

the provisions of new section 1861(v)(1)(S) of the Act and revised section 1881(b)(2)(C) of the Act and to notify the public of this changes, there is no impact on hospitals that is attributable to this rule. For these reasons, we have determined that a final regulatory impact analysis is not required. In addition, we have determined, and the Secretary certifies, that this rule will not result in a significant economic impact on a substantial number of small entities. Therefore, we have not prepared a regulatory flexibility analysis.

### III. Other Required Information

#### A. Paperwork Reduction Act

These changes will not impose information collection requirements; consequently, they need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3511).

#### B. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the Federal Register and provide a period for public comment. Such notices include a statement of the time, place, and nature of rulemaking proceedings, reference to the legal authority under which the rule is proposed, and the terms or substance of the proposed rule or a description of the subjects and issues involved. However, we may waive that procedure if we find good cause that such a notice-and-comment procedure is impractical, unnecessary, or contrary to the public interest, and incorporate a statement of the finding and its reasons in the rule issued.

The purpose of this final rule is to conform § 413.157 of our regulations with the precise provisions of sections 1861(v)(1)(S) and 1881(b)(2)(C) of the Act and to notify the public of these changes in the Act that prohibit all allowance for the return of equity capital for outpatient services furnished by proprietary hospitals. Because these changes are effective January 1, 1988 and the law provides no Secretarial discretion in implementation, affording a proposed rulemaking process is impractical and not in the public interest because the only effect would be to withhold notification of the changes in the Act. Therefore, we find good cause to waive proposed rulemaking and to issue these regulations as final.

#### C. Opportunity for Comment

We routinely provide an opportunity for public comment when issuing Medicare rules. This final rule, which

conforms § 413.157 with sections 1861(v)(1)(S) and 1881(b)(2)(C) of the Act, embodies essentially the same policy contained in the final rule we issued on this same subject on September 1, 1987. In that document, we responded to issues raised by public comment on the notice of proposed rulemaking (June 5, 1987; 52 FR 21330). Thus, we are merely reissuing a final rule that sets forth the same policy upon which the public has previously been afforded an opportunity to comment. Therefore, we find good cause for not affording additional opportunity for public comment since it would be unnecessary.

#### List of Subjects in 42 CFR Part 413

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 413 is amended as set forth below:

#### PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

A. The authority citation for Part 413 continues to read as follows:

Authority: Secs. 1102, 1122, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, and 1886 of the Social Security Act as amended (42 U.S.C. 1302, 1320a-1, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, and 1395ww).

B. Section 413.157 is amended by redesignating paragraph (b)(4) as new paragraph (b)(5), and adding a new paragraph (b)(4) to read as follows:

#### § 413.157 Return on equity capital of proprietary providers.

(b) General rule. \* \* \*

(4) Rate of return related to outpatient hospital services. (i) For cost reporting periods beginning on or after October 1, 1985, the rate used in determining the return for outpatient hospital services furnished before January 1, 1988 is a percentage equal to the average of the rates of interest described in paragraph (b)(1) of this section.

(ii) There is no allowance for return for outpatient hospital services furnished on or after January 1, 1988.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: February 11, 1988.

William L. Roper,  
Administrator, Health Care Financing  
Administration.

Approved: March 14, 1988.

Otis R. Bowen,  
Secretary.

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## LEGAL SERVICES CORPORATION

### 45 CFR Part 1611

#### Eligibility; Income Level for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final Rule.

**SUMMARY:** The Legal Services Corporation is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the official Federal Poverty Income Guidelines as defined by the Department of Health and Human Services.

**EFFECTIVE DATE:** April 12, 1988.

**FOR FURTHER INFORMATION CONTACT:** Timothy B. Shea, General Counsel, Legal Services Corporation, 400 Virginia Avenue SW., Washington, DC 20025-2571; (202) 863-1823.

**SUPPLEMENTARY INFORMATION:** Section 1007(a)(2) of the Legal Services Corporation Act, 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that income shall be taken into account along with other specified factors. Section 1611.3(b) of the Corporation's Regulations establishes a maximum income level equivalent to one-hundred and twenty-five percent (125%) of the official Federal Poverty Income Guidelines as defined by the Office of Management and Budget. Responsibility for revision of the official Federal Poverty Income Guidelines was shifted in 1982 from the Office of Management and Budget to the Department of Health and Human Services. The revised figures for 1988 equivalent to 125% of the current official Poverty Income Guidelines as set out at 53 FR 4214 (Feb. 12, 1988) are set forth below:

#### List of Subjects in 45 CFR Part 1611

Legal services.

**PART 1611—ELIGIBILITY**

1. The authority citation for Part 1611 continues to read as follows:

Authority: Secs. 1006(b)(1), 1007(a)(1), 1007(a)(2) Legal Services Corporation Act of 1974, as amended, 42 U.S.C. 2996e(b)(1), 2996f(a)(1), 2996f(a)(2).

2. Appendix A of Part 1611 is revised to read as follows:

**Appendix A of Part 1611—Legal Services Corporation Poverty Guideline**

Size of family unit	All States but Hawaii and Alaska <sup>1</sup>	Alaska <sup>2</sup>	Hawaii <sup>3</sup>
1.....	7,212	9,012	8,312
2.....	9,662	12,075	11,125
3.....	12,112	15,137	13,937
4.....	14,562	18,200	16,750
5.....	17,012	21,262	19,562
6.....	19,462	24,325	22,375
7.....	21,912	27,387	25,187
8.....	24,362	30,450	28,000

<sup>1</sup> For family units with more than eight members, add \$2,450 for each additional member in a family.

<sup>2</sup> For family units with more than eight members, add \$3,062 for each additional member in a family.

<sup>3</sup> For family units with more than eight members, add \$2,812 for each additional member in a family.

Dated: April 6, 1988.

Timothy B. Shea,

General Counsel.

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