

§ 302.33 Services to individuals not receiving title IV-A assistance.

(a) *Availability of Services.* (1) The State plan must provide that the services established under the plan shall be made available to any individual who:

(i) Files an application for the services with the IV-D agency. In an interstate case, only the initiating State may require an application under this section; or

(ii) Is a non-IV-A Medicaid recipient; or

(iii) Has been receiving IV-D services and is no longer eligible for assistance under the title IV-A, IV-E foster care, and Medicaid program.

(2) The State may not require an application, other request for services or an application fee from any individual who is eligible to receive services under paragraphs (a)(1) (ii) and (iii) of this section. If an individual receiving services under paragraph (a)(1)(iii) of this section refuses services in response to a notice under paragraph (a)(4) of this section, and subsequently requests services, that individual must file an application and pay an application fee.

(3) The State may not charge fees or recover costs from any individual who is eligible to receive services under paragraph (a)(1)(ii) of this section.

(4) Whenever a family is no longer eligible for assistance under the State's title IV-A and Medicaid programs, the IV-D agency must notify the family, within 5 working days of the notification of ineligibility, that IV-D services will be continued unless the family notifies the IV-D agency that it no longer wants services but instead wants to close the case. This notice must inform the family of the benefits and consequences of continuing to receive IV-D services, including the available services and the State's fees, cost recovery, and distribution policies. This requirement to notify the family that services will be continued, unless the family notifies the IV-D agency to the contrary, also applies when a child is no longer eligible for IV-E foster care, but only in those cases that the IV-D agency determines that such services and notice would be appropriate.

(5) The State must provide all appropriate IV-D services, in addition to IV-D services related to securing medical support, to all individuals who are eligible to receive services under paragraph (a)(1)(ii) of this section unless the individual notifies the State that only IV-D services related to securing medical support are wanted.

(6) The State may elect in its State plan to allow an individual under paragraph (a)(1)(i) of this section who files an application to request paternity-only limited services in an intrastate case. If the State chooses this option, the State must define how this process will be implemented and must establish and use procedures, including domestic violence safeguards, which are reflected in a record, that specify when paternity-only limited services will be available. An application will be considered full-service unless the parent specifically applies for paternity-only limited services in accordance with the State's procedures. If one parent specifically requests paternity-only limited services and the other parent requests full services, the case will automatically receive full services. The State will be required to charge the application and service fees required under

paragraphs (c) and (e) of this section for paternity-only limited services, and may recover costs in accordance with paragraph (d) of this section if the State has chosen this option in its State plan. The State must provide the applicant an application form with information on the availability of paternity-only limited services, consequences of selecting this limited service, and an explanation that the case will be closed when the limited service is completed.

(b) *Definitions.* For purposes of this section:

Applicant's income means the disposable income available for the applicant's use under State law.

(c) *Application fee.* (1) Beginning October 1, 1985, the State plan must provide that an application fee will be charged for each individual who applies for services under this section. Under this paragraph:

(i) The State shall collect the application fee from the individual applying for IV-D services or pay the application fee out of State funds.

(ii) The State may recover the application fee from the noncustodial parent who owes a support obligation to a non-IV-A family on whose behalf the IV-D agency is providing services and repay it to the applicant or itself.

(iii) State funds used to pay an application fee are not program expenditures under the State plan but are program income under § 304.50 of this chapter.

(iv) Any application fee charged must be uniformly applied on a statewide basis and must be:

(A) A flat dollar amount not to exceed \$25 (or such higher or lower amount as the Secretary may determine to be appropriate for any fiscal year to reflect increases or decreases in administrative costs); or

(B) An amount based on a fee schedule not to exceed the flat dollar amount specified in paragraph (c)(2)(iv)(A) of this section. The fee schedule must be based on the applicant's income.

(v) The State may allow the jurisdiction that collects support for the State under this part to retain any application fee collected under this section.

(2) In an interstate case, the application fee is charged by the State where the individual applies for services under this section.

(d) *Recovery of costs.* (1) The State may elect in its State plan to recover any costs incurred in excess of any fees collected to cover administrative costs under the IV-D State plan. A State which elects to recover costs shall collect on a case by case basis either excess actual or standardized costs:

(i) From the individual who owes a support obligation to a non-IV-A family on whose behalf the IV-D agency is providing services under this section; or

(ii) From the individual who is receiving IV-D services under paragraph (a)(1) (i) or (iii) of this section, either directly or from the support collected on behalf of the individual, but only if the State has in effect a procedure for informing all individuals authorized within the State to establish an obligation for support that the State will recover costs from the individual receiving IV-D services under paragraphs (a)(1) (i) and (iii) of this section.

(2) A State that recovers standardized costs under paragraph (d)(1) of this section shall develop a methodology, which is reflected in a record, to determine standardized costs which are as close to actual costs as is possible. This methodology must be made available to any individual upon request.

(3) The IV-D agency shall not treat any amount collected from the individual as a recovery of costs under paragraph (d)(1)(i) of this section except amounts which exceed the current support owed by the individual under the obligation.

(4) If a State elects to recover costs under paragraph (d)(1)(ii) of this section, the IV-D agency may attempt to seek reimbursement from the individual who owes a support obligation for any costs paid by the individual who is receiving IV-D services and pay all amounts reimbursed to the individual who is receiving IV-D services.

(5) If a State elects to recover costs under this section, the IV-D agency must notify, consistent with the option selected, either the individual who is receiving IV-D services under paragraphs (a) (1) (i) or (iii) of this section, or the individual who owes a support obligation that such recovery will be made. In an interstate case, the IV-D agency where the case originated must notify the individual receiving IV-D services of the States that recover costs.

(6) The IV-D agency must notify the IV-D agencies in all other States if it recovers costs from the individual receiving IV-D services.

(e) *Annual collection fee.* (1) A State must impose in, and report for, a Federal fiscal year an annual fee of \$35 for each case if there is an individual in the case to whom IV-D services are provided and:

(i) For whom the State has collected and disbursed to the family at least \$550 of support in that year; and

(ii) No individual in the case has received assistance under a former State AFDC program, assistance as defined in § 260.31 under a State TANF program, or assistance as defined in § 286.10 under a Tribal TANF program.

(2) The State must impose the annual \$35 fee in international cases under section 454(32) of the Act in which the criteria for imposition of the annual \$35 fee under paragraph (1) of this section are met.

(3) For each Federal fiscal year, after the first \$550 of support is collected and disbursed to the family, the fee must be collected by one or more of the following methods:

(i) Retained by the State from support collected in cases subject to the fee in accordance with distribution requirements in § 302.51(a)(5) of this part, except that no cost will be assessed for such services against:

(A) A foreign obligee in an international case receiving IV-D services pursuant to section 454(32)(C) of the Act; and

(B) An individual who is required to cooperate with the IV-D program as a condition of Food Stamp eligibility as defined at § 273.11(o) and (p) of title 7;

(ii) Paid by the individual applying for services under section 454(4)(A)(ii) of the Act and implementing regulations in this section, provided that the individual is not required to cooperate with the IV-D program as a condition of Food Stamp eligibility as defined at § 273.11(o) and (p) of title 7;

(iii) Recovered from the noncustodial parent, provided that the noncustodial parent is not an individual required to cooperate with the IV-D program as a condition of Food Stamp eligibility as defined at § 273.11(o) and (p) of title 7; or

(iv) Paid by the State out of its own funds.

(4) The State must report, in accordance with § 302.15 of this part and instructions issued by the Secretary, the total amount of annual \$35 fees imposed under this section for each Federal fiscal year as program income, regardless of which method or methods are used under paragraph (3) of this section.

(5) State funds used to pay the annual \$35 fee shall not be considered administrative costs of the State for the operation of the title IV-D plan, and all annual \$35 fees imposed during a Federal fiscal year must be considered income to the program, in accordance with § 304.50 of this chapter.

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