

§ 205.56 Requirements governing the use of income and eligibility information.

A State plan under title I, IV-A, X, XIV, or XVI (AABD) of the Social Security Act must provide that:

(a) The State agency will use the information obtained under § 205.55, in conjunction with other information, for:

(1) Determining individuals' eligibility for assistance under the State plan and determining the amount of assistance. States wishing to exclude categories of information items from follow-up must submit for the Secretary's approval a follow-up plan describing the categories of information items which it proposes to exclude. For each category, the State must provide a reasonable justification that follow-up is not cost-effective. A formal cost-benefit analysis is not required. A State may exclude information items from the following data sources without written justification if followed up previously from another source: Unemployment compensation information received from the Internal Revenue Service, and earnings information received from the Social Security Administration. Information items in these categories which are not duplicative, but provide new leads, may not be excluded without written justification. A State may submit a follow-up plan or alter its plan at any time by notifying the Secretary and submitting the necessary justification. The Secretary will approve or disapprove categories of information items to be excluded under the plan within 60 days of its submission. Those categories approved by the Secretary will constitute an approved State follow-up plan for IEVS. For those information items not excluded from follow-up,

(i) The State agency shall review and compare the information obtained from each data exchange against information contained in the case record to determine whether it affects the applicant's or the recipient's eligibility or the amount of assistance.

(ii) The State agency shall verify that the information is accurate and applicable to case circumstances either through the applicant or recipient or through a third party, if such verification is determined appropriate based on agency experience or is required under paragraph (b) of this section.

(iii) For applicants, if the information is received during the application period, the State agency shall use such information, to the extent possible, in making the eligibility determination.

(iv) For individuals who are recipients when the information is received or for whom a decision could not be made prior to authorization of benefits, the State agency shall within forty-five (45) days of its receipt, initiate a notice of case action or an entry in the case record that no case action is necessary, except that: Completion of action may be delayed beyond forty-five (45) days on no more than twenty (20) percent of the information items targeted for follow-up, if:

(A) The reason that the action cannot be completed within forty-five (45) days is the nonreceipt of requested third-party verification; and

(B) Action is completed promptly, when third party verification is received or at the next time eligibility is redetermined, whichever is earlier. If action is completed when eligibility is

redetermined and third party verification has not been received, the State agency shall make its decision based on information provided by the recipient and any other information in its possession.

(v) The State agency shall use appropriate procedures to monitor the timeliness requirements specified in this subparagraph;

(2) Investigations to determine whether recipients received assistance under the State plan to which they were not entitled; and

(3) Criminal or civil prosecutions based on receipt of assistance under the State plan to which recipients were not entitled.

(b)(1) State agencies shall not take any adverse action to terminate, deny, suspend or reduce benefits to an applicant or recipient, based on information produced by a Federal computer matching program that is subject to the requirements in the Computer Matching and Privacy Protection Act (CMPPA) unless (i) The information has been independently verified in accordance with the independent verification requirements set out in the State agency's written agreement as required by § 205.58 or (ii) The independent verification requirement has been waived by the Department's Data Integrity Board.

(2) The CMPPA defines a matching program as any computerized comparison of (i) Two or more automated systems of records or a system of records with non-Federal records for the purpose of (A) Establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or (B) Recouping payments or delinquent debts under such Federal benefit programs, or (ii) Two or more automated Federal personnel or payroll system of records or a system of Federal personnel or payroll record with non-Federal records.

(c) If the agency intends to reduce, suspend, terminate or deny benefits as a result of the actions taken pursuant to this section, the agency must provide notice and the opportunity for a fair hearing in accordance with § 205.10(a).

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