Disasters/Civil Disorders and Strikes

Duration will be measured by the number of months the event had an adverse impact on program operations. Intensity of these unusual events will be a proportional measurement of the issuances for the counties affected to the State's total issuance. The amount of the waiver of liability will be determined using the following linear equation: Ia/Ib × [M/12 or Mp/18] × L where; Ia is the issuance for the first full month immediately preceding the unusual event for the county affected; Ib is the State's total issuance for the first full month immediately preceding the unusual event; M/12 is number of months in the subject fiscal year that the unusual event had an adverse impact on program operations; Mp/18 is the number of months in the last half (April through September) of the prior fiscal year that the unusual event had an adverse impact on program operations; L is the total amount of the liability for the fiscal year.

For example, a tornado hits County A on 5/15, and the County is declared a Federal disaster area. Program operations in this county were adversely impacted for 3 months. In addition, a significant number of program staff from County B were diverted for 1 month to handle the crises in County A. Issuance figures for the month of April were: 2,000,000 (A); 1,900,000 (B); 38,500,000 (Statewide). The liability for the fiscal yr. was $3,300,000. The above formula is applied as follows: County A—[2,000,000/38,500,000] × 3/12 × 3,300,000 OR; .05195 × .25 × 3,300,000 = $42,858 credit to the liability. County B—[1,900,000/38,500,000] × 1/12 × 3,300,000 OR; .04935 × .08333 × 3,300,000 = $13,571 credit to the liability. Total credit to the liability is $56,429 ($42,858 + $13,571). This results in a revised liability for the State agency of $3,243,571 ($3,300,000—$56,429).

Significant Growth in Food Stamp Caseload

Duration and intensity will be measured by the degree to which caseload growth, statewide, exceeds 15 percent during the 12 month period from April of the prior fiscal year through March of the subject fiscal year, and by the degree to which a State's error rate exceeds the national performance measure. The amount of waiver of liability will be determined using a ratio of the percentage of caseload increase from a 12 month base period to the percentage the State's error rate exceeds the national performance measure.

This proportional measurement is based on procedures similar to the ''sliding scale'' used for the determination of liability amounts, and incorporates a floating national average which accounts for those factors that are common to all States. Using the error rate in this calculation allows greater consideration for a State agency that effectively manages caseload growth. As a result, a State agency with an error rate barely exceeding the national performance measure and an 18 percent increase in caseload growth will receive a proportionally larger waiver amount than a State agency with the same percentage of caseload growth but with an error rate greatly exceeding the national performance measure.

Under this alternate methodology, requisite caseload growth will be determined statewide rather than by individual counties. The Department recognizes that an individual county, because of its size, may drive the error rate for the State as a whole. The State agency may still use the impact of caseload growth in individual counties on the State's error rate to pursue good cause relief under the primary criterion. With the improvements in automated systems for data analysis, State agencies should have little difficulty in demonstrating the impact on the error rate when the impact is significant. The Department has designed the alternate methodology for use when the impact of an unusual event on the error rate is more difficult to isolate and distinguish.

Caseload growth occurring in the last half of the subject fiscal year will not be considered under the alternate methodology. The Department believes caseload growth occurring in the six month period prior to the subject fiscal year and in the beginning of the subject fiscal year will have a greater potential for disrupting Program operations as more months will be affected than will caseload growth occurring at the end of the fiscal year. For example, an increase in caseload growth prior to the subject fiscal year will have an impact on the error rate for the entire 12 months while caseload growth in the last month of the fiscal year will have an impact for only 1 month. If the State agency can demonstrate the effects of caseload growth in the last half of the subject fiscal year, it may do so under primary criterion.

The Department is proposing to modify the alternate methodology by using an average of 12 months as the base period from which caseload growth is measured rather than the 1 month base period that is currently used. An average of 12 months takes into account normal fluctuations in growth occurring over a period of time, and provides a more accurate indication of actual growth than does 1 month.

These methodologies are described in full in the regulatory section of this proposed rule.

In the application of the criteria and methodology, the mere existence of an unusual event specified under good cause relief is not, by itself, sufficient to establish a determination of good cause. Congressional intent is explicit in stating that a determination of good cause is contingent upon the following 3 conditions:

(1) An unusual event must occur. As previously stated, good cause relief is only appropriate for events affecting individual State agencies and exceeding a national norm. The national performance measure which floats from year to year provides relief for those factors that are common to all States. Certain events may be common to all States but have a significantly different impact on State agencies for a variety of reasons. For example, while all State agencies are required to implement new regulations, an individual State agency may be disproportionately affected by the program change due to the State's caseload demographics. New regulations affecting Native American households on reservations, for instance, would have an extensive impact on State agencies with a large population of such food stamp households. In these situations, the State agency needs to demonstrate the disproportionate effect caused by the unusual event. Good cause relief will be considered to the extent the unusual event has an uncontrollable impact on a State's error rate beyond the relief that is already provided through the national performance measure.

(2) The event must have an uncontrollable impact on errors. For example, during the middle of a review period, several counties within a state are declared Federal disaster areas due to massive flooding. This disaster occurs shortly after the expiration of the variance exclusion period for a new regulation which the State agency implemented timely but incorrectly. Subsequent to the disaster, there is a significant increase in the error rate. Data analysis show that the increase in the error rate was attributable to the State's incorrect implementation of the regulation. Even though there was a Federally declared disaster, a good cause determination is not appropriate, in this example, because the increase in the error rate resulted from a factor that was not associated with the unusual event. Good cause relief will be considered only for that portion of the