

31. On pages 80013, 80016, and 80026 of APPENDIX 3: MVP INVENTORY, corresponding to TABLE B.2: Optimal Care for Kidney Health MVP, TABLE B.3: Optimal Care for Patients with Episodic Neurological Conditions MVP, and TABLE B.6: Advancing Rheumatology Patient Care MVP, respectively, the Collection Type for measure Q130 is corrected by removing "Medicare Part B Claims Measure Specifications" and reads "eCQM Specifications, MIPS CQMs Specifications)".

List of Subjects

42 CFR Part 414

Administrative practice and procedure, Biologics, Diseases, Drugs, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR 424

Emergency medical services, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, CMS corrects 42 CFR parts 414 and 424 by making the following correcting amendments:

PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

1. The authority citation for part 414 continues to read as follows:

Authority: 42 U.S.C. 1302, 1395hh, and 1395rr(b)(1).

§ 414.1405 [Amended]

2. Amend § 414.1405 in paragraph (b)(9)(iii) by removing the phrase "2025 MIPS payment year" and adding in its place the phrase "2026 MIPS payment year".

PART 424—CONDITIONS FOR MEDICARE PAYMENT

3. The authority citation for part 424 continues to read as follows:

Authority: 42 U.S.C. 1302 and 1395hh.

4. Amend § 424.541 by—

a. Removing paragraphs (a)(2)(ii)(B)(3) through (5); and

b. Adding paragraphs (a)(3) through (5).

The additions read as follows:

§ 424.541 Stay of enrollment.

(a) \* \* \*

(3) A stay of enrollment lasts no longer than 60 days from the postmark date of the notification letter, which is the effective date of the stay.

(4) CMS notifies the affected provider or supplier in writing of the imposition of the stay.

(5) A stay of enrollment ends on the date on which CMS or its contractor determines that the provider or supplier has resumed compliance with all Medicare enrollment requirements in Title 42 or the day after the 60-day stay period expires, whichever occurs first.

\* \* \* \* \*

Elizabeth J. Gramling,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2024-02705 Filed 2-8-24; 4:15 pm]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 170

Health Information Technology Standards, Implementation Specifications, and Certification Criteria and Certification Programs for Health Information Technology

CFR Correction

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

In Title 45 of the Code of Federal Regulations, Parts 140 to 199, revised as of October 1, 2023, amend section 170.580 by reinstating paragraph (a)(3)(ii) to read as follows:

§ 170.580 ONC review of certified health IT.

\* \* \* \* \*

(a) \* \* \*

(3) \* \* \*

(ii) ONC may assert exclusive review of certified health IT as to any matters under review by ONC and any similar matters under surveillance by an ONC-ACB.

\* \* \* \* \*

[FR Doc. 2024-02940 Filed 2-9-24; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Chapter III

RIN 0970-AC99

Elimination of the Tribal Non-Federal Share Requirement

AGENCY: Office of Child Support Services (OCSS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: OCSS eliminates the non-Federal share of program expenditures requirement for Tribal child support programs, including the 90/10 and 80/20 cost sharing rates. Based upon the experiences of and consultations with Tribes and Tribal organizations, we have determined that the non-Federal share requirement limits growth, causes disruptions, and creates instability.

DATES: This rule is effective October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Janice McDaniel, Program Specialist, Division of Policy and Training, OCSS, telephone (202) 969-3874. Email inquiries to ocss.dpt@acf.hhs.gov. Telecommunications Relay users may dial 711 first.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

This final rule is published in accordance with section 455(f) of the Social Security Act (the Act) (42 U.S.C. 655(f)). Section 455(f) of the Act requires the Secretary to issue regulations governing the grants to Tribes and Tribal organizations operating child support programs.

This final rule is also published under the authority granted to the Secretary of Health and Human Services by section 1102 of the Act (42 U.S.C. 1302). Section 1102 of the Act authorizes the Secretary to publish regulations, not inconsistent with the Act, as may be necessary for the efficient administration of the functions with which the Secretary is responsible under the Act.

II. Public Consultation

Since the inception of the Tribal child support program, OCSS has conducted numerous face-to-face and virtual Tribal Consultations and listening sessions to discuss the longstanding issue of the non-Federal share requirement and the cost sharing rates.

In fact, even before drafting regulations to implement direct funding for Tribal Child Support Enforcement Programs, OCSS conducted a series of Tribal consultations during which OCSS received many questions about how funding levels would be set. The notice of proposed rulemaking (NPRM), published in August 2000, indicated that “if the Secretary determines based on experience and consultation with Tribes that the 80/20 match rate is disruptive to the program and imposes hardship to Tribes, the regulations will be revised accordingly” (65 FR 50823).

Since then, Tribal leaders and Tribal child support directors have submitted oral and written feedback, testimony, and blanket waiver requests describing the barriers they face in meeting the non-Federal share requirement and requesting relief by modifying, suspending, or eliminating the requirement.

Most recently, on April 6, 2023, OCSS held a Tribal Consultation for the NPRM issued on April 21, 2023 (88 FR 24526). Several Tribal leaders or their designees provided oral testimony about the difficulties Tribes and Tribal organizations face in meeting the non-Federal share requirement and the adverse impacts. For example, meeting the non-Federal share forces Tribal child support programs to cut staff, limit services, defer systems or equipment purchases, and compete with other Tribal programs for scarce Tribal funds and resources. They specifically mentioned the importance of Tribal monies to support self-governance functions like public safety, health, and natural resources. Oftentimes, Tribes and Tribal organizations must underfund critical self-governance functions and services to meet the non-Federal share. They indicated that Tribal Nations have limited ways to increase revenue, are more susceptible to losses and economic downturns, and do not have the same taxing authorities as state governments. Many discussed the administrative burden of documenting, tracking, and reporting on non-Federal share contributions and how dedicating staff time and resources to that makes their child support programs less efficient and effective. They thought the non-Federal share waiver provision was overly restrictive and unnecessary since the non-Federal share was not imposed by Congress in section 455(f) the Social Security Act but by OCSS through regulation despite the objections of Tribes. They also thought that revising the non-Federal share waiver requirement was not an adequate, long-term solution, especially because that would not remove the

financial barrier that prevents prospective Tribes from administering a child support program and places existing Tribal child support programs at risk of closing. All the oral and written testimony supported the elimination of the non-Federal share requirement because it will create stability, promote growth, and ensure Tribal families and communities have access to Tribal child support program services. It also reaffirms the government-to-government relationship between Indian Tribes and the Federal Government. The April 6, 2023, Tribal Consultation Session Summary Report is available on the OCSS website, <https://www.acf.hhs.gov/css>.

The NPRM issued on April 21, 2023, includes a discussion on prior Tribal Consultations and OCSS listening sessions on the non-Federal share requirement (88 FR 24527). These consultations and sessions demonstrate that Tribes and Tribal organizations have consistently and repeatedly objected to the non-Federal share requirement and expressed the hardship and harm it causes.

### III. Background

In the 2000 NPRM for the Tribal Child Support Enforcement Programs, OCSS estimated that within 3 years, 150 Tribes and Tribal organizations would operate a child support program (65 FR 50801). As one commenter pointed out, the expansion of the Tribal child support program has fallen significantly short of those earlier projections. To date, few Tribes and Tribal organizations operate child support programs, although funding was authorized 19 years ago. Out of the 574 federally recognized Tribes, only 60 operate Tribal child support programs despite the flexible eligibility requirements to receive program funding.<sup>1</sup>

Eliminating the non-Federal share requirement, including the 90/10 and 80/20 cost sharing rates, removes a significant financial barrier for current and prospective Tribal child support programs. Many Tribes and Tribal organizations face systemic, historical, and ongoing issues that impact their ability to meet the non-Federal share.<sup>2</sup> For example, some Tribes have high rates of unemployment and families living below the poverty level, have

limited and vulnerable Tribal enterprises that generate revenue, are in rural, communities that have faced disinvestment, are exposed to greater environmental threats, and lack robust economies. One comment indicated that many Tribes are shut out of the opportunity to provide federally funded child support services precisely because of long-term problems like high unemployment rates, limited economic development, a subsistence economy remote from employment centers, and no tax base. The non-Federal share requirement not only discourages prospective Tribes, it also increases the risk of current Tribal child support programs shutting down.

Several Tribal commenters expressed their fears of being forced to shut down their Tribal child support programs if the non-Federal share is not eliminated. In fact, in fiscal year (FY) 2017, a Tribe had to shut down their child support program because they were unable to meet the non-Federal share of program expenditures, indicating that the requirement is a barrier for any Tribe to be successful.

Additionally, the current economic conditions in Tribal Nations have made their situations even more precarious. Several Tribal commenters indicated that their enterprises and revenues have not fully returned to pre-pandemic levels, and they are still dealing with other issues like the opioid epidemic and natural disasters that require Tribal resources and funds to mitigate. Yet, the non-Federal share requirement forces Tribal child support programs to compete with other Tribal departments and programs to obtain limited Tribal government funding.

The elimination of the non-Federal share requirement will enable Tribal child support programs to grow and expand. Meeting the non-Federal share has disproportionately and negatively driven programmatic and fiscal decisions. As one commenter mentioned, it forces Tribes and Tribal organizations to make decisions to meet the non-Federal share instead of meeting the needs of their Tribal families and communities. Many commenters indicated that their Tribal child support programs had to defer paying for required security assessments to access the Federal Parent Locator Service (FPLS), which helps in locating noncustodial parents and their assets. They also indicated that the non-Federal share requirement made their programs less efficient and effective because they had no funds or time to spend on wraparound services, employment referrals for noncustodial parents, robust outreach, intensive case

<sup>1</sup> See U.S. Department of Interior Indian Affairs Tribal Leader Directory at <https://www.bia.gov/service/tribal-leaders-directory>.

<sup>2</sup> See U.S. Commission on Civil Rights, Broken Promises: Continuing Federal Funding Shortfall for Native Americans (December 2018), available at <https://www.usccr.gov/files/pubs/2018/12-20-Broken-Promises.pdf>.

management, fatherhood programs, and parenting initiatives.

The National Association of Tribal Child Support Directors included the results of their 2022 survey in their comments. Out of the 46 respondents, the survey found that if the non-Federal share were eliminated 63 percent expected to have more time to focus on efforts to increase service quality, 50 percent would be interested in offering a fatherhood program, and 67 percent would be interested in expanding outreach.

Eliminating the non-Federal share will help to ensure that Tribal Nations can offer culturally appropriate and affirming child support services to their communities. Native American children in Tribal areas with child support programs are in great need of child support, especially since 53 percent of Native American children in these areas lived in single-parent families.<sup>3</sup> According to data from the 2015 American Community Survey, nearly one-third of Native Americans living in Tribal areas with a child support program lived below the poverty line in 2015 (that year, the poverty line for a family of three was \$20,090).<sup>4</sup> This poverty rate was more than twice the poverty rate for Americans in general (15 percent). Particularly stark was the poverty rate among Native American children living in these areas, which was 40 percent.<sup>5</sup>

In FY 2022, Tribal child support programs collected \$51 million in child support payments, and 97 percent went to families.<sup>6</sup> These child support payments help to reduce the need for other supportive services such as Temporary Assistance for Needy Families (TANF). Additionally, Tribal child support programs offer unique services like non-cash support, parenting classes that reflect Tribal culture and traditions, and intensive and family-centered case management. A Tribal commenter who is receiving child support services stated, “My Tribal IV–D program treated me as a person, not just a child support case number.” The commenter also indicated that when the state was unable to locate her child’s father, the Tribal child support program found him and

established and enforced a child support order, which resulted in the receipt of regular child support payments. Tribal child support directors have indicated that many Tribal parents have had similar experiences and value the Tribal child support services they receive.

The elimination of the non-Federal share will also ensure that state child support programs continue to receive assistance from Tribal child support programs to enforce state child support orders and collect child support payments in intergovernmental cases in accordance with 45 CFR 309.120(a). For example, when a Tribal child support program receives a request for assistance from a state, they register the state child support order in Tribal court and enforce it. Then, the tribe collects the child support payment from the noncustodial parent and sends it to the state in accordance with 45 CFR 309.115(d). Without this assistance from Tribal child support programs, states are, for the most part, unable to collect child support payments in these intergovernmental cases because they lack jurisdiction to enforce their child support orders in Tribal Nations. In FY 2022, Tribal child support programs collected and sent \$10 million in child support payments to states, other tribes, and countries.<sup>7</sup> Comments from five states acknowledged the importance of Tribal child support programs, reiterated the difficulties they face in meeting the non-Federal share requirement, and supported the elimination.

Eliminating the non-Federal share promotes equity and honors Tribal sovereignty and the trust relationship between the Federal Government and Tribal Nations. This regulation also aligns with President Biden’s Executive order on *Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination*, Executive Order 14112, 88 FR 86021 (December 6, 2023). As set out by the 1977 Senate report of the American Indian Policy Review Commission, “The purpose behind the trust is and always has been to insure the survival and welfare of Indian Tribes and people. This includes an obligation to provide those services required to protect and enhance Indian lands, resources, and self-government and also includes those economic and social programs which are necessary to raise the standard of living and social

well-being of the Indian people to a level comparable to the non-Indian society.”<sup>8</sup> As several commenters mentioned, Tribal governments have substantially less funds and revenue generating options than state governments. Yet the needs and disparities are greater in Tribal communities. For example, they continue to face inequalities and structural barriers that limit their opportunities, negatively impact their well-being and economic mobility, and contribute to their higher rates of poverty.<sup>9</sup> Instead of competing, these programs and services should collaborate to use both Federal and Tribal funds efficiently and effectively to improve the economic and social well-being of Tribal children, families, and communities. Therefore, eliminating the requirement reduces the competition for scarce resources and makes the Tribal child support program funding more equitable and obtainable for Tribal Nations. As one state commenter indicated, it helps put Tribes on more equal footing with state child support programs.

From the start, the Tribal child support program regulations recognized and honored Tribal sovereignty and attempted to convey flexibilities in Tribal child support programs as stated in the NPRM published in 2000 (65 FR 50805). The 2000 NPRM stated that the regulation recognizes the government-to-government relationship by supporting Tribe’s right to exercise self-determination and decide whether or not to operate a Tribal child support program (65 FR 50805). Many commenters to this final rule also recognized and reiterated the importance of exercising Tribal sovereignty by operating a Tribal child support program. Child support services help Tribal communities promote parental responsibility, so children receive support from both parents even when they live in separate households. Tribes and Tribal organizations exercising their sovereignty to operate their own child support programs is, in fact, what Congress intended when it authorized funding under Personal Responsibility and Work Opportunity

<sup>3</sup> See OCSS Exploring Tribal Demographic Data: Part Two at <https://www.acf.hhs.gov/css/ocsedatablog/2023/01/exploring-tribal-demographic-data-part-two>.

<sup>4</sup> See OCSS Exploring Tribal Demographic Data: Part One at <https://www.acf.hhs.gov/css/ocsedatablog/2022/11/exploring-tribal-demographic-data-part-one>.

<sup>5</sup> Id.

<sup>6</sup> See OCSS 2022 Tribal Infographic at FY 2022 Tribal Child Support Providing Support for Our Families ([hhs.gov](https://hhs.gov)).

<sup>7</sup> See OCSS 2021 Tribal Infographic at FY 2022 Tribal Child Support Providing Support for Our Families ([hhs.gov](https://hhs.gov)).

<sup>8</sup> See American Indian Policy Review Commission Final Report (May 1977), page 130 available at <https://files.eric.ed.gov/fulltext/ED164229.pdf>.

<sup>9</sup> See Joint Economic Committee Democrats, Native American Communities Continue to Face Barriers to Opportunity that Stifle Economic Mobility (May 2022) available at <https://www.jec.senate.gov/public/cache/files/9a6bd201-d9ed-4615-bc32-9b899af5627/nativeamericans-continuetofacepervasiveeconomicdisparities-final.pdf>.

Reconciliation Act (PRWORA) of 1996 (Pub. L. 104–193).

Eliminating the non-Federal share requirement helps to achieve this and to ensure the sustainability and expansion of the program by providing the adequate and appropriate Federal financial participation. This is important because many Federal programs that assist Tribal Nations and promote Tribal sovereignty are underfunded, according to the 2018 U.S. Commission on Civil Rights report on Federal funding for Native Americans.<sup>10</sup> Additionally, this rule honors and reflects the trust relationship and doctrine, which requires the Federal Government to support Tribal self-government and economic prosperity.<sup>11</sup> And it also fulfills the 2000 NPRM directive that indicated “if the Secretary determines based on experience and consultation with Tribes that the 80/20 match rate is disruptive to the program and imposes hardship to Tribes, the regulations will be revised accordingly” (65 FR 50823).

Nevertheless, OCSS considered whether a change in policy might negatively impact Tribal child support programs, which have structured their operations based on the existing matching requirement and determined that any potential negative impact is far outweighed by the benefit of not using scarce Tribal funds for the non-Federal share.

In the NPRM published in 2000, OCSS considered several different funding approaches that controlled costs, including performance-based funding, funding based on cost per child to operate the program, capping certain costs, and state-cost based funding (65 FR 50823). OCSS engaged in extensive deliberations over the issue of funding for Tribal child support programs. After careful consideration of the advantages and disadvantages of each cost control funding approach, ultimately, the Secretary proposed open-ended funding with a Tribal match (65 FR 50823). The NPRM proposed that Tribes and Tribal organizations provide a 10 percent match during the start-up period and first 3 years of operating a Tribal child support program, with the match increasing to 20 percent thereafter (65 FR 50823). The NPRM also included a

waiver provision allowing the Secretary to waive the non-Federal share for Tribes and Tribal organizations that lacked sufficient resources and met certain specific criteria (65 FR 50823).

The Tribal Child Support Enforcement Program final rule was promulgated on March 30, 2004 (hereinafter final rule) and included revisions to the cost sharing provision for start-up funding and the non-Federal share waiver provisions at 45 CFR 309.130(e) (69 FR 16638 and 16646). In the final rule, OCSS indicated that it received numerous comments from Tribes objecting to the cost sharing requirement. In response, OCSS again expressed concern regarding the control of costs in the Tribal child support program, stating that “unlike other Tribal grant programs, the funding for Tribal IV–D programs is not sum certain grants,” meaning a specified and set amount of funds (69 FR 16667). OCSS further stated that the cost sharing requirement was maintained after determining “that a non-Federal share in expenditures is necessary, based on the principle that better programs and better management result when local resources are invested” (69 FR 16667). However, in response to comments, the match requirement was changed to allow 100 percent funding during the start-up period, not to exceed 2 years, and, capped at \$500,000 per 45 CFR 309.130(c)(1). OCSS noted that the non-Federal match for start-up costs was eliminated in recognition that “Tribes just beginning title IV–D child support enforcement may have very limited funds for this activity” (69 FR 16646).

The 2004 final rule also revised the non-Federal share waiver provisions and made them more prescriptive and restrictive (69 FR 16646). For example, OCSS noted that denied waiver requests were not subject to administrative appeal (69 FR 16646). The regulation at 45 CFR 309.130(e) permits, under certain circumstances, a temporary waiver of part or all of the non-Federal share of program expenditures. This provision includes the following two types of temporary waiver requests that a Tribe or Tribal organization may submit for consideration: “anticipated temporary waiver request” and “emergency waiver request.” Both waiver requests must be submitted in accordance with the procedures specified in 45 CFR 309.130(e)(2) through (4). These procedures require the submission of extensive information and documentation to demonstrate the temporary lack of resources and justify the waiver request.

Under 45 CFR 309.130(e)(1)(i), when Tribes or Tribal organizations anticipate

that they will be temporarily unable to contribute part or all of the required non-Federal share of program funding, they must submit an anticipated temporary waiver request. The anticipated waiver, due no later than 60 days before the start of the funding period, is more restrictive because untimely or incomplete requests will not be considered, in accordance with 45 CFR 309.130(e)(1)(i). Many Tribal child support programs have been denied anticipated waivers because of untimely or incomplete requests. An untimely anticipated waiver request means a Tribe submitted the request after the deadline of August 1 pursuant to 45 CFR 309.130(e)(1)(i). An incomplete anticipated waiver request means a Tribe did not include all the information required by 45 CFR 309.130(e)(2) through (4), such as portions of the Tribal budget sufficient to demonstrate the extent of the funding shortfall and uncommitted funds.

Under 45 CFR 309.130(e)(1)(ii), after the start of the funding period, if an emergency situation occurs, such as a hurricane or flood, that warrants a waiver of the non-Federal share of program expenditures, Tribes or Tribal organizations may submit an emergency waiver request.

Although OCSS previously determined during drafting of the Tribal Child Support Enforcement Program regulations that a non-Federal match was important to ensure “better programs and better management” (69 FR 16667), it has now reconsidered that conclusion after seeing the Tribal child support program in practice during the past two decades. Based on its experience, OCSS now concludes that its oversight tools are sufficient, without the non-Federal share match, to monitor use of funds for IV–D expenditures and consider cost containment. Tribes and Tribal organizations show in their budget submissions and communications with OCSS that they are engaged in operating successful programs and using Federal funds properly, efficiently, and effectively, in accordance with 45 CFR 309.60(b). A non-Federal share is also not necessary to ensure Tribal investment in the program. Tribes and Tribal organizations are inherently invested in operating a child support program because they can exercise their Tribal sovereignty and incorporate their Tribal traditions and customs. Most importantly, they are invested in the Tribal members who staff their programs and the Tribal families and children who benefit from child support services. They will continue to provide Tribal resources, such as Tribal

<sup>10</sup> See U.S. Commission on Civil Rights, *Broken Promises: Continuing Federal Funding Shortfall for Native Americans* (December 2018) at <https://www.usccr.gov/files/pubs/2018/12-20-Broken-Promises.pdf>.

<sup>11</sup> See Administration for Children and Families, *American Indians and Alaska Natives—The Trust Responsibility Fact Sheet* at <https://www.acf.hhs.gov/ana/fact-sheet/american-indians-and-alaska-natives-trust-responsibility>.

buildings and courts, to ensure their programs are successful and efficient.

The Tribal child support program regulations provide OCSS with sufficient authority to control costs and monitor compliance without the non-Federal share requirement. The primary method for evaluating and ensuring allowable and appropriate costs is through the budget submission, review, and approval process. The regulation at 45 CFR 309.15(c) requires Tribal child support programs to submit a budget to receive Title IV–D funding to administer their child support programs. Budgets must include the detailed information specified in 45 CFR 309.130(b) and OCSS guidance, such as quarterly estimate of expenditures, narrative justification for each cost category, and copies of contracts (see Tribal Child Support Budget Toolbox and OCSS PIQT–21–01). OCSS and Office of Grants Management (OGM) review Tribal budget submissions for compliance with 45 CFR parts 309, 310, and 75 and other applicable Federal laws. During the review of Tribal budgets, OCSS and OGM examine the estimates of program expenditures, determine whether the budget narratives and documentation justify costs, and approve allowable costs charged to the Title IV–D grant. OCSS reviews the entire budget in detail to ensure the costs are reasonable and necessary given the caseload size and other demographic and geographic factors. OCSS compares contract costs to industry standards and similar contracts from other child support programs. For questionable costs, OCSS works with the Tribe to obtain additional information or revise or remove those costs when warranted. For example, OCSS determined that a Tribe’s contract costs for information technology development were higher than the industry standard and worked with the Tribe to secure a reduction in the costs before approving the contract.

OCSS must approve a Tribe’s budget before OGM issues a notice of grant award, which provides OCSS with direct oversight over Tribal expenditures before Tribal child support programs drawdown and use Title IV–D funds at the start of the fiscal year. After OCSS approves a Tribe’s budget, a Tribe may request additional funds by submitting the information specified in 45 CFR 309.130(f)(1). If the increase in funds impacts the Tribal IV–D plan, the Tribe must also submit a plan amendment in accordance with 45 CFR 309.130(f)(2). A Tribe must provide the required information and documentation and the costs must comply with the Federal regulations before OCSS approves the request for an

increase in funds. This ensures that increases in approved Tribal budgets are reasonable, necessary, allowable, and allocable. Additionally, OCSS uses a variety of methods to provide technical assistance and assess needs so that Tribal child support programs comply with the program regulations, uniform grant requirements, and cost principles. These methods include conducting training, national webinars, conference workshops, regional meetings, and site visits. As a result, the overall Tribal child support program expenditures of existing Tribes are not expected to rise substantially beyond normal cost increases due to factors like inflation, filling vacancies, or upgrading equipment and systems.

Even with the elimination of the non-Federal share, OCSS does not expect that every federally recognized Tribe or Tribal organization will request funding to operate a Tribal child support program, meaning that OCSS expects only a modest and gradual increase in program expenditures. Prospective Tribes and Tribal organizations may not have the required administrative capacity or infrastructure to operate a child support program. For example, they may not have 100 children under the age of majority, as referenced in 45 CFR 309.10(a). Although they may request a waiver of this requirement (45 CFR 309.10(c)), the waiver must demonstrate that their prospective Tribal child support program will be cost effective (45 CFR 309.10(c)(1)(iii)). Additionally, prospective Tribes and Tribal organizations may not want to comply with the extensive requirements and procedures required to receive funding (45 CFR 309.65). A Tribal court can hear child support cases without the Tribe administering a child support program. Administering a Tribal child support program and working with parents on such a vulnerable and sensitive subject is complex and demanding. As previously mentioned, instead of operating their own Tribal child support program, they may jointly operate a program or may receive child support services from an existing Tribal child support program.

As a policy alternative to eliminating the non-Federal share, OCSS considered revising the non-Federal share waiver requirements to make waivers easier to request and receive. In fact, the non-Federal share waiver requirements proposed in the 2000 NPRM were less restrictive and burdensome than the requirements in the 2004 final rule under 45 CFR 309.130(e) (65 FR 50837). Only one commenter suggested this policy alternative. Reducing the burden and criteria for requesting non-Federal

share waivers does not change the fact that they are temporary and must be requested each time a Tribe needs one. The underlying issues that make meeting the non-Federal share difficult or impossible for Tribes and Tribal organizations are persistent, intractable, and systemic such as high rates of unemployment, little or no economic development, or lack of or a decline in revenue. As one commenter pointed out, Tribal communities have been historically underserved, marginalized, or subject to discrimination or systemic disadvantage. These issues not only hinder current Tribal child support programs from meeting the non-Federal share and potentially shutting down, but they also prevent prospective Tribes from even applying for funding. Therefore, OCSS does not think revising the non-Federal share waiver requirements would increase Tribal participation or reduce the risks of program closures as much as eliminating the requirement entirely. Nor would it reduce the administrative burden associated with tracking and reporting on non-Federal share contributions and submitting waiver requests. Most importantly, revising the non-Federal share waiver provision recognizes the need to implement the 2000 NPRM directive for the Secretary to revise the regulations when the 80/20 match rate is disruptive to the program and imposes hardship to Tribes (65 FR 50823). Accordingly, the time has come to revise the regulation. The overwhelming majority of commenters agreed with this decision.

In 1996, Congress was compelled to pass PRWORA and authorize direct funding of Tribes and Tribal organizations for operating child support programs. And now, OCSS issues this final rule that eliminates the non-Federal share requirement, helping to ensure that new Tribal child support programs are established, and current ones continue to operate and thrive, as Congress intended. As a result, more Tribal communities will receive child support services that reflect and affirm their Tribal cultures and traditions, increase family economic well-being, and help lift Tribal families out of poverty.

#### **IV. Summary Description of the Regulatory Provisions**

The following is a summary of the regulatory provisions included in the final rule and, where appropriate, how these provisions differ from what was initially included in the NPRM. The NPRM was published in the **Federal Register** on April 21, 2023 (88 FR 24526 through 24535). The comment period

ended June 20, 2023. OCSS received 51 sets of comments from 48 entities as follows: 28 Tribes, 5 Tribal child support programs, 5 states, 5 organizations, and 5 individuals. Three Tribes submitted 2 sets of comments. Comments were posted on [www.regulations.gov](http://www.regulations.gov).

Overwhelmingly, the comments received on the NPRM supported the elimination of the non-Federal share requirement for Tribal child support programs. Several commenters indicated that they had no objections to the regulatory revisions, as discussed below, resulting from the elimination of the non-Federal share. Only one comment disagreed with the elimination and recommended allocating funds by the size of the Tribal child support program or revising the non-Federal share waiver provision instead.

*Section 309.15 What is a Tribal IV-D program application?*

In § 309.15(a)(2)(iii), OCSS proposed removing the language “; and either:” at the end of that provision and inserting a period in its place. Section 309.15(a)(2)(iv) requires the initial application for funding to include a statement that the Tribe or Tribal organization has or will have the non-Federal share of program expenditures available. Section 309.15(a)(2)(v) permits a request for a waiver of the non-Federal share in accordance with § 309.130(e). OCSS proposed removing § 309.15(a)(2)(iv) and (v) due to the elimination of the non-Federal share. There were no objections to the proposed regulatory amendments.

*Section 309.45 When and how may a Tribe or Tribal organization request reconsideration of a disapproval action?*

Section 309.45(g) indicates that disapproval of start-up funding, a request for waiver of the 100-child rule, and a request for waiver of the non-Federal Tribal share is not subject to administrative appeal. OCSS proposed amending § 309.45(g) by removing “, and a request for waiver of the non-Federal Tribal share.” Revised paragraph (g) will read as follows: “Disapproval of start-up funding and a request for waiver of the 100-child rule is not subject to administrative appeal.” There were no objections to the proposed regulatory amendments.

*Section 309.75 What administrative and management procedures must a Tribe or Tribal organization include in a Tribal IV-D plan?*

Section 309.75(e) describes the requirements for a Tribe and Tribal organization that intends to charge an

application fee or recover costs in excess of the fee. Collected fees and recovered costs are considered program income and deducted from total allowable costs in accordance with 45 CFR 309.75(e)(4) and 75.307(e)(1). Due to the proposed elimination of the non-Federal share requirement, we proposed revising § 309.75(e) and modified the proposed language in the NPRM, requiring Tribal child support programs to provide that charging fees and recovering costs will not be permitted. We also proposed removing paragraphs (e)(1) through (4). There were no objections to the proposed regulatory amendments.

*Section 309.85 What records must a Tribe or Tribal organization agree to maintain in a Tribal IV-D plan?*

Section 309.85(a)(6) requires a Tribe or Tribal organization to maintain records on any fees charged and collected, if applicable. As previously stated, collected fees and recovered costs are considered program income and deducted from total allowable costs in accordance with 45 CFR 309.75(e)(4) and 75.307(e)(1). Due to the proposed elimination of the non-Federal share requirement, we proposed removing § 309.85(a)(6) and redesignating § 309.85(a)(7) to § 309.85(a)(6). There were no objections to the proposed regulatory amendments.

*Section 309.130 How will Tribal IV-D programs be funded and what forms are required?*

In § 309.130(b)(2)(iii), we proposed removing the language “and for funding under § 309.65(a) either:” at the end of that provision and replacing it with a period. Section 309.130(b)(2)(iv) requires the annual Tribal budget submissions to include a statement certifying that the Tribe or Tribal organization has or will have the non-Federal share of program expenditures. Section 309.130(b)(2)(v) permits a request for a waiver of the non-Federal share in accordance with paragraph (e) of the section. We proposed removing § 309.130(b)(2)(iv) and (v) due to the elimination of the non-Federal share requirement.

Section 309.130(c) describes the Federal share of program expenditures for start-up funding and for initial and ongoing grant funding to administer a Tribal child support program. We proposed amending § 309.130(c)(2) by removing “during a 3-year period,” replacing “90” with “100”, and adding “and thereafter” following “made during that period.” We proposed amending § 309.130(c)(3) by removing § 309.130(c)(3)(i), redesignating

paragraph (c)(3)(ii) to paragraph (c)(3), and replacing “90” with “100”. We proposed these revisions to indicate that the Federal share of program expenditures will be 100 percent due to the elimination of the non-Federal share requirement.

Section 309.130(d) describes the requirements for the non-Federal share of program expenditures. We proposed removing § 309.130(d) due to the elimination of the non-Federal share requirement.

Section 309.130(e) describes the requirements for permitting a temporary waiver of part or all of the non-Federal share of program expenditures. We proposed removing § 309.130(e) due to the elimination of the non-Federal share requirement.

Section 309.130(f) describes the requirements for requesting increases in the approved Tribal budget and § 309.130(f)(3) addresses how budget increases impact the non-Federal share. We proposed redesignating § 309.130(f) to § 309.130(d) and removing § 309.130(f)(3).

Section 309.130(g) describes how to obtain Federal funds and § 309.130(h) requires compliance with the uniform administrative requirements and cost principles. We proposed redesignating § 309.130(g) and (h) to § 309.130(e) and (f), respectively.

The overwhelming majority of comments supported the elimination of the non-Federal share requirement. Only one comment disagreed with the elimination and recommended allocating funds by the size of the Tribal child support program or revising the non-Federal share waiver provision instead.

*Section 309.155 What uses of Tribal IV-D program funds are not allowable?*

Section 309.155(c) prohibits a Tribe or Tribal organization from using Federal IV-D funds for any expenditures that have been reimbursed by fees or costs collected, including any fee collected from a state. We proposed removing § 309.155(c) and redesignating § 309.155(d), (e), (f), and (g) to § 309.155(c), (d), (e), and (f), respectively. There were no objections to the proposed regulatory amendments.

*Section 309.170 What statistical and narrative reporting requirements apply to Tribal IV-D programs?*

Section 309.170(b)(8) requires a Tribe or Tribal organization to provide annual information and statistics on the total amount of fees and costs recovered. We proposed removing § 309.170(b)(8) and redesignating § 309.170(b)(9) to § 309.170(b)(8). There were no

objections to the proposed regulatory amendments.

*Section 310.10 What are the functional requirements for the Model Tribal IV–D System?*

Section 310.10(c) requires the Model Tribal IV–D System to record and report any fees collected, either directly or by interfacing with state or Tribal financial management and expenditure information. Although we proposed removing § 310.10(c) and redesignating § 310.10(d), (e), (f), (g), and (h) to § 310.10(c), (d), (e), (f), and (g), respectively, OCSS has reconsidered these amendments, despite not receiving any objections to them. After further consideration, OCSS has decided it is necessary to maintain the Model Tribal Systems (MTS) requirements described in § 310.10(c) because a Tribal child support program may collect fees to assist a state child support program in an intergovernmental case. If so, they would need to record and report any fees collected along with expenditure information as per § 310.10(c). Because we are retaining § 310.10(c), we also no longer need to redesignate the other subsections.

*Section 310.20 What are the conditions for funding the installation, operation, maintenance and enhancement of Computerized Tribal IV–D Systems and Office Automation?*

Section 310.20(a) describes the conditions that must be met for Federal financial participation for Computerized Tribal IV–D Systems. We proposed replacing “90” with “100” for installation of the Model Tribal IV–D System.

## V. Response to Comments

*Comment 1:* The majority of commenters indicated that they had no objections to the regulatory revisions proposed in 45 CFR 309.15, 309.45, 309.75, 309.85, 309.155, 309.170, and 310.20.

*Response 1:* Based on the overwhelming support for the elimination of the non-Federal share of program expenditure requirement for Tribal child support programs, including the 90/10 and 80/20 cost sharing rates, OCSS agrees that the relief should be provided.

For the reasons described in the proposed rule and above, OCSS revises 45 CFR 309.15, 309.45, 309.75, 309.83, 309.155, 309.170, and 310.20 as proposed.

*Comment 2:* Overwhelmingly, Tribes, Tribal child support programs, states, organizations, and individuals who

submitted comments were unequivocal in their support of the proposed elimination of the non-Federal share requirement.

Most commenters indicated that the non-Federal share limits growth, causes disruptions, creates instability, and imposes hardships for Tribal child support programs.

Many Tribal commenters stated that meeting the non-Federal share forced their Tribal child support program to reduce services, cut travel and training, and forgo hiring staff, modernizing, digitizing, accessing FPLS, and participating in the Federal Tax Refund Offset Program (FTRO). Several Tribal commenters also indicated that these forced cuts and reductions made their programs less efficient and effective. For example, one Tribal commenter indicated that their program was unable to afford their non-Federal share to access enforcement remedies like FPLS and FTRO to locate noncustodial parents and to offset Federal tax returns for overdue support.

Many commenters indicated that Tribes had limited resources. Several Tribal commenters described how meeting the non-Federal share diverted their limited Tribal funds from essential self-governance services and functions for the elderly, youth, Tribal courts, public safety, natural resources, natural disasters, and crisis mitigation like the opioid crisis and coronavirus disease pandemic. Some Tribal commenters also stated that it forced Tribal programs to compete for those limited funds and make difficult decisions about how to allocate resources to address the needs and issues of Tribal members and which programs to underfund. Two commenters indicated how Tribal governments do not have taxing authorities like state governments.

Some Tribal commenters stated that finding, tracking, calculating, and documenting non-Federal share contributions was time consuming and that their efforts could be better used on providing needed child support services to families, such as parenting classes and fatherhood programs. Some Tribal commenters also indicated that the non-Federal share waiver requirements were burdensome and impossible to meet. And two Tribal commenters stated that Congress did not impose the non-Federal share requirement in the authorizing legislation.

One Tribal commenter indicated that they may have to shut down their Tribal child support program if OCSS does not eliminate the non-Federal share requirement. And two commenters mentioned how one Tribe had to close

their program because of the difficulty with providing the non-Federal share.

Many commenters indicated that the elimination of non-Federal share would be beneficial for Tribal child support programs. Several commenters specified that they would increase child support services, update their systems, and fill vacancies. Several commenters also stated that the elimination would help to ensure that existing programs continue operating and new ones are established, creating stability and growth. Additionally, several commenters emphasized the importance of Tribes and Tribal organizations exercising their Tribal sovereignty by administering a child support program.

One commenter stated that the elimination promotes equity by removing a substantial financial burden for Tribal communities that have been historically underserved, marginalized, or subject to discrimination or systemic disadvantage. Two commenters indicated that it honors the trust relationship the Federal Government has with Tribal Nations. And another two commenters stated that it would reduce bureaucratic barriers faced by Tribes and Tribal organizations.

One commenter agreed that OCSS still has sufficient oversight and cost containment tools without the non-Federal share requirement. Another commenter indicated that many Tribes and Tribal organizations will continue to invest in their programs by contributing Tribal facilities and using Tribal members as staff. Many commenters indicated how Tribes and Tribal organizations are invested in their children, helping noncustodial and custodial parents support them financially and emotionally.

A few Tribal commenters indicated that the elimination demonstrates that OCSS is listening to Tribes and Tribal organizations.

Many commenters expressed the need for child support services in Tribal communities to help lift Tribal families and children out of poverty.

*Response 2:* Based on the overwhelming support for the proposed elimination of the non-Federal share requirement, for the reasons described in the NPRM and by the majority of commenters, OCSS agrees that the non-Federal share requirement should be eliminated for Tribal child support programs.

*Comment 3:* One individual opposed the elimination of the non-Federal share requirement without replacing with another cost containment mechanism. The commenter thought OCSS could not reasonably expect to apply the level of oversight or impartiality to fiscally

manage a program where an unlimited amount of money can be requested without financial participation by grantees. The commenter indicated that cost sharing ensures a grantee considers cost-to-benefit proposition and that the principle has never been questioned for states and is a solid principle for Tribes. In lieu of cost sharing, the commenter recommended allocating funds by the size of the Tribal program based upon historical caseload data. The commenter also recommended revising the non-Federal share waiver provision. The commenter indicated that Tribes are not all in the same financial position and some have limited resources while others are thriving.

*Response 3:* OCSS disagrees. As discussed previously, the Tribal child support program regulations provide OCSS with sufficient authority to control costs and monitor compliance without the non-Federal share requirement. Unlike state child support programs, Tribal child support programs must submit a budget to receive Title IV–D funding in accordance with 45 CFR 309.15(c). Budgets must include the detailed information specified in 45 CFR 309.130(b) and OCSS guidance, such as quarterly estimate of expenditures, narrative justification for each cost category, and copies of contracts (see Tribal Child Support Budget Toolbox and OCSS PIQT–21–01). OCSS and OGM review Tribal budget submissions for compliance with 45 CFR parts 309, 310, and 75 and other applicable Federal laws. During the review of Tribal budgets, OCSS and OGM examine the estimates of program

expenditures, and determine whether the budget narratives and documentation justify costs. Many factors impact a Tribe’s caseload. For example, some Tribal child support programs receive cases transferred from a state child support program, others do not and must conduct intensive outreach to get parents to apply for services, a few Tribal child support programs receive referrals from the Tribal TANF programs, and at least one Tribal child support program provides services to other Tribes. Several Tribal child support programs have parents who do not live locally and reaching them is costly. As indicated by the feedback from Tribes and Tribal organizations, meeting the non-Federal share has limited their ability of conduct outreach to increase their caseloads. Therefore, using historical data is problematic and may not be a valid predictor for prospective Tribes and Tribal organizations since they have unique characteristics, histories, and relationships with their states.

Additionally, OCSS considered but decided against capping certain costs for Tribal child support programs in the 2000 NPRM (65 FR 50823). OCSS also disagrees with that option now. Capping costs limits Tribes and Tribal organizations to self-govern, grow their program as they determine, and innovate to meet the evolving needs and circumstances of Tribal parents and children.

*Comment 4:* Several commenters indicated that they had no objections to the regulatory revisions proposed in § 310.10.

*Response 4:* Although commenters indicated that they had no objection to the regulatory revisions proposed in § 310.10, OCSS has decided not to revise 45 CFR 310.10 as originally proposed in the Notice of Proposed Rulemaking. Specifically, OCSS has determined, as noted above, it is necessary to maintain the Model Tribal Systems (MTS) requirements described in § 310.10(c) because a Tribal child support program may collect fees to assist a state child support program in an intergovernmental case. If so, they would need to record and report any fees collected along with expenditure information as per § 310.10(c). And, because we are retaining § 310.10(c), we no longer need to redesignate the other paragraphs.

**VI. Regulatory Review**

*Paperwork Reduction Act*

Under the Paperwork Reduction Act (Pub. L. 104–13), all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or recordkeeping requirements inherent in a proposed or final rule. For this final rule, Tribal child support programs that charge fees and recover costs must submit a plan amendment, providing that charging fees and recovering costs will not be permitted. Only three Tribal programs report data on the collection of fees and recovered costs. The description and total estimated burden on the “Tribal Child Support Enforcement Direct Funding Request” (OMB #0907–0218) is described in the chart below.

Section and purpose	Instrument	Number of respondents	Average burden hour per response	Total cost	National Federal share	National Tribal share
Added requirement § 309.75(e) regarding charging fees and recovering costs.	Tribal plan amendment.	One time for 3 Tribes.	3 hours × \$73.84 × 3 Tribes .....	\$664.56	\$664.56	\$0

In accordance 45 CFR 309.35(d), after approval of the original Tribal IV–D program application, all relevant changes required by new Federal statutes, rules, regulations, and Department interpretations are required to be submitted so that the Secretary may determine whether the plan continues to meet Federal requirements and policies.

*Regulatory Flexibility Analysis*

The Secretary certifies that, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), this rule will not result in a significant impact on a substantial

number of small entities. The primary impact is on Tribal governments. Tribal governments are not considered small entities under the Regulatory Flexibility Act.

*Congressional Review*

The Congressional Review Act (CRA) allows Congress to review major rules issued by Federal agencies before the rules take effect (see 5 U.S.C. 801(a)). The CRA defines a “major rule” as one that has resulted, or is likely to result, in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers; individual industries;

Federal, State, or local government agencies; or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic and export markets (see 5 U.S.C. Chapter 8). Based on our estimates of the impact of this rule, the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) has designated this rule as ‘not major’ under the CRA.

*Regulatory Impact Analysis*

Executive Orders 12866, 13563, and 14094

Executive Orders 12866, as amended by Executive Order 14094, 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 rule meets the standards of Executive Order 12866, as amended by Executive Order 14094, and Executive Order 13563 because it creates equity, promotes predictability, and reduces burdens and hardships for Tribal child support programs. The non-Federal share requirement limits growth, causes disruptions, and creates instability. Eliminating it encourages expansion of services and enforcement remedies, removes a financial barrier for prospective Tribes and Tribal organizations, prevents closure of existing Tribal child support programs, and provides a permanent solution to longstanding problems. This will ensure Tribal families receive child support services that reflect and affirm their cultures and traditions and that promote parental responsibility and increase disposable family income and financial stability.

Executive Order 12866, as reaffirmed by E.O. 13563 and E.O. 14094, provides that OIRA at OMB will review all significant rules. Section 3(f) of E.O. 12866, as modified by 14094, defines “a significant regulatory action” as an action that is likely to result in a rule (1) having an annual effect on the economy of \$200 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, and Tribal governments or communities; (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising legal or policy issues for which centralized review would meaningfully further the President’s priorities, or the principles set forth in the Executive order. OIRA has determined that this final rule is

significant, and it was accordingly reviewed by OMB.

Based upon the increase in program expenditures from existing Tribal child support programs and the modest growth of new programs due to the elimination of the non-Federal share, we anticipate that the costs associated with this rule will be the following: FY 2025 \$17.2M; FY 2026 \$19M; FY 2027 \$26.4M; FY 2028 34.3M; and FY 2029 \$42.6M.

*Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an annual expenditure by state, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation). That threshold level is currently approximately \$164 million. This rule does not impose any mandates on State, local, or Tribal governments, or the private sector, that will result in an annual expenditure of \$164 million or more.

*Assessment of Federal Regulations and Policies on Families*

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulation may affect family well-being. If the agency’s determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. We certify that we have assessed this proposed rule’s impact on the well-being of families. The purpose of the Tribal child support program is to strengthen the financial and social stability of families. This rule eliminates the burden and hardships imposed by the non-Federal share requirement for Tribal child support programs, which limits growth, causes disruptions, and creates instability. Eliminating it encourages expansion of services and enforcement remedies, removes a financial barrier for prospective Tribes and Tribal organizations, and prevents closure of existing Tribal child support programs. The proposed rule will have a positive effect on family well-being. It will ensure Tribal families receive child support services that reflect and affirm their cultures and traditions and that promote parental responsibility and increase disposable family income and financial stability.

*Executive Order 13132*

Executive Order 13132 prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This rule does not have federalism impact as defined in the Executive order.

Jeff Hild, Acting Assistant Secretary of the Administration for Children and Families, approved this document on January 18, 2024.

(Catalog of Federal Domestic Assistance Programs No. 93.563, Child Support Enforcement Program.)

**List of Subjects***45 CFR Part 309*

Child support, Grant programs—social programs, Indians—Tribal government, Reporting and recordkeeping requirements.

*45 CFR Part 310*

Child support, Grant programs—social programs, Indians.

Dated: January 30, 2024.

**Xavier Becerra,**

*Secretary, Department of Health and Human Services.*

For the reasons discussed in the preamble, the Department of Health and Human Services amends 45 CFR chapter III as set forth below:

■ 1. Under the authority provided in FR Doc. 2023–11815 (88 FR 36587, June 5, 2023), revise the heading for chapter III to read as follows:

**CHAPTER III—OFFICE OF CHILD SUPPORT SERVICES, ADMINISTRATION OF FAMILIES AND SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**PART 309—TRIBAL CHILD SUPPORT ENFORCEMENT (IV–D PROGRAM)**

■ 2. The authority citation for part 309 continues to read as follows:

**Authority:** 42 U.S.C. 655(f) and 1302.

■ 3. Section 309.15 is amended by:  
 ■ a. Revising paragraph (a)(2)(iii); and  
 ■ b. Removing paragraphs (a)(2)(iv) and (v).

The revision reads as follows:

**§ 309.15 What is a Tribal IV–D program application?**

(a) \* \* \*  
 (2) \* \* \*

(iii) A narrative justification for each cost category on the form.

\* \* \* \* \*

■ 4. Section 309.45 is amended by revising paragraph (g) to read as follows:

**§ 309.45 When and how may a Tribe or Tribal organization request reconsideration of a disapproval action?**

\* \* \* \* \*

(g) Disapproval of start-up funding and a request for waiver of the 100-child rule is not subject to administrative appeal.

\* \* \* \* \*

■ 5. Section 309.75 is amended by revising paragraph (e) to read as follows:

**§ 309.75 What administrative and management procedures must a Tribe or Tribal organization include in a Tribal IV–D plan?**

\* \* \* \* \*

(e) Provide that charging fees and recovering costs will not be permitted.

**§ 309.85 [Amended]**

■ 6. Section 309.85 is amended by:

■ a. Adding the word “and” at the end of paragraph (a)(5);

■ b. Removing paragraph (a)(6); and

■ c. Redesignating paragraph (a)(7) as paragraph (a)(6).

■ 7. Section 309.130 is amended by:

■ a. Revising paragraph (b)(2)(iii);

■ b. Removing paragraphs (b)(2)(iv) and (v);

■ c. Revising paragraphs (c)(2) and (3);

■ d. Removing paragraphs (d) and (e);

■ e. Redesignating paragraphs (f) through (h) as paragraph (d) through (f); and

■ f. Revising newly redesignated paragraph (d).

The revisions read as follows:

**§ 309.130 How will Tribal IV–D programs be funded and what forms are required?**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iii) A narrative justification for each cost category on the form.

\* \* \* \* \*

(c) \* \* \*

(2) Beginning with the first day of the first quarter of the funding grant specified under § 309.135(a)(2), a Tribe or Tribal organization will receive Federal grant funds equal to 100 percent of the total amount of approved and allowable expenditures made during that period and thereafter for the administration of the Tribal child support enforcement program.

(3) A Tribe or Tribal organization will receive Federal grant funds equal to 100 percent of pre-approved costs of installing the Model Tribal IV–D System.

(d) *Increase in approved budget.* (1) A Tribe or Tribal organization may request

an increase in the approved amount of its current budget by submitting a revised SF 424A to ACF and explaining why it needs the additional funds. The Tribe or Tribal organization should submit this request at least 60 days before additional funds are needed, to allow the Secretary adequate time to review the estimates and issue a revised grant award, if appropriate.

(2) If the change in Tribal IV–D budget estimate results from a change in the Tribal IV–D plan, the Tribe or Tribal organization must submit a plan amendment in accordance with § 309.35(e), a revised SF 424, and a revised SF 424A with its request for additional funding. The effective date of a plan amendment may not be earlier than the first day of the fiscal quarter in which an approvable plan is submitted in accordance with § 309.35(f). The Secretary must approve the plan amendment before approving any additional funding.

\* \* \* \* \*

**§ 309.155 [Amended]**

■ 8. Section 309.155 is amended by removing paragraph (c) and redesignating paragraphs (d) through (g) as paragraphs (c) through (f).

**§ 309.170 [Amended]**

■ 9. Section 309.170 is amended by:

■ a. Adding the word “and” at the end of paragraph (b)(7);

■ b. Removing paragraph (b)(8); and

■ c. Redesignating paragraph (b)(9) as paragraph (b)(8).

**PART 310—COMPUTERIZED TRIBAL IV–D SYSTEMS AND OFFICE AUTOMATION**

■ 10. The authority citation for part 310 continues to read as follows:

**Authority:** 42 U.S.C. 655(f) and 1302.

■ 11. Section 310.20 is amended by:

■ a. Revising paragraph (a) introductory text; and

■ b. Removing the semicolons at the ends of paragraphs (a)(1), (a)(2)(v), and (a)(5) and (6) and adding periods in their places.

The revision reads as follows:

**§ 310.20 What are the conditions for funding the installation, operation, maintenance and enhancement of Computerized Tribal IV–D Systems and Office Automation?**

(a) *Conditions that must be met for FFP at the applicable matching rate in § 309.130(c) of this chapter for Computerized Tribal IV–D Systems.* The following conditions must be met to obtain 100 percent FFP in the costs of installation of the Model Tribal IV–D

System and FFP at the applicable matching rate under § 309.130(c) of this chapter in the costs of operation, maintenance, and enhancement of a Computerized Tribal IV–D System:

\* \* \* \* \*

[FR Doc. 2024–02110 Filed 2–9–24; 8:45 am]

**BILLING CODE 4184–42–P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 231215–0305; RTID 0648–XD718]

**Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From North Carolina to Virginia**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; quota transfer.

**SUMMARY:** NMFS announces that the State of North Carolina is transferring a portion of its 2024 commercial summer flounder quota to the Commonwealth of Virginia. This adjustment to the 2024 fishing year quota is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) quota transfer provisions. This announcement informs the public of the revised 2024 commercial quotas for North Carolina and Virginia.

**DATES:** Effective February 9, 2024, through December 31, 2024.

**FOR FURTHER INFORMATION CONTACT:** Laura Deighan, Fishery Management Specialist, (978) 281–9184.

**SUPPLEMENTARY INFORMATION:** Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.111. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102 and final 2024 allocations were published on December 21, 2023 (88 FR 88266).

The final rule implementing amendment 5 to the Summer Flounder FMP, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to