

practitioners, but the State does define qualifications for nurses in advanced practice or general nurse practitioners, the practitioner must—

- (i) Meet qualifications for nurses in advanced practice or general nurse practitioners as defined by the State; and
- (ii) Have a family nurse practice limited to providing primary health care to individuals and families.

(d) *Payment for nurse practitioner services.* The Medicaid agency must reimburse nurse practitioners for their services in accordance with § 441.22(c) of this subchapter.

4. In § 440.210, the introductory text of paragraph (a) and paragraph (a)(1) are revised to read as follows:

§ 440.210 Required services for the categorically needy.

(a) A State plan must specify that, at a minimum, categorically needy recipients are furnished the following services:

- (1) The services defined in §§ 440.10 through 440.50, 440.70, and (to the extent nurse-midwives and nurse practitioners are authorized to practice under State law or regulation) the services defined in §§ 440.165 and 440.166, respectively.

* * * * *

5. A new § 440.225 is added to read as follows:

§ 440.225 Optional services.

Any of the services defined in subpart A of this part that are not required under §§ 440.210 and 440.220 may be furnished under the State plan at the State's option.

B. Part 441 is amended as follows:

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

1. The authority citation for part 441 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. Section 441.10 is revised to read as follows:

§ 441.10 Basis.

This subpart is based on the following sections of the Act which state requirements and limits on the services specified or provide Secretarial authority to prescribe regulations relating to services:

- (a) Section 1102 for end-stage renal disease (§ 441.40).
- (b) Section 1138(b) for organ procurement organization services (§ 441.13(c)).

(c) Sections 1902(a)(10)(A) and 1905(a)(21) for nurse practitioner services (§ 441.22).

(d) Sections 1902(a)(10)(D) and 1905(a)(7) for home health services (§ 441.15).

(e) Section 1903(i)(1) for organ transplant procedures (§ 441.35).

(f) Section 1903(i)(5) for certain prescribed drugs (§ 441.25).

(g) Section 1903(i)(6) for prohibition (except in emergency situations) of FFP in expenditures for inpatient hospital tests that are not ordered by the attending physician or other licensed practitioner (§ 441.12).

(h) Section 1905(a)(4)(C) for family planning (§ 441.20).

(i) Sections 1905 (a)(12) and (e) for optometric services (§ 441.30).

(j) Section 1905(a)(17) for nurse-midwife services (§ 441.21).

(k) Section 1905(a) (following (a)(24)) for prohibition of FFP in expenditures for certain services (§ 441.13).

3. A new § 441.22 is added to read as follows:

§ 441.22 Nurse practitioner services.

With respect to nurse practitioner services that meet the definition of § 440.166(a) and the requirements of either § 440.166(b) or § 440.166(c), the State plan must meet the following requirements:

- (a) Provide that nurse practitioner services are furnished to the categorically needy.
- (b) Specify whether those services are furnished to the medically needy.
- (c) Provide that services furnished by a nurse practitioner, regardless of whether the nurse practitioner is under the supervision of, or associated with, a physician or other health care provider, may—

(1) Be reimbursed by the State Medicaid agency through an independent provider agreement between the State and the nurse practitioner; or

(2) Be paid through the employing provider.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: August 30, 1994.

Bruce C. Vladeck,
Administrator, Health Care Financing Administration.

Dated: January 24, 1995.

Donna E. Shalala,
Secretary.

[FR Doc. 95-9954 Filed 4-20-95; 8:45 am]
BILLING CODE 4120-01-P

Administration for Children and Families

45 CFR Part 212

RIN 0970-AB45

Assistance for United States Citizens Returned From Foreign Countries

AGENCY: Administration for Children and Families, HHS, Office of Refugee Resettlement.

ACTION: Final rule.

SUMMARY: This rule amends the regulations for the U.S. Repatriate Program. Under the U.S. Repatriate Program, State agencies provide assistance to groups of United States citizens who are returned from foreign countries to the United States by the Department of State due to war, threat of war, civil disorder, or natural disaster. This rule requires such agencies to request and obtain advance approval from the Administration for Children and Families (ACF) to incur expenses for developing and preparing to implement repatriation plans for groups of eligible persons. This rule is necessary in order for ACF to provide appropriate oversight of the limited funding available for such activities.

EFFECTIVE DATE: This rule is effective May 22, 1995.

FOR FURTHER INFORMATION CONTACT: David B. Smith, Director, Division of State Legalization and Repatriation, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, SW., 6th floor, Washington, DC 20447. Telephone: 202-401-9255.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Repatriate Program is authorized by Section 1113 of the Social Security Act and is responsive to Executive Order 12656 regarding services provided to repatriated U.S. citizens. The program provides temporary assistance through State agencies to needy U.S. citizens and their dependents who are returned to the United States by the Department of State for reasons of destitution, illness, war, threat of war, invasion, civil unrest, or natural disaster in a foreign country. Under current law and regulations, assistance provided through the program to repatriates must be repaid to the United States Government unless the Administration for Children and Families specifically waives this requirement.

Group Repatriation

When groups of U.S. citizens and their dependents must be evacuated from foreign countries and returned to the United States due to war, threat of war, invasion, civil unrest, or natural disaster, States provide the necessary reception and assistance. These repatriation events are generally referred to as Group Repatriations. In the event that the President declares a national security emergency under Executive Order 12656, "Assignment of Emergency Preparedness Responsibilities," the Secretary of Health and Human Services is required to coordinate such a repatriation. This type of group repatriation is referred to as Emergency Repatriation.

In response to E.O. 12656, the U.S. Repatriate Program has developed a National Emergency Repatriation Plan which calls for States to develop their own Emergency Repatriation Plans. Under these plans, the States provide the logistical arrangements for receiving U.S. citizens repatriated as part of a declared national security emergency and for providing assistance for their travel to their final destinations. The States also provide necessary assistance to ensure the immediate welfare of the repatriates. States' Emergency Repatriation Plans are activated upon the request of the Secretary if, and only if, the President declares a national security emergency under E.O. 12656.

The States' Emergency Repatriation Plans are suitable for use when groups of American citizens are evacuated due to war or threat of war, invasion or other civil violence, or natural disaster in foreign countries—but a national security emergency is not declared under Executive Order 12656. The U.S. Repatriate Program recognizes that States could use these plans as both Emergency Repatriation Plans and Group Repatriation Plans, and encourages them to do so.

Administrative Costs

The statutory authority, as well as the current regulations, provide that States or other agencies providing repatriation assistance be reimbursed by the U.S. Repatriate Program for their administrative expenses. Since funds are limited and since group/emergency repatriations are relatively rare events, the Administration for Children and Families (ACF) wishes to ensure that the amount of administrative expenses incurred by States in advance planning or preparing for receiving group repatriations is reasonable and appropriate.

To this end, ACF published a notice of proposed rulemaking on August 19, 1994 (59 FR 42795). In the NPRM, we proposed that, if States wish to be reimbursed for their administrative expenses, they must seek and receive prior approval from ACF before incurring expenses associated with developing group/emergency repatriation plans. We further proposed that States must also receive prior approval to be reimbursed for the costs of preparing to implement the plans, such as conducting training exercises or making physical preparations to a reception site, unless notified by the Assistant Secretary that such preparations are necessary due to a crisis in a foreign country.

Comments and Response on Advance Approval Requirement

We received four comments on the proposed rule. One of the commenters agreed that the existing emergency plan should operate as a group repatriation plan, and enclosed a copy of the State's staff critique of the repatriation process experienced during the Persian Gulf evacuation. The commenter hoped that the points made in the letter would be addressed in guidelines for any group repatriation of U.S. citizens. We appreciate these suggestions, and will take them into consideration when addressing benefit levels and other aspects of providing services to repatriates during a group/emergency repatriation.

The three remaining commenters took issue with our proposal based on a misunderstanding of its provisions. Two commenters mistakenly took the proposal that States seek and receive prior approval before incurring administrative costs in advance planning for an emergency/group repatriation to mean that this requirement would apply in the event of an actual emergency or crisis situation. One commented, "The very nature of an emergency repatriation does not lend itself to pre-approval," while the other commented, "States are due reimbursement for activities in this regard and this proposed rule appears to be an attempt to place barriers to access."

Although the third comment pointed out the differences between advance planning and actual implementation, it also thought prior approval applied to both, noting that the proposed approval process " * * * is an appropriate request in relation to a state's planning in the absence of an impending event. However, we believe the process outlined is unreasonable when an immediate response is required." This

view is a misunderstanding of the proposal which was not intended to apply to activities undertaken in response to an actual repatriation event.

The third commenter proposed additional language to clarify the intent of the proposal. With some modification, we have adopted the language of this commenter and incorporated it into the final rule, which now makes clear that prior approval is not required for administrative expenditures incurred by a State in implementing approved repatriation plans as a result of Federal notification that an evacuation may be necessary due to a crisis in a foreign country.

Format for the Request

In order to keep administrative requirements to a minimum, we did not propose any particular format for States to request approval. In submitting a written request for reimbursement of administrative expenses in advance of incurring costs, a State may use any format the State chooses. States should include an estimate of the expenses they will incur, along with a description of the activities to be undertaken and a rationale for the expenditure.

ACF review of the request will consist of (1) determining if the activities are, in fact, necessary, and (2) evaluating whether the estimated cost is reasonable for the activities to be conducted.

Technical Amendments

We are also making technical changes throughout 45 CFR part 212 to update references to the office's designation and the agency official's title.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act (Public Law 96-354) requires the Federal Government to anticipate and reduce the impact of regulations and paperwork requirements on small entities.

The primary impact of this rule is on State governments. Therefore, we certify that this rule does not have a significant economic impact on a substantial number of small entities because it would simply require agencies to obtain advance approval before incurring administrative costs in developing implementation plans for the repatriation of groups of eligible individuals. Thus, a regulatory flexibility analysis is not required.

Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. ACF determined that this rule is

consistent with these priorities and principles. An assessment of the costs and benefits of available regulatory alternatives (including not regulating) demonstrated that the approach taken in the regulation is the most cost effective and least burdensome while still achieving the regulatory objectives.

Paperwork Reduction Act

This final rule would require States to submit information regarding their activities and estimated costs for ACF approval prior to the incurring of administrative expenses for planning and preparing to implement group/emergency repatriation procedures. The Office of Management and Budget (OMB) clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) has been requested.

(Catalog of Federal Domestic Assistance Program No. 93.579, U.S. Repatriate Program)

List of Subjects in 45 CFR Part 212

Administrative cost, Repatriation, Reporting and recordkeeping requirements, Social Security Act, U.S. Repatriate Program.

Approved: April 4, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

For the reasons set forth in the preamble, part 212 of subtitle B of title 45 of the Code of Federal Regulations is amended as follows:

PART 212—ASSISTANCE FOR UNITED STATES CITIZENS RETURNED FROM FOREIGN COUNTRIES

1. The authority citation for part 212 continues to read as follows:

Authority: Sec. 302, 75 Stat. 142, sec. 1102, 49 Stat. 647; 42 U.S.C. 1313, 1302.

2. Section 212.1 is amended by revising paragraph (d) and (e) to read as follows:

§ 212.1 General definitions.

* * * * *

(d) The term *Administration* means the Administration for Children and Families, Department of Health and Human Services;

(e) The term *Assistant Secretary* means the Assistant Secretary for Children and Families;

* * * * *

2. Section 212.8 is amended by redesignating the current text as paragraph (a), and by adding a new paragraph (b) to read as follows:

§ 212.8 Federal payments.

* * * * *

(b) To receive reimbursements, States, or other agencies, shall request and

receive prior approval from the Assistant Secretary for administrative expenses incurred in developing or preparing to implement repatriation plans for groups of eligible persons. Such requests should include a description of the activities to be undertaken, an estimate of the expenses and a rationale for the expenditures. In reviewing requests, the Assistant Secretary will consider the necessity and reasonableness of the costs. Prior approval is not required for administrative expenditures incurred by a State in implementing approved repatriation plans as a result of Federal notification that an evacuation may be necessary.

§§ 212.1, 212.2, 212.8 and 212.9 [Amended]

4. In addition to the amendments set forth above, in 45 CFR 212 remove the word "Administrator" and add, in its place, the words "Assistant Secretary" in the following places: (a) Section 212.1(i); (b) Section 212.2; (c) section 212.8, as redesignated; and (d) Section 212.9 (a)(4) and (b).

§§ 212.3 and 212.10 [Amended]

5. Also, in 45 CFR 212 remove the words "the Service" and add, in their place, the words "the Administration" in the following places: (a) Section 212.3(b); and (b) Section 212.10(b).

[FR Doc. 95-9913 Filed 4-20-95; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 950206040-5040-01; I.D. 041795A]

Groundfish of the Bering Sea and Aleutian Islands Area; Pacific Ocean Perch in the Aleutian Islands Subarea

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific ocean perch (POP) in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the POP total allowable catch (TAC) in the AI.

EFFECTIVE DATE: Effective 12 noon, Alaska local time (A.l.t.), April 17, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii) the POP TAC for the AI was established by the final groundfish specifications (60 FR 8479, February 14, 1995) as 8,925 metric tons (mt).

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the POP TAC in the AI soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 6,925 mt, with consideration that 2,000 mt will be taken as incidental catch in directed fishing for other species in the AI. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for POP in the AI.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 17, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95-9862 Filed 4-17-95; 4:53 pm]

BILLING CODE 3510-22-F

50 CFR Part 675

[Docket No. 950206040-5040-01, I.D. 041795B]

Groundfish of the Bering Sea and Aleutian Islands Area; Trawl Rock Sole/Flathead Sole/"Other Flatfish" Fishery Category

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

ACTION: Closure.