

completing active cases reported as not completed due to household refusal to cooperate.

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(4) *Arbitration.* (i) Whenever the State agency disagrees with the FCS regional office concerning individual QC case findings and the appropriateness of actions taken to dispose of an individual case, the State agency may request that the dispute be arbitrated on a case-by-case basis by an FCS Arbitrator, subject to the following limitations.

(A) The State agency may only request arbitration when the State agency's and FCS regional office's findings or disposition of an individual QC case disagree.

(B) The arbitration review shall be limited to the point(s) within the Federal findings or disposition that the State agency disputes. However, if the arbitrator in the course of the review discovers a mathematical error in the computational sheet, the arbitration shall correct the error while calculating the allotment.

(C) The State agency shall only be eligible to request arbitration of the Federal findings or disposition of an individual case if that case was disposed of and the findings reported in accordance with the timeframes specified in § 275.21(b)(2). An exception shall be made for cases which fail to meet the timeframes specified in § 275.21(b)(2) if the cases were originally disposed of by the State agency, in a timely manner, as incomplete due to refusal-to-cooperate on the part of the household. If the household later agrees to cooperate with the Quality Control reviewer, and the case is retransmitted into IQCS as completed, then the secondary disposition/findings shall not be subject to the timeliness of disposition restriction.

(ii) The FCS Arbitrator(s) shall be an individual or individuals who are not directly involved in the validation effort.

(iii) The State agency shall submit a request for arbitration, to be received by the appropriate FCS regional office within 10 calendar days of the date of receipt by the State agency of the regional office case findings. In the event the last day of this time period falls on a Saturday, Sunday, or Federal or State holiday, the period shall run to the end of the next work day.

(iv) When the State agency requests arbitration, it shall submit all required documentation to the appropriate FCS regional office addressed to the attention of the FCS Arbitrator. The FCS regional office QC staff may submit a

response to the State agency's request to the FCS Arbitrator.

(A) A complete request is one that contains all of the information that FCS requires. The following items shall be required:

(1) The request for arbitration and basic case information, which would include State, sample month and year, review number, review date, reporting and budgeting procedure, food stamp procedures for budgeting grants from the Aid to Families with Dependent Children Program, certification period, and calendar or fiscal month system.

(2) Information about the certification action under dispute, which would include initial certification or recertification, legible certification work papers, legible State agency quality control work papers, and legible regional office quality control work papers.

(3) Information about the State agency's specific issues, which would include the element under dispute, regulatory citations, handbook citations, policy memoranda, legislative implementation dates, applicable waivers, and verification of facts.

(B) If the State agency's request is not complete the arbitrator shall make a decision based solely on the available documents.

(v) The FCS Arbitrator shall have 35 calendar days from the date of receipt of a State agency's request for arbitration to review the case and make a decision.

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§ 275.11 [Amended]

5. In § 275.11:

a. the third sentence of paragraph (g) is amended by removing the reference to "275.25(e)(6)" and adding in its place a reference to "275.23(e)(8)";

b. the fourth sentence of paragraph (g) is amended by removing the reference to "275.25(c)" and adding in its place a reference to "275.23(c)".

6. In § 275.12:

a. the introductory text of paragraph (d)(2)(vii) is revised;

b. paragraph (d)(2)(vii)(A) is revised;

c. paragraph (d)(2)(vii)(D) is revised.

The revisions read as follows:

§ 275.12 Review of active cases.

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(d) *Variance identification.* * * *

(2) *Variances excluded from error analysis.* * * *

(vii) Subject to the limitations provided in paragraphs (d)(2)(vii)(A) through (d)(2)(vii)(F) of this section any variance resulting from application of a new Program regulation or implementing memorandum (if one is sent to advise State agencies of a change

in Federal law, in lieu of regulations) during the first 120 days from the required implementation date.

(A) When a regulation allows a State agency an option to implement prior to the required implementation date, the date on which the State agency chooses to implement may, at the option of the State, be considered to be the required implementation date for purposes of this provision. The exclusion period would be adjusted to begin with this date and end on the 120th day that follows. States choosing to implement prior to the required implementation date must notify the appropriate FCS Regional Office, in writing, prior to implementation that they wish the 120 day variance exclusion to commence with actual implementation. Absent such notification, the exclusionary period will commence with the required implementation date.

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(D) Regardless of when the State agency actually implemented the regulation, the variance exclusion period shall end on the 120th day following the required implementation date, including the required implementation date defined in paragraph (d)(2)(vii)(A) of this section.

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7. In § 275.21:

a. paragraph (b)(2) is revised;

b. the first sentence of paragraph (b)(4) is amended by removing the words "pending 95 days" and adding the words "pending 90 days" in their place.

The revision reads as follows:

§ 275.21 Quality control review reports.

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(b) *Individual cases.* * * *

(2) The State agency shall dispose of and report the findings of 90 percent of all cases selected in a given sample month so that they are received by FCS within 75 days of the end of the sample month. All cases selected in a sample month shall be disposed of and the findings reported so that they are received by FCS within 90 days of the end of the sample month. Without FCS approval, no active case shall be reported as not completed solely because the State agency was unable to process the case review in time for it to be reported in accordance with these timeframes.

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8. In § 275.23:

a. the last sentence of paragraph (d)(1)(iii) is amended by removing the reference to "(e)(6)(iii)" and adding in its place a reference to "(e)(8)(iii)";

b. paragraph (e)(1) is amended by removing the reference to "paragraph