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we may accept these claims as timely, this provision does not mean that we necessarily agree to be bound by a State or Federal decision when we were not a party to the action.

Federal financial participation means the Federal government's share of an expenditure made by a State agency under any of the programs listed in § 95.1.

State means the 50 States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa and the Trust Territories of the Pacific.

State agency for the purposes of expenditures for financial assistance under title IV-A and for support enforcement services under title IV-D means any agency or organization of the State or local government which is authorized to incur matchable expenses; for purposes of expenditures under titles XIX and XXI, means any agency of the State, including the State Medicaid agency or State Child Health Agency, its fiscal agents, a State health agency, or any other State or local organization which incurs matchable expenses; for purposes of expenditures under all other titles, see the definitions in the appropriate program's regulations.

The Act means the Social Security Act, as amended.

We, our, and us refer to the HHS Centers for Medicare & Medicaid Services (CMS), and Administration for Children and Families (ACF), depending on the program involved.

[46 FR 3529, Jan. 15, 1981, as amended at 65 FR 33632, May 24, 2000; 75 FR 66336, Oct. 28, 2010]

§ 95.7 Time limit for claiming payment for expenditures made after September 30, 1979.

Under the programs listed in § 95.1, we will pay a State for a State agency expenditure made after September 30, 1979, only if the State files a claim with us for that expenditure within 2 years after the calendar quarter in which the State agency made the expenditure. Section 95.19 lists the exceptions to this rule.

45 CFR Subtitle A (10–1–22 Edition)

§ 95.10 Time limit for claiming payment for expenditures made before October 1, 1979.

Under the programs listed in § 95.1, we will pay a State for a State agency expenditure made before October 1, 1979, only if the State filed or files a claim with us for that expenditure before January 1, 1981. Section 95.19 lists the exceptions to this rule.

§ 95.11 Payment of claims subject to appropriations restrictions.

Notwithstanding any other provision of this Subpart, we will pay States' otherwise allowable claims for Federal financial participation under the programs covered by this subpart, subject to the availability of funds (as provided in Acts appropriating funds to the Department in effect at the time in which such claims are being considered for payment), and subject to conditions or restrictions applicable to payments out of such funds, including provisions of the first and second continuing resolutions for FY 1981 (Pub. L. 96-369 and Pub. L. 96-536) and the Supplemental Appropriations and Rescission Act, 1981 (Pub. L. 97-12) that make funds under those Acts available to pay for a State agency expenditure made before September 30, 1978, only if the State had filed a claim for that expenditure with us within one year of the expenditure.

(Pub. L. 96-369, 94 Stat. 1351; Pub. L. 96-536, 94 Stat. 3166; and Pub. L. 97-12, 95 Stat. 14)

[46 FR 46136, Sept. 17, 1981]

§ 95.13 In which quarter we consider an expenditure made.

In this subpart—

(a) We consider a State agency's expenditure for assistance payments under title I, IV-A, IV-E, X, XIV, or XVI (AABD) to have been made in the quarter in which a payment was made to the assistance recipient, his or her protective payee, or a vendor payee, even if the payment was for a month in a previous quarter.

(b) We consider a State agency's expenditure for services under title I, IV-A, IV-B, IV-D, IV-E, X, XIV, XVI (AABD), XIX, or XXI to have been made in the quarter in which any State agency made a payment to the service provider.

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(c) For purposes of title XX, the date of expenditure is governed by 45 CFR 1396.52(d).

(d) We consider a State agency's expenditure for administration or training under titles I, IV-A, IV-B, IV-D, IV-E, X, XIV, XVI (AABD), XIX, or XXI to have been made in the quarter payment was made by a State agency to a private agency or individual; or in the quarter to which the costs were allocated in accordance with the regulations for each program. We consider a State agency's expenditure under these titles for non-cash expenditures such as depreciation to have been made in the quarter the expenditure was recorded in the accounting records of any State agency in accordance with generally accepted accounting principles.

[46 FR 3529, Jan. 15, 1981, as amended at 65 FR 33632, May 24, 2000]

§ 95.19 Exceptions to time limits.

The time limits in §§ 95.7 and 95.10 do not apply to any of the following—

(a) Any claim for an adjustment to prior year costs.

(b) Any claim resulting from an audit exception.

(c) Any claim resulting from a court-ordered retroactive payment.

(d) Any claim for which the Secretary decides there was good cause for the State's not filing it within the time limit.

§ 95.22 Meaning of good cause.

(a) Good cause for the late filing of a claim is lateness due to circumstances beyond the State's control.

(b) Examples of circumstances beyond the State's control include:

(1) Acts of God;

(2) Documented action or inaction of the Federal government.

(c) Circumstances beyond the State's control do not include neglect or administrative inadequacy on the part of the State, State agencies, the State legislature or any of their offices, officers, or employees.

§ 95.25 When to request a waiver for good cause.

The State should request a waiver in writing as soon as the State recognizes that it will be unable to submit a claim within the appropriate time limit.

§ 95.28 What a waiver request for good cause must include.

The State's request for waiver must include a specific explanation, justification or documentation of why the claim is or will be late. This request must establish that the lateness in filing the claim is for good cause as defined in § 95.22 and not due to neglect or administrative inadequacy. If the claim has not been filed, the State must also tell us when the claim will be filed.

§ 95.31 Where to send a waiver request for good cause.

(a) A request which affects the program(s) of only one HHS agency, CMS or ACF and does not affect the programs of any other agency or Federal Department should be sent to the appropriate HHS agency.

(b) A request which affects programs of more than one HHS agency or Federal Department should be sent to the Director, Division of Cost Allocation in the appropriate HHS Regional Office.

[46 FR 3529, Jan. 15, 1981, as amended at 75 FR 66336, Oct. 28, 2010]

§ 95.34 The decision to waive the time limit for good cause.

The Secretary will make a decision after reviewing the State's request for waiver. If the Secretary decides that good cause exists, the State will be notified of the extended due date. If the Secretary decides that good cause does not exist or that the request for waiver does not provide enough information to make a decision, the State will be so advised.

Subparts B–D [Reserved]

Subpart E—Cost Allocation Plans

SOURCE: 47 FR 17509, Apr. 23, 1982, unless otherwise noted.

§ 95.501 Purpose.

This subpart establishes requirements for:

(a) Preparation, submission, and approval of State agency cost allocation plans for public assistance programs; and