

that a minor parent and the dependent child in his or her care must reside in the household of a parent, legal guardian, or other adult relative, or in an adult-supervised supportive living arrangement in order to receive, AFDC unless:

(1) The minor parent has no living parent or legal guardian whose whereabouts is known;

(2) No living parent or legal guardian of the minor parent allows the minor parent to live in his or her home;

(3) The minor parent lived apart from his or her own parent or legal guardian for a period of at least one year before either the birth of the dependent child or the parent's having made application for AFDC;

(4) The physical or emotional health or safety of the minor parent or dependent child would be jeopardized if they resided in the same residence with the minor parent's parent or legal guardian;

(5) There is otherwise good cause for the minor parent and dependent child to receive assistance while living apart from the minor parent's parent, legal guardian, or other adult relative, or an adult-supervised supportive living arrangement.

(b) *Allegations.* If a minor parent makes allegations supporting the conclusion that paragraph (a)(4) of this section applies, the State agency shall determine whether it is justified.

(c) *Good Cause.* The circumstances justifying a determination of good cause must be set forth in the State plan.

(d) *Protective Payments.* When a minor parent and his or her dependent child are required to live with the minor parent's parent, legal guardian, or other adult relative, or in an adult-supervised supportive living arrangement, then AFDC is paid (where possible) in the form of a protective payment.

(e) *Definitions:* For purposes of this section:

(1) A *minor parent* is an individual who (i) is under the age of 18, (ii) has never been married, and (iii) is either the natural parent of a dependent child living in the same household or eligible for assistance paid under the State plan to a pregnant woman as provided in § 233.90(c)(2)(iv) of this part.

(2) A *household of a parent, legal guardian, or other adult relatives* means the place of residence of (i) a natural or adoptive parent or a stepparent, or (ii) a legal guardian as defined by the State, or (iii) another individual who is age 18 or over and related to the minor parent as specified in § 233.90(c)(1)(v) of this part provided that the residence is maintained as a home for the minor parent and child as provided in § 233.90(c)(1)(v)(B) of this part.

(3) An *adult-supervised supportive living arrangement* means a private family setting or other living arrangement (not including a public institution), which, as determined by the State, is maintained as a family setting, as evidenced by the assumption of responsibility for the care and control of the minor parent and dependent child or the provision of supportive services, such as counseling, guidance, or supervision. For example, foster homes and maternity homes are "adult-supervised supportive living arrangements."

(f) *Notice Requirements.* Minor applicants shall be informed about the eligibility requirements and their rights and obligations consistent with the provisions at § 206.10(a)(2)(i). For example, a State may wish to: (1) Advise the minor of the possible exemptions and specifically ask whether one or more of these exemptions is applicable; and (2) assist the minor in attaining the necessary verifications if one or more of these exemptions is alleged.

[57 FR 30428, July 9, 1992]

§ 233.110 Foster care maintenance and adoption assistance.

(a) *State plan requirements.* A State plan under title IV-A of the Social Security Act must provide that the State has in effect a plan approved under part E, title IV of the Social Security Act, and operates a foster care maintenance and adoption assistance program in conformity with such a plan.

(b) [Reserved]

[51 FR 9206, Mar. 18, 1986]

§ 233.145 Expiration of medical assistance programs under titles I, IV-A, X, XIV and XVI of the Social Security Act.

(a) Under the provisions of section 121(b) of Pub. L. 89-97, enacted July 30,

1965, no payment may be made to any State under title I, IV-A, X, XIV or XVI of the Social Security Act for aid or assistance in the form of medical or any other type of remedial care for any period after December 31, 1969. However, these provisions do not affect the availability of Federal financial participation in the cost of medical or remedial care furnished under title IV-A of the Act (pursuant to sections 403(a)(5) and 406(e)) of the Act, as emergency assistance to needy families with children (see § 233.120 of this part), subject to the provisions of paragraph (c)¹ of this section. Federal financial participation in vendor payments for medical care and services is not otherwise available except under title XIX of the Act.

(b) Under the provisions of section 4(c) of Pub. L. 92-223, enacted December 28, 1971, and the provisions of section 292 of Pub. L. 92-603, enacted October 30, 1972:

(1) In the case of any State which on January 1, 1972, had in effect a State plan approved under title XIX of the Social Security Act, section 1121 of the Act authorizing payments under title I, X, XIV, or XVI of the Act for assistance in the form of institutional services in intermediate care facilities is rescinded; and

(2) In the case of any State which on January 1, 1972, did not have in effect a State plan approved under title XIX of the Act, Federal financial participation is available in assistance in the form of institutional services in intermediate care facilities pursuant to section 1121 of the Act and under the provisions of § 234.130 of this chapter until the first day of the first month after January 1, 1972, that the State has in effect a State plan approved under title XIX.

(c)(1) Under the provisions of section 249D of Pub. L. 92-603, enacted October 30, 1972, Federal matching is not available for any portion of any payment by any State under titles I, IV-A, X, XIV, or XVI of the Social Security Act for or on account of any medical or any other type of remedial care provided by an institution to any individual as an

inpatient thereof, in the case of any State which has a plan approved under title XIX of such Act, if such care is (or could be provided, under a State plan approved under title XIX of such Act, by an institution certified under such title XIX. The effective date of this proposed provision will be the date of publication of the final regulation in the FEDERAL REGISTER.

(2) For purposes of this paragraph,

(i) An institution (see § 233.60(b)(1) of this chapter) is considered to provide medical or remedial care if it provides any care or service beyond room and board because of the physical or mental condition (or both) of its inpatients;

(ii) An inpatient is an individual who is living in an institution which provides medical or remedial care and who is receiving care or service beyond room and board because of his physical or mental condition (or both).

(iii) Federal financial participation is not available for any portion of the payment for care of an inpatient. It is immaterial whether such payment is made as a vendor payment or as a money payment or other cash assistance payment. It is also immaterial whether the payment is divided into components, such as separate amounts or payments for room and board, and for care or services beyond room and board, or whether the payment is considered to meet "basic" needs or "special" needs. If, however, a money payment (or protective payment) is made to an individual who is living in an institution, and such payment does not exceed a reasonable rate for room, board and laundry for individuals not living in their own homes, and no additional payment is made for such individual's care in the institution, Federal financial participation is available in the money payment (or protective payment) since the individual may spend the funds at his discretion and obtain room and board at the place of his choice.

(iv) Federal financial participation is available in cash assistance payments to meet the needs of an inpatient for specific medical services, such as dental care or prescription drugs, which generally are not delivered in an institutional setting and in fact are not

¹ See notice published Aug. 29, 1973 (38 FR 23337).

provided by the institution to the inpatient, provided that such services are not available to the individual under the State's approved title XIX plan.

[38 FR 26379, Sept. 20, 1973, as amended at 38 FR 32912, Nov. 29, 1973]

PART 234—FINANCIAL ASSISTANCE TO INDIVIDUALS

Sec.

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AUTHORITY: 42 U.S.C. 602, 603, 606, and 1302.

§ 234.11 Assistance in the form of money payments.

(a) Federal financial participation is available in money payments made under a State plan under title I, IV-A, X, XIV, or XVI of the Social Security Act to eligible families and individuals. Money payments are payments in cash, checks, or warrants immediately redeemable at par, made to the grantee or his legal representative with no restrictions imposed by the agency on the use of funds by the individual.

(b) [Reserved]

[36 FR 22238, Nov. 23, 1971, as amended at 51 FR 9206, Mar. 18, 1986]

§ 234.60 Protective, vendor and two-party payments for dependent children.

(a) *State plan requirements.* (1) If a State plan for AFDC under title IV-A of the Social Security Act provides for protective, vendor and two-party payments for cases other than failure to participate in the Job Opportunities and Basic Skills Training (JOBS) Program under § 250.34(d), or failure by the caretaker relative to meet the eligibility requirements of § 232.11, 232.12, or 232.13 of this chapter. It must meet the requirements in paragraphs (a) (2) through (11) of this section. In addition, the plan may provide for protec-

tive, vendor, and two-party payments at the request of recipients as provided in paragraph (a)(14) of this section.

(2)(i) Methods will be in effect to identify children whose relatives have demonstrated such an inability to manage funds that payments to the relative have not been or are not currently used in the best interest of the child. This means that the relative has misused funds to such an extent that allowing him or her to manage the AFDC grant is a threat to the health or safety of the child.

(ii) States will establish criteria to determine if mismanagement exists. Under this provision, States may elect to use as one criterion a presumption of mismanagement based on a recipient's nonpayment of rent.

(iii) Under State agency procedures, the recipient shall be notified whenever a creditor requests a protective, vendor, or two-party payment for mismanagement on the basis of nonpayment of bills.

(iv) The recipient shall be notified by the agency of a decision not to use a protective, vendor, or two-party payment if such payment has been requested by a creditor.

(v) A statement of the specific reasons that demonstrate the need for making protective, vendor, and two-party payments must be placed in the file of the child involved.

(3) Criteria will be established to identify the circumstances under which protective, vendor, or two-party payments will be made in whole or in part to:

(i) Another individual who is interested in or concerned with the welfare of the child or relative; or

(ii) A person or persons furnishing food, living accommodations or other goods, services, or items to or for the child, relative, or essential person.

(4) Procedures will be established for making protective, vendor, or two-party payments. Under this provision, part of the payment may be made to the family and part may be made to a protective payee or to a vendor, or part may be made in the form of two-party payments, i.e., checks which are drawn jointly to the order of the recipient and the person furnishing goods, services,