

### § 78.3

Services for Families and Children, or licensed or otherwise approved by the State to provide drug abuse treatment.

#### § 78.3 Benefits not denied to rehabilitated offenders.

(a) No individual convicted of any Federal or State offense involving the distribution of controlled substances shall be denied Federal benefits relating to long-term drug treatment programs for addiction under 21 U.S.C. 853a(a)(2) if:

(1) The individual declares himself or herself to be an addict and submits to a long-term treatment program for addiction as defined by § 78.2(b), provided that in the determination of the sentencing court there is a reasonable body of evidence to substantiate the individual's declaration that such individual is an addict; or

(2) The individual is, in the determination of the sentencing court, deemed to be rehabilitated as defined by § 78.2(a).

(b) No individual convicted of any Federal or State offense involving the possession of controlled substances shall be denied any Federal benefit, or otherwise subject to penalties and conditions, under 21 U.S.C. 853a(b)(2) if:

(1) The individual declares himself or herself to be an addict and submits to a long-term treatment program for addiction as defined by § 78.2(b), provided that in the determination of the sentencing court there is a reasonable body of evidence to substantiate the individual's declaration that such individual is an addict; or

(2) The individual is, in the determination of the sentencing court, deemed to be rehabilitated as defined by § 78.2(a).

## PART 79—PROGRAM FRAUD CIVIL REMEDIES

Sec.

- 79.1 Basis and purpose.
- 79.2 Definitions.
- 79.3 Basis for civil penalties and assessments.
- 79.4 Investigation.
- 79.5 Review by the reviewing official.
- 79.6 Prerequisites for issuing a complaint.
- 79.7 Complaint.
- 79.8 Service of complaint.
- 79.9 Answer.

### 45 CFR Subtitle A (10-1-00 Edition)

- 79.10 Default upon failure to file an answer.
- 79.11 Referral of complaint and answer to the ALJ.
- 79.12 Notice of hearing.
- 79.13 Parties to the hearing.
- 79.14 Separation of functions.
- 79.15 Ex parte contacts.
- 79.16 Disqualification of reviewing official or ALJ.
- 79.17 Rights of parties.
- 79.18 Authority of the ALJ.
- 79.19 Prehearing conferences.
- 79.20 Disclosure of documents.
- 79.21 Discovery.
- 79.22 Exchange of witness lists, statements and exhibits.
- 79.23 Subpoenas for attendance at hearing.
- 79.24 Protective order.
- 79.25 Fees.
- 79.26 Form, filing and service of papers.
- 79.27 Computation of time.
- 79.28 Motions.
- 79.29 Sanctions.
- 79.30 The hearing and burden of proof.
- 79.31 Determining the amount of penalties and assessments.
- 79.32 Location of hearing.
- 79.33 Witnesses.
- 79.34 Evidence.
- 79.35 The record.
- 79.36 Post-hearing briefs.
- 79.37 Initial decision.
- 79.38 Reconsideration of initial decision.
- 79.39 Appeal to authority head.
- 79.40 Stays ordered by the Department of Justice.
- 79.41 Stay pending appeal.
- 79.42 Judicial review.
- 79.43 Collection of civil penalties and assessments.
- 79.44 Right to administrative offset.
- 79.45 Deposit in Treasury of United States.
- 79.46 Compromise or settlement.
- 79.47 Limitations.

AUTHORITY: 31 U.S.C. 3801-3812.

SOURCE: 53 FR 11659, Apr. 8, 1988, unless otherwise noted.

#### § 79.1 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Pub. L. 99-509, §§ 6101-6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801-3812, 31 U.S.C. 3809 of the statute requires each authority head to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* This part (1) establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent