

Attn: Kathleen McHugh

ID: LFG-2018-0022

United States Department of Health and Human Services

Administration for Children and Families

Director, Policy Division

330 C. Street, SW

Washington, D.C 20024

Sent via: Mail

April 16<sup>th</sup>, 2018

Re: ACF-2018-0004, Docket Number

Ms. McHugh,

I am submitting you this comment is which is in regard and pertaining to Docket Number: ACF-2018-0004. This agenda item is about the Children's Bureau proposing to delay the compliance and effective dates in the Adoption and Foster Care Analysis and Reporting System (AFCARS) 2016 final rule for title IV-E agencies to comply with agency rules for an additional two fiscal years. We propose to delay the compliance and effective dates at the same time we seek public comment through an Advance Notice of Proposed Rulemaking (ANPRM), published elsewhere in this issue of the Federal Register, on suggestions to streamline the AFCARS data elements and remove any undue burden related to reporting AFCARS.

In the AFCARS final rule issued on December 14, 2016 (81 FR 90524), ACF provided an implementation timeframe of two fiscal years for title IV-E agencies to comply with 45 CFR 1355.41 through 1355.47 (81 FR 90529). On February 24, 2017, the President issued Executive Order 13777 on Enforcing the Regulatory Reform Agenda. In response to the President's direction that federal agencies establish a Regulatory Reform Task Force to review existing regulations and make recommendations regarding their repeal, replacement, or modification, the HHS Task Force identified the AFCARS regulation as one where there may be areas for reducing reporting burden. Therefore, we are engaging in two regulatory actions to adhere to our obligations under the EO. Through this NPRM, ACF proposes to revise § 1355.40 to provide an additional two fiscal years to comply with §§ 1355.41 through 1355.47. ACF also proposes to delay the effective dates of instructions 3 and 5 in the rule published December 14, 2016 (81 FR 90524), from October 1, 2019, to October 1, 2021. If this rule is finalized, the implementation timeframe would be delayed for title IV-E agencies to make revisions to their systems to comply with §§ 1355.41 through 1355.47. This NPRM is open for a 30-day comment period. Per Executive Order 12866, the typical comment period is 60 days. However, the reasons for the shorter comment period for this NPRM is that any delay in issuing a final rulemaking might lead to title IV-E agencies diverting resources to unnecessary changes to their systems to comply with the December 2016 AFCARS final rule. Furthermore, this rule does not establish additional regulatory obligations or impose any additional burden on regulated entities. ACF believes that a 30-day comment period on this non-substantive rulemaking is a sufficient amount of time for the public to comment and ACF does not believe that a 30-day comment period will hamper public comment. ACF is publishing an ANPRM

elsewhere in this issue of the Federal Register to seek suggestions on streamlining the data elements and potentially reducing burden to title IV-E agencies to report AFCARS data.

This agenda item is being made possible due to Executive Orders 12866 and 13563, in which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. ACF consulted with the Office of Management and Budget (OMB) and determined that this rule does meet the criteria for a significant regulatory action under E.O. 12866. Thus, it was subject to OMB review. ACF determined that the costs to title IV-E agencies as a result of this rule will not be significant as defined in Executive Order 12866 (have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities). Because the rule is not economically significant as defined in E.O. 12866, no cost-benefit analysis needs to be included in this NPRM. This proposed rule, if finalized as proposed, would be considered an E.O. 13771 deregulatory action.

I would like to strongly urge the United States Department of Health and Human Services to ensure that adoption and foster care services are not un-funded when typically, those services need more funding. Individuals that are in the system, in whatever state that they are in, should have a right to obtain a good quality of life. Children and young adults that are in adoption or foster care services should not have to worry about their being a lack of funds being made available to support their needs and social workers that are in adoption and foster care services should not have to worry about their being a lack of funds in which would prevent them from being able to do their jobs. So while I do appreciate the goals of Executive Orders 12866 and 13563, I would never support services that are already in a desperate need to funds to not receive the funds that they need in order for those services to be successful in their day to day operations.



Respectfully,

Isaiah X. Smith<sup>1</sup>

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