

particularly important since the targeted assistance program is the last opportunity to use refugee program dollars to help long-term welfare recipients and other unemployed refugees into employment before they become time-ineligible for our program. Services to strengthen families and communities and to develop refugee leadership may be provided through refugee social service funds and ORR discretionary programs.

We agree that services that are designed to employ women must include child care services. We expect States to emphasize to their providers the need to arrange for child care as part of a family's self-sufficiency plan. Targeted assistance funding has always been available for child care. We have given special emphasis each year to the need for child care services in the notice of targeted assistance allocations to States.

**§ 400.319: Comment:** Four commenters objected to the proposed requirement that States with more than one qualifying TAP county that wish to allocate differently from the formula allocations presented in the ORR TAP notice, must allocate TAP funds based on the most recent 5-year refugee population. One commenter supported this requirement and recommended that States should not be allowed to allocate TAP funds based solely on the numbers of refugees receiving welfare. Two commenters suggested that States should be authorized to allocate social services and targeted assistance funds using welfare data.

**Response:** We believe it makes sense to require a State that wishes to re-allocate TAP funds to do so based on a population formula that is consistent with the population the TAP program is allowed to serve. Since this rule will limit eligibility for TAP services to refugees who have been in the U.S. 5 years or less, it is reasonable to require that funds be allocated based on the most recent 5-year refugee population. States may use welfare data as an additional factor, but not as the sole factor, in the allocation of targeted assistance funds if they so choose, without additional authorization; however, we do not require them to do so. A State that chooses to use welfare data in its allocation formula may not assign a greater weight to welfare data than it has assigned to population data.

#### General Comments

**Comment:** One commenter noted that the proposed rule does not allow for an MAA set-aside. The commenter recommended that there should be at least a 10–20% set-aside for MAAs and

that specific language be included which ensures that States and counties give funding priority to MAAs for service provision. The commenter also recommended that the regulation should include language that ensures that MAAs are treated as full partners in all refugee programs. Another commenter urged ORR to consider allocating resources for capacity building in communities that have an over-36-month refugee population. The commenter felt it would be particularly helpful to strengthen MAAs in order to better serve their communities.

**Response:** We do not believe that regulatory language is the appropriate way to ensure full and equal participation by MAAs in the refugee program. We plan to review our policy on MAAs and to develop a more comprehensive strategy regarding refugee community development over the next few years in order to help refugee communities develop their capacity to be viable, self-sustaining communities. As part of this effort, we will be reviewing the social service and targeted assistance allocations notices to determine if changes are needed to better ensure service funding to qualified MAAs.

**Comment:** One commenter recommended that ORR and JOBS staff consult to amend any JOBS regulations that may impede refugee AFDC recipients from enrollment in JOBS services. The commenter recommended allowing States with large refugee populations the option to make refugee AFDC recipients a JOBS target group.

**Response:** We intend to consult with JOBS staff on these issues.

**Comment:** One commenter expressed concern about the impact that the implementation of the proposed rule will have on the changes to the quarterly performance report (QPR) that ORR is proposing. The commenter recommended that ORR wait to make changes in the QPR reporting form until final decisions are reached on the proposed rule.

**Response:** Implementation of this rule will not have an adverse impact on the revised QPR. The final QPR form will be consistent, rather than at odds, with the new regulatory requirements.

#### Regulatory Procedures

##### 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. The Department has 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 rule does not contain collection-of-information requirements.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal government to anticipate and reduce the impact of regulations and paperwork requirements on small entities. The primary impact of these rules is on State governments and individuals. Therefore, we certify that these rules will not have a significant impact on a substantial number of small entities because they affect benefits to individuals and payments to States. Thus, a regulatory flexibility analysis is not required.

#### Statutory Authority

Section 412(a)(9) of the Immigration and Nationality Act, 8 U.S.C. 1522(a)(9), authorizes the Secretary of HHS to issue regulations needed to carry out the program.

(Catalogue of Federal Domestic Programs: 93.566, Refugee and Entrant Assistance—State-Administered Programs)

#### List of Subjects in 45 CFR Part 400

Grant programs—Social programs, Health care, Public assistance programs, Refugees, Reporting and recordkeeping requirements.

Dated: January 9, 1995.

**Mary Jo Bane,**

*Assistant Secretary for Children and Families.*

Approved: May 17, 1995.

**Donna E. Shalala,**

*Secretary, Department of Health and Human Services.*

For the reasons set forth in the preamble, 45 CFR part 400 is amended as follows:

#### PART 400—REFUGEE RESETTLEMENT PROGRAM

1. The authority citation for part 400 continues to read as follows:

**Authority:** Section 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)).

##### § 400.1 [Amended]

2. Section 400.1(a) is amended by adding the words “and other public and private non-profit agencies, wherever applicable” after the word “States”.

3. Section 400.4(b) is revised to read as follows: