medical expenses that the household wishes to deduct in accordance with 7 CFR 253.6(e)(4). The allowability of services provided (e.g., whether the billing health professional is a licensed practitioner authorized by State law or other qualified health professional) must be verified, if questionable. Only out-of-pocket expenses can be deducted. Expenses reimbursed to the household by an insurer are not deductible. The eligibility of the household to qualify for the deduction (i.e., the household includes a member who is elderly or disabled) must be verified, if questionable.

(D) *Standard shelter/utility deduction.* A household must incur, on a monthly basis, at least one allowable shelter/utility expense in accordance with 7 CFR 253.6(e)(5)(i) to qualify for the standard shelter/utility deduction. The State agency must verify that the household incurs the expense.

* * * * *

(c) * * *

(1) The State agency must develop procedures for how changes in household circumstances are reported. Changes reported over the telephone or in person must be acted on in the same manner as those reported in writing. Participating households are required to report the following changes within 10 calendar days after the change becomes known to the household:

(i) A change in household composition;

(ii) An increase in gross monthly income of more than \$100;

(iii) A change in residence;

(iv) When the household no longer incurs a shelter and utility expense; or

(v) A change in the legal obligation to pay child support.

* * * * *

Dated: August 19, 2013.

Audrey Rowe,

Administrator, Food and Nutrition Service.

[FR Doc. 2013-20844 Filed 8-26-13; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 402

[Docket No. FCIC-11-0003]

RIN 0563-AC31

Catastrophic Risk Protection Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes the Catastrophic Risk Protection Endorsement. The intended effect of this action is to clarify existing policy provisions and to incorporate changes that are consistent with those made in the Common Crop Insurance Policy Basic Provisions and to incorporate provisions regarding catastrophic risk protection coverage for area yield plans from the Area Risk Protection Insurance (ARPI) Basic Provisions. The changes will be effective for the 2014 and succeeding crop years for all crops with a contract change date on or after the effective date of this rule, and for the 2015 and succeeding crop years for all crops with a contract change date prior to the effective date of this rule.

DATES: This rule is effective September 26, 2013.

FOR FURTHER INFORMATION CONTACT: Tim Hoffmann, Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, P.O. Box 419205, Kansas City, MO 64141-6205, telephone (816) 926-7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is not-significant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563-0053.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or

1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

This rule finalizes changes to the Catastrophic Risk Protection Endorsement that were published by FCIC on August 17, 2011, as a notice of proposed rulemaking in the **Federal Register** at 76 FR 50929-50931. The public was afforded 60 days to submit written comments after the regulation was published in the **Federal Register**.