SOCIAL SECURITY ADMINISTRATION (SSA)

SOCIAL SECURITY ADMINISTRATION
Office of the Commissioner
20 CFR Ch. III
Semiannual Unified Regulatory Agenda

AGENCY: Social Security Administration.
ACTION: Semiannual regulatory agenda.

SUMMARY: Executive Order (E.O.) 12866 (as amended by E.O. 13258) entitled Regulatory Planning and Review, issued September 30, 1993, and the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) require each Federal agency to publish semiannually a brief description of all regulatory actions under development or review, expected to be under development or review for the next 12 months, or completed since the previous publication of the agenda. Our last agenda of regulations was published December 13, 2004.

FOR FURTHER INFORMATION CONTACT: For further information about a specific regulatory action, contact the person identified as the agency contact for that action. Comments or inquiries of a general nature should be directed to Martin J. Sussman, Regulations Officer, Social Security Administration, 100 Altmeyer Building, Baltimore, MD 21235-6401; Telephone (410) 965-1767 or TTY (410) 966-5609.

SUPPLEMENTARY INFORMATION: The Social Security Administration (SSA) administers the retirement, survivors, and disability insurance programs under title II of the Social Security Act (the Act), the Supplemental Security Income (SSI) program under title XVI of the Act, and Special Benefits to Certain World War II Veterans under title VIII of the Act. Our regulations generally do not impose burdens on the private sector or State, local, or tribal governments. Our regulations document the rules under which we make eligibility determinations and set forth both the responsibilities of the Agency towards the public and beneficiaries’ rights and responsibilities under the programs we administer.

Our regulatory efforts can be placed into one of the following three categories: (1) legislative implementation; (2) program changes to improve SSA service to the public; and (3) improvements or clarifications to enhance effective stewardship of SSA programs.

We continue to seek legislative improvements for the programs we administer. However, because of the complexity of our programs, statutory language is rarely detailed enough to govern the actions of agency adjudicative decision makers. Supporting regulations are often required. In some instances, Congress directs SSA to issue implementing regulations. For other legislative provisions, SSA regulations provide program information to applicants for benefits, current beneficiaries, and their legal counsels.

Our regulatory agenda includes items to amend our regulations to reflect the Medicare Prescription Drug, Improvement, and Modernization Act of 2004 (Pub. L. 108-173). We are planning regulatory changes to reflect provisions of the Social Security Protection Act of 2004 (Pub. L. 108-203).

Included in our agenda are items that will amend our regulations to include more provisions of “The Ticket to Work and Work Incentives Improvement Act of 1999,” (Pub. L. 106-170), which was signed on December 17, 1999. Among the provisions still requiring regulations are provisions that will suspend continuing disability reviews based on work activity and expedited reinstatement of disability benefits terminated due to work activity. In addition, we expect to propose revisions to the existing rules that implement the Ticket to Work program.

We continue to work diligently to improve our program benefit regulations and to develop partnerships with large segments of the community of interest groups concerned about Social Security programs. The remainder of our Unified Agenda reflects such improvements and clarifications.

The spring 2005 regulatory agenda for the Social Security Administration follows.

Dated: March 18, 2005.
Martin J. Sussman, SSA Regulations Officer.

Social Security Administration—Prerule Stage

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Abstract:

We are planning to update and revise the rules we use to evaluate neurological impairments of adults and children who apply for, or receive, disability benefits under title II and Supplemental Security Income (SSI) payments based on disability under title XVI of the Social Security Act (the Act). The rules we plan on revising are section 11.00 and 111.00 in the Listing of Impairments in appendix 1 to subpart P of part 404 of our regulations (the listings).

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** None

**Agency Contact:** Regina Connell, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235

**Phone:** 410 965–1891

**Regulation Identifier Number:** 0960–AD78

**Priority:** Other Significant

**Legal Authority:** 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

**CFR Citation:** 20 CFR 404.1500, app 1

**Legal Deadline:** None
Impairments in appendix 1 to subpart P of part 404 of our regulations (the listings).

**Timetable:**

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**Regulatory Flexibility Analysis**

Required: None

**Government Levels Affected:** None

**Agency Contact:** Sharon Arden, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 965–9098

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 965–0020

**RIN:** 0960–AF58

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3545. **REVISED MEDICAL CRITERIA FOR EVALUATING HEARING IMPAIRMENTS AND DISTURBANCE OF LABYRINTHINE–VESTIBULAR FUNCTION (2862A)**

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

**Legal Deadline:** None

**Abstract:** We are considering whether to propose new rules for evaluating language and speech disorders by adding a new body system to the List of Impairments in appendix 1 to subpart P of part 404 of our regulations (the listings).

**Timetable:**

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**Regulatory Flexibility Analysis**

Required: Undetermined

**Government Levels Affected:** Undetermined

**Agency Contact:** Michelle Hungerman, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 965–2289

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 965–0020

**RIN:** 0960–AG20

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3546. **NEW MEDICAL CRITERIA FOR EVALUATING LANGUAGE AND SPEECH DISORDERS (2962A)**

Priority: Other Significant

Legal Authority: Not Yet Determined

**Legal Deadline:** None

**Abstract:**

We propose to revise our privacy and disclosure rules to:

1. More fully describe the role and function of the Privacy Officer;
2. Describe safeguards against inappropriate disclosure of personal information when individuals request information about themselves by electronic means (e.g., through the Internet);
3. Conform to special procedures on an individual’s access to medical records; and
4. Add a new section to grant direct access to a minor’s medical records by the minor’s parent or legal guardian acting on the minor’s behalf.

**Timetable:**

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**Regulatory Flexibility Analysis**

Required: No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Chris W. Johnson, Social Insurance Specialist, Social Security Administration, Office of the
3548. FEDERAL SALARY OFFSET (WITHHOLDING A PORTION OF A FEDERAL EMPLOYEE’S SALARY TO COLLECT A DELINQUENT DEBT OWED TO THE SOCIAL SECURITY ADMINISTRATION) (721P)

Priority: Other Significant
Legal Authority: 42 USC 404; 42 USC 405; 42 USC 902; 42 USC 1383; 5 USC 5514
CFR Citation: 20 CFR 422
Legal Deadline: None

Abstract: This initiative would enable the Social Security Administration (SSA) to collect from Federal salaries qualifying, delinquent title II and title XVI overpayment debts and administrative debts owed by individuals who are currently Federal employees. The debt collection would be accomplished by the partial reduction of the employee’s disposable salary.

Timetable:
Action | Date | FR Cite
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NPRM | 11/00/05 | 

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: Federal
Agency Contact: Edward Johns, Financial Management Analyst, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401 Phone: 410 965–0392
Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401 Phone: 410 965–0020
RIN: 0960–AE88

3549. EXEMPTION OF WORK ACTIVITY AS A BASIS FOR A CONTINUING DISABILITY REVIEW (TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999) (725P)

Priority: Other Significant
Legal Authority: 42 USC 421(m)
Legal Deadline: None

Abstract: We are proposing to amend our regulations to explain how we will implement section 221(m) of the Social Security Act (the Act). We are also proposing to amend our regulation to eliminate the use of the secondary substantial gainful activity amount for evaluating work done by an employee prior to January 2001. Section 221(m) affects our rules for when we will conduct a continuing disability review if a beneficiary works and receives benefits under title II of the Act based on disability. (We interpret this section to include beneficiaries who receive both title II disability benefits and Supplemental Security Income (SSI) payments based on disability.) It also affects the way we evaluate work activity when deciding if a beneficiary has engaged in substantial gainful activity, and affects the standards we use when we determine whether disability continues or ends.

Timetable:
Action | Date | FR Cite
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NPRM | 05/00/05 | 

Regulatory Flexibility Analysis Required: No
Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Regina Connell, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235 Phone: 410 965–1991
Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401 Phone: 410 965–0020
RIN: 0960–AF19

3550. MEDICAL EQUIVALENCE FOR ADULTS AND CHILDREN (787P)

Priority: Substantive, Nonsignificant
Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383
Legal Deadline: None

Abstract: This notice of proposed rulemaking will clarify our medical severity of the individual’s impairment, based on all relevant evidence in the case record when we make a finding regarding medical equivalence. These rules will clarify our medical equivalence policy in light of the decision in Hickman v. Apfel, 187 F.3d 683 (7th Cir. 1999).

Timetable:
Action | Date | FR Cite
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NPRM | 07/00/05 | 

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Kristine Erwin–Tribbitt, Social Insurance Specialist, Social Security Administration, Office of Program Development and Research, 6401 Security Boulevard, Baltimore, MD 21235 Phone: 410 965–3353
Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235 Phone: 410 965–1769
RIN: 0960–AE93

3551. SSI TRUSTS AND TRANSFERS OF RESOURCES (791P)

Priority: Substantive, Nonsignificant
Legal Authority: 42 USC 1382a(a); 42 USC 1382b(c); 42 USC 1382b(e); PL. 106–169, sec. 205; PL. 106–169, sec. 206
CFR Citation: 20 CFR 416
Legal Deadline: None

Abstract: We propose to amend our regulations to reflect sections 205 and
206 of Public Law 106-169, the Foster Care Independence Act of 1999. Section 205 generally provides for counting certain trusts as resources in the SSI program. Section 206 generally provides for a period of ineligibility for SSI benefits as a result of transferring resources for less than fair market value.

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Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None


Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401 Phone: 410 965–0020

RIN: 0960–AF22

3552. REVISED MEDICAL CRITERIA FOR EVALUATING IMMUNE SYSTEM DISORDERS (804P)

Priority: Other Significant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: We will update and revise the rules that we use to evaluate immune system disorders of adults and children who apply for, or receive, disability benefits under title II and Supplemental Security Income (SSI) payments based on disability under title XVI of the Social Security Act (the Act). The rules we will revise are sections 14.00 and 114.00 in the Listing of Impairments in appendix 1 to subpart P of part 404 of our regulations (the listings). These listings include such disorders as HIV infection, other Immunoglobulin deficiency syndromes or deficiencies of cell-mediated immunity, System Lupus Erythematosus, Scleroderma, Polymyositis, Inflammatory Arthritis, and other connective tissue disorders.

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Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michelle Hungerman, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401 Phone: 410 965–2289

Robert J. Augustin, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401 Phone: 410 965–0020

RIN: 0960–AF34

3554. REVISED MEDICAL CRITERIA FOR EVALUATING MENTAL DISORDERS (886P)

Priority: Other Significant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1; 20 CFR 404.1520; 20 CFR 416.928

Legal Deadline: None

Abstract: We are planning to update and revise the rules that we use to evaluate mental disorders of adults and children who apply for, or receive, disability benefits under title II and Supplemental Security Income (SSI) payments based on disability under title XVI of the Social Security Act. The rules we plan on revising are in sections 404.1520a and 416.920a of our regulations, and sections 12.00 and 112.00 in the Listing of Impairments in appendix 1 to subpart P of part 404 of our regulations (the listings).

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Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Cathy Lively, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401 Phone: 410 966–1180

RIN: 0960–AF69
3555. REVISED MEDICAL CRITERIA FOR EVALUATING HEMATOLOGICAL DISORDERS (974P)

Priority: Substantive, Nonsignificant
Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383
CFR Citation: 20 CFR 404.1500, app 1
Legal Deadline: None

Abstract: Sections 7.00 and 107.00 (hematopoietic and lymphatic system) of appendix 1 to subpart P of part 404 of our regulations (404.1501 through 404.1599) describe hematological disorders that are considered severe enough to prevent a person from doing any gainful activity, or for a child claiming SSI payments under title XVI, which causes marked and severe functional limitation. We are proposing to revise these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment. The Supplemental Security Income program incorporates and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

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Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Barbara Leary, Social Insurance Specialist, Social Security Administration, Office of Employment Support Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401 Phone: 410 965–7764

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235 Phone: 410 965–1769

RIN: 0960–AF89

3556. AMENDMENTS TO THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM (967P)

Priority: Other Significant
Legal Authority: 42 USC 902(a)(5); 42 USC 1320b–19; PL 106–170, sec 101
Legal Deadline: None

Abstract: These proposed rules are intended to amend the final rules implementing the Ticket to Work and Self-Sufficiency Program under section 1148 of the Social Security Act: to expand beneficiary eligibility to receive tickets under this program; to clarify the rules for assignment of a beneficiary’s ticket to a State vocational rehabilitation (VR) agency; to revise the rules for payment when a beneficiary receives services from both a State VR agency and an employment network (EN); and, consistent with the Commissioner’s authority in section 1148(b) of the Act, to revise the rules for milestone and outcome payments to ENs, in order to increase the incentives for providers of employment and other support services to participate in this program.

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Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michelle Hungerman, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401 Phone: 410 965–2289

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235 Phone: 410 965–1769

RIN: 0960–AF89

3557. ELIMINATION OF PARENT-TO-CHILD DEEMING FOR INDIVIDUALS WHO NO LONGER MEET THE DEFINITION OF SPOUSE OF THE NATURAL OR ADOPTIVE PARENT (793P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.
Legal Authority: Sec 1614(f)(2) of the Social Security Act
CFR Citation: 20 CFR 416.1160; 20 CFR 416.1165; 20 CFR 416.1202; 20 CFR 416.1851
Legal Deadline: None

Abstract: We propose to change the Supplemental Security Income (SSI) parent-to-child deeming rules to no longer consider the income and resources of a stepparent when an eligible child resides in the household with a stepparent, but not his or her natural or adoptive parent. We will clarify that a stepparent no longer meets the definition of a “parent” when his or her spouse dies or leaves the household. Thus, an eligible child is not subject to deeming from a stepparent unless the child lives with both his or her natural or adoptive parent and the stepparent. We also propose changing the age at which an individual is no longer considered an ineligible child for purposes of deeming from 21 to 22. We believe this change will simplify our rules for both the public and our public contact employees.

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Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen E. Kerwath, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401 Phone: 410 965–9835

Richard M. Bresnick, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235 Phone: 410 965–1758

RIN: 0960–AF89

Related RIN: Related to 0960–AF24

RIN: 0960–AF96

3558. $30 PRIVATE INSURANCE (794P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1382(e)
Legal Deadline: None
Abstract: These proposed rules make technical and conforming updates to the title XVI regulations based on section 5522(c) of the Balanced Budget Act of 1997 (Pub. L. 105-33). Section 5522(c) eliminated obsolete terminology in section 1611(e)(1) of the Social Security Act that specified particular kinds of medical facilities where the $30 reduced benefit rate could apply. Section 5522(c) also amended section 1611(e)(1)(G) of the Social Security Act to extend applicability of temporary institutionalization benefits to children who enter private medical treatment facilities and who otherwise would be subject to a reduced benefit because of private insurance coverage.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Mary Hoover, Social Security Specialist, Social Security Administration, Office of Program Development and Research, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 965–5651

Fran O. Thomas, Social Security Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 966–9822

Related RIN: Previously reported as 0960–AE17

RIN: 0960–AG00

3560. RECONCILING YOUR MEDICAL SOURCE(S) (2241P)

Priority: Substantive, Nonsignificant.

Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 402; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 416(i); 42 USC 421(a); 42 USC 421(i); 42 USC 421; 42 USC 422(c); 42 USC 423; 42 USC 423 note; 42 USC 425; 42 USC 902(a)(5); 42 USC 1382; 42 USC 1382c; 42 USC 1382h; 42 USC 1382h note; 42 USC 1383a; 42 USC 1383(c); 42 USC 1383(d)(1); 42 USC 1383b; PL 98–460; PL 104–193

CFR Citation: 20 CFR 404.1512; 20 CFR 416.912

Legal Deadline: None

Abstract: Some courts have interpreted our regulations to require that we recontact a treating source when we do not adopt the treating source’s medical opinion, even though we considered the opinion but found that the overall evidence was adequate to decide whether the individual was disabled. Accordingly, we propose to revise our regulations to clarify when we will and will not recontact the individual’s treating source(s) or other medical source(s) for additional evidence or clarification when evidence from such source(s) is insufficient or inconsistent, as discussed in sections 404.1527(c) and 416.927(c). We also propose to revise our regulations to explain that we will not recontact the individual’s treating source(s) or other medical source(s) if there is sufficient evidence for us to decide whether the individual is disabled.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mike O’Connor, Social Security Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 965–1952

RIN: 0960–AG04

3561. OPTOMETRISTS AS ACCEPTABLE MEDICAL SOURCES TO ESTABLISH A MEDICALLY DETERMINABLE IMPAIRMENT (2261P)

Priority: Substantive, Nonsignificant. 

Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 402; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 416(i); 42 USC 421(a); 42 USC 421(i); 42 USC 421; 42 USC 422(c); 42 USC 423; 42 USC 423 note; 42 USC 425; 42 USC 902(a)(5); 42 USC 1382; 42 USC 1382c; 42 USC 1382h; 42 USC 1382h note; 42 USC 1383a; 42 USC 1383(c); 42 USC 1383(d)(1); 42 USC 1383b; PL 104–193; PL 98–460

CFR Citation: 20 CFR 404.1513; 20 CFR 416.913

Legal Deadline: None

Abstract: We propose to revise our rules that affect the Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs by expanding the role of optometrists as acceptable medical sources. The rules would provide that...
we may establish a medically determinable impairment with medical evidence of record from optometrists instead of having to purchase consultative examinations from ophthalmologists.

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Tessa Albright, Social Security Insurance Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 965–7813

Rosemarie Greenwald, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 965–7899

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 965–0020

**RIN:** 0960–AG07

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**3563. REPRESENTATIVE PAYMENT; POLICIES AND ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES FOR FALSE OR MISLEADING STATEMENTS OR WITHOLDING OF INFORMATION (2422P)**

**Priority:** Other Significant

**Legal Authority:** 42 USC 405(j); 42 USC 1007; 42 USC 1383(a)[2]


**Legal Deadline:** None

**Abstract:** We plan to revise our disability regulations under title II of the Social Security Act to incorporate a special rule that affects individuals who are receiving payments or providing services as members or consultants of a committee, board, commission, council, or similar group established under the Federal Advisory Committee Act (FACA). Under the revisions, we will not count any earnings an individual is receiving from serving as a member or consultant of a FACA advisory committee when we determine if an individual is engaging in substantial gainful activity under title II. In addition, we will not evaluate any of the services the individual is providing as a member or consultant of the FACA advisory committee when determining if the individual has engaged in substantial gainful activity under title II.

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Mary Hoover, Social Insurance Specialist, Social Security Administration, Office of Program Development and Research, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 965–5651

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 965–0020

**RIN:** 0960–AG07

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**3564. RULES FOR THE ISSUANCE OF WORK REPORT RECEIPTS, PAYMENT OF BENEFITS FOR TWP SERVICE MONTHS AFTER A FRAUD CONVICTION, CHANGES TO THE SEIE AND EXPANSION OF THE REINTITLEMENT PERIOD FOR CHILD’S BENEFITS**

**Priority:** Other Significant

**Legal Authority:** 42 USC 402; 42 USC 403; 42 USC 405(a); 42 USC 404(e); 42 USC 405(a) to 405(d); 42 USC 405(h); 42 USC 405 note; 42 USC 416(1); 42 USC 421(a); 42 USC 421(f); 42 USC 421 note; 42 USC 422(c); 42 USC 423(e); 42 USC 425; 42 USC 428(a) to 428(e); 42 USC 902(a); 42 USC 902(5); 42 USC 902; 42 USC 1320 a–8a; 42 USC 1320 b–17; 42 USC 1381; 42 USC 1382; 42 USC 1382 note; 42 USC 1383

**CFR Citation:** 20 CFR 404.351; 20 CFR 404.401a; 20 CFR 404.471; 20 CFR 404.903; 20 CFR 404.1588; 20 CFR 404.1592; 20 CFR 416.708(c); 20 CFR 416.1112(c)(3); 20 CFR 416.1403; 20 CFR 416.1861
### Legal Deadline:
None

### Abstract:
We are proposing to amend our rules to reflect and implement sections 202, 208, 420A, and 432 of Public Law 108-203, the Social Security Protection Act of 2004 (SSPA). Section 202 of the SSPA requires us to issue a receipt each time you or your representative report a change in your work activity or give us documentation of a change in your earnings if you receive benefits based on disability under title II or title XVI of the Social Security Act (the Act). Section 208 changes the way we pay benefits during the trail work period if you are convicted by a Federal court of fraudulently concealing your work activity. Section 420A allows you to be reentitled to childhood disability benefits beyond the current 84-month period if your previous entitlement to childhood disability benefits terminated because of the performance of substantial gainful activity, and you are not entitled to a higher benefit on your own record. Section 432 changes the way we decide if you are eligible for the student earned income exclusion. We also propose to change the SSI student policy to include home schooling as a form of regular school attendance when determining eligibility for the student earned income exclusion.

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### Regulatory Flexibility Analysis

Required: No

### Small Entities Affected:
No

### Government Levels Affected:
None

### Agency Contact:
Cindy Duzan, Social Insurance Specialist, Social Security Administration, Office of Program Development and Research, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–4203

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965–1769

**RIN:** 0960–AG10

### 3565. INCOME RELATED MEDICARE PART B PREMIUM SUBSIDY REDUCTION (2101P)

**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.

**Legal Authority:** 42 USC 405; PL 108–173

**CFR Citation:** 20 CFR 418 (New)

**Legal Deadline:** None

**Abstract:** We propose to add to our regulations a new part 418 that would include our rules applicable to reduction of premium subsidies for beneficiaries who have income above the statutorily specified level. Section 811 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 amends section 1839 of the Act. Starting in 2007, the new subsection 1839(i) requires that Medicare part B enrollees with the specified income receive a reduced part B premium subsidy. The statute establishes four income range “notches” above a threshold, and prescribes a percentage adjustment of premiums for each notch. As income increases, the premium subsidy decreases; in effect, the higher the income, the higher the part B premium. All beneficiaries will continue to receive some part B premium subsidy. The income threshold in 2007 is $80,000 ($160,000 for an individual who files a joint income tax return). The premium adjustments will be phased in over a five year period from 2007 through 2010. After 2007, the threshold amount and all of the notch amounts will be annually adjusted for inflation.

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### Regulatory Flexibility Analysis

Required: No

### Small Entities Affected:
No

### Government Levels Affected:
Undetermined

### Agency Contact:
Craig Streett, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–2468

Richard M. Bresnick, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965–1758

**RIN:** 0960–AG12

### 3566. NONPAYMENT OF BENEFITS TO FUGITIVE FELONS AND PROBATION OR PAROLE VIOLATORS (2222P)

**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.

**Legal Authority:** 42 USC 402(x)

**CFR Citation:** Not Yet Determined

**Legal Deadline:** None

**Abstract:** These regulations will propose rules for prohibiting title II benefits to persons fleeing prosecution or custody, or confinement after conviction and to persons violating probation or parole. We will also propose rules for establishing that good cause exists for continuing to pay such benefits.

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### Regulatory Flexibility Analysis

Required: Undetermined

### Government Levels Affected:
Undetermined

### Federalism:
Undetermined

### Agency Contact:
Bill Hilton, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–2468

Richard M. Bresnick, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965–1758

**RIN:** 0960–AG12

### 3567. CHANGES TO SSI INCOME AND RESOURCES PROVISIONS BASED ON SECTIONS 430, 435, AND 436 OF THE SOCIAL SECURITY PROTECTION ACT (SSPA) OF 2004 (2482P)

**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

### Unfunded Mandates:
Undetermined

### Legal Authority:
42 USC 902(a)(5); 42 USC 1381a; 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1382c(f); 42 USC 1382j; 42 USC 1383
We propose to revise our regulations on how we determine an individual’s income and resources under the SSI program based on the Social Security Protection Act (SSPA) of 2004. Provisions of the SSPA make a number of changes in the way we determine income and resources including: 1) how we calculate infrequent and irregular income; 2) what income we exclude from interest and dividend income; 3) how we count cash military compensation; and 4) when we exclude certain things received for tuition or educational fees from income or resources. We are also proposing to apply the exclusions required by the SSPA when determining the countable income and resources of an ineligible spouse or ineligible parent.

**Abstract:**
We propose to revise our privacy and disclosure rules to:
1. Add a new section to set out detailed procedures to further preserve the anonymity and protect the physical well-being of employees in abusive relationships or who fear for their physical well-being because of threats from others;
2. Conform SSA’s Freedom of Information Act regulations in this respect more closely to Office of Personnel Management (OPM) regulations; and

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**Legal Deadline:** None

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Barbara E. Snyder, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–5655

Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–1713

**RIN:** 0960–AG14

**3569. REPRESENTATION OF PARTIES; RECOGNITION, DISQUALIFICATION, AND REINSTATEMENT OF REPRESENTATIVE (2062P)**

**Priority:** Other Significant

**Legal Authority:** 42 USC 405(a); 42 USC 406; 42 USC 902(a)(5); 42 USC 1383(d)


**Legal Deadline:** None

**Abstract:** We propose to amend our regulations to explain how we plan to implement section 206(a)(1) of the Social Security Act (the Act), as amended by section 205 of the Social Security Protection Act of 2004 (Public Law 108-203). As amended, section 206(a)(1) of the Act provides that the Commissioner of Social Security, after due notice and opportunity for hearing, may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency; that the Commissioner may also refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice; and that a representative who has been disqualified or suspended from appearing before SSA as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before SSA as a representative until full restitution is made to the claimant and, thereby, may be considered for reinstatement only under such rules as the Commissioner may prescribe. We also propose to make our existing rules regarding the recognition of non-attorneys conform to the proposed new rules that relate to attorneys.

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**RIN:** 0960–AG15
### 3570. CONTINUING DISABILITY REVIEW FAILURE TO COOPERATE PROCESS (2763P)

**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

**Unfunded Mandates:** Undetermined

**Legal Authority:** 42 USC 402; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 416(i); 42 USC 421(a); 42 USC 421(i); 42 USC 422(c); 42 USC 423; 42 USC 425; 42 USC 902(a)(5); 42 USC 1382; 42 USC 1382c; 42 USC 1382h; 42 USC 1383(a); 42 USC 1383(c); 42 USC 1383(d)(1)

**CFR Citation:** 20 CFR 404.1594; 20 CFR 404.1596; 20 CFR 416.994

**Legal Deadline:** None

**Abstract:** We propose to amend our regulations to provide that we will suspend your disability benefits before we make a determination during a continuing disability review (CDR) under title II of the Social Security Act (the Act) when you fail to comply with our request for necessary information. And, should you remain noncompliant for a period of one year following your suspension, we will then terminate your disability benefits. We are proposing these revisions to conform our title II procedures for determining whether you continue to meet the disability requirements to our current title XVI procedures.

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### 3571. ADDITIONAL INSURED STATUS REQUIREMENTS FOR CERTAIN NONCITIZEN WORKERS (2882P)

**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

**Legal Authority:** 42 USC 414.423(a)(1)

**CFR Citation:** Not Yet Determined

**Legal Deadline:** None

**Abstract:** To implement section 211 of the Social Security Protection Act of 2004, we propose to revise our regulations on determining fully insured and currently insured status, and related disability entitlement rules, for certain alien workers under title II of the Social Security Act (the Act). An alien worker who was originally assigned a Social Security number on or after January 1, 2004, must meet one of two additional requirements as a prerequisite for establishing insured status, or satisfying related disability entitlement requirements. Implementation of these proposed regulatory revisions will yield significant program savings because title II entitlement will be precluded based on the earnings of noncitizen workers who do not meet the new statutory requirements.

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### Social Security Administration (SSA) Final Rule Stage

**3572. SUPPLEMENTAL STANDARDS FOR ETHICAL CONDUCT FOR EMPLOYEES OF THE SOCIAL SECURITY ADMINISTRATION (601F)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 5 USC app. Ethics in Government Act of 1978; 5 USC 7301; 5 USC 7353

**CFR Citation:** 5 CFR ch LXXXI (New)

**Legal Deadline:** None

**Abstract:** The Social Security Administration (SSA), with the concurrence of the Office of Government Ethics (OGE), will issue regulations for officers and employees of SSA that supplement the OGE Standards of Ethical Conduct for Employees of the Executive Branch, which became effective February 3, 1993. This final rule specifies procedural and substantive requirements that are necessary to address ethical issues unique to SSA.

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**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

**Agency Contact:** Asim Akbari, Attorney, Social Security Administration, Office of the General Counsel, 6401 Security Boulevard, Baltimore, MD 21235–6401

**Phone:** 410 966–6581

**RIN:** 0960–AE48

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**3573. DEDICATED ACCOUNTS AND INSTALLMENT PAYMENTS FOR CERTAIN PAST DUE SSI BENEFITS (622F)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 42 USC 902(a)(5); 42 USC 1381; 42 USC 1381a; 42 USC 1382(c); 42 USC 1382(e); 42 USC 1383(a) to 1383(d); 42 USC 1383(g)

**Agency Contact:** Richard M. Bresnick, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401

**Phone:** 410 965–1758

**RIN:** 0960–AG22

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**Action Date FR Cite**

- NPRM 06/00/05
- NPRM Comment Period End 03/14/05
- Final Action 11/00/05
- Regulatory Flexibility Analysis Required: Undetermined
- Government Levels Affected: Undetermined
- Agency Contact: Jessica Burns, Social Insurance Specialist, Social Security Administration, Office of Income Support Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401
- Phone: 410 966–8481
- Richard M. Bresnick, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401
- Phone: 410 965–1758
- **RIN:** 0960–AG22

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**Action Date FR Cite**

- NPRM 05/00/05
- Regulatory Flexibility Analysis Required: No
- Government Levels Affected: Undetermined
- Agency Contact: Rosemarie Greenwald, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401
- Phone: 410 966–7813
- **RIN:** 0960–AG19

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**Action Date FR Cite**

- NPRM 05/00/05
- Regulatory Flexibility Analysis Required: Not Yet Determined
- Government Levels Affected: Undetermined
- Agency Contact: Asim Akbari, Attorney, Social Security Administration, Office of the General Counsel, 6401 Security Boulevard, Baltimore, MD 21235–6401
- Phone: 410 966–6581
- **RIN:** 0960–AE48
changes to our rules on income and resources. These technical changes update lists of exclusions from income and resources under the SSI program that are based on statutes other than the Social Security Act and make additional technical changes.

Timetable:

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Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

Agency Contact: Eric Ice, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 966–3233

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–0020

RIN: 0960–AE79

3576. REVISED MEDICAL CRITERIA FOR EVALUATING IMPAIRMENTS OF THE DIGESTIVE SYSTEM (800F)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Listings 5.00 and 105.00 of appendix 1 to the disability regulation at 20 CFR part 404, subpart P describe those digestive impairments that are considered severe enough to prevent a person from doing any gainful activity or, for a child claiming SSI payments under title XVI, that are considered severe enough to result in marked and severe functional limitations. Comprehensive revisions to these listings are being made to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medicine. The SSI program incorporates by reference and uses the same medical criteria as the old-age, survivors, and disability insurance program.

Timetable:

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<td>68 FR 61162</td>
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<td>12/26/03</td>
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3574. TECHNICAL CHANGES TO SUPPLEMENTAL SECURITY INCOME (SSI) REGULATIONS (664F)

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 416.1236; 20 CFR 416.123 b, subpart K, app

Legal Deadline: None

Abstract: We are amending the SSI regulations by making technical
SSA

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Torkas, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235

Phone: 410 965–1769

RIN: 0960–AF28

3577. REVISED MEDICAL CRITERIA FOR EVALUATING GENITOURINARY DISORDERS (802F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: These final rules will revise the criteria in the Listing of Impairments (the Listings) that we use to evaluate genitourinary impairments.

We apply these criteria at step three of our sequential evaluation processes for adults and children who claim Social Security or Supplemental Security Income benefits based on disability under title II and title XVI of the Social Security Act. The revisions reflect advances in medical knowledge, treatment, and methods of evaluating genitourinary impairments.

Timetable:

Action Date FR Cite
NPRM 08/23/04 69 FR 51777
NPRM Comment Period End 10/22/04
NPRM Comment Period End 09/00/05
Final Action 09/00/05

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Arden, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235

Phone: 410 965–9098

RIN: 0960–AF47

3578. REVISED MEDICAL CRITERIA FOR EVALUATING IMPAIRMENTS AFFECTING MULTIPLE BODY SYSTEMS (803F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: These final rules will revise the criteria in the Listing of Impairments that we use to evaluate claims involving impairments affecting multiple body systems. We apply these criteria when you claim benefits based on disability under title II and title XVI of the Social Security Act. The proposed revisions reflect advances in medical knowledge, treatment, and methods of evaluating impairments affecting multiple body systems.

Timetable:

Action Date FR Cite
NPRM 12/23/02 67 FR 78196
NPRM Comment Period End 02/21/03
Final Action 09/00/05

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Arden, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235

Phone: 410 965–9098

RIN: 0960–AF30

3579. REVISIONS TO THE MEDICAL–VOCATIONAL GUIDELINES (823F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405(a); 42 USC 423; 42 USC 1382c; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404, subpart P, app 2; 20 CFR 404.1564; 20 CFR 416.964

Legal Deadline: None

Abstract: This rule will make several clarifications to our medical-vocational guidelines. First, for individuals whose previous semiskilled or skilled work does not allow him or her to transfer skills to other semiskilled or skilled work within his or her residual functional capacity (RFC), we will treat the past work experience as if it were unskilled. It will also clarify which medical-vocational rules apply to individuals who are illiterate or unable to communicate in English.

Timetable:

Action Date FR Cite
NPRM 07/07/03 68 FR 40213
NPRM Comment Period End 09/05/03
Final Action 06/00/05

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Elaine Tocco, Vocational Policy Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235

Phone: 410 966–6356

RIN: 0960–AF31

3580. REVISED MEDICAL CRITERIA FOR EVALUATING CARDIOVASCULAR DISORDERS (826F)

Priority: Other Significant

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Listings 4.00 and 104.00 of appendix 1 to subpart P of our
regulation (20 CFR 404.1501 through 404.1599) describe those cardiovascular impairments that are considered severe enough to prevent a person from doing any gainful activity, or for a child claiming SSI payments under title XVI, that cause marked and severe functional limitations. We will revise the criteria that we use to evaluate cardiovascular impairments under the listings to reflect our program experience and advances in medical knowledge, treatment, and methods of evaluating these disorders. The SSI program incorporates by reference and uses the same medical criteria as the old-age, survivors, and disability insurance program.

**Timetable:**

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**Regulatory Flexibility Analysis**

Required: No

**Government Levels Affected:** None

**Agency Contact:** Bonnie Davis, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 965–4231

Fran O. Thomas, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 965–4172

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235

Phone: 410 965–4231

**Period End**

**RIN:** 0960–AF62

**3583. CONTINUATION OF BENEFIT PAYMENTS TO CERTAIN INDIVIDUALS WHO ARE PARTICIPATING IN A PROGRAM OF VOCATIONAL REHABILITATION SERVICES, EMPLOYMENT SERVICES, OR OTHER SUPPORT SERVICES (925F)**

**Priority:** Other Significant

**Legal Authority:** 42 USC 902(a)(5); 42 USC 425(b); 42 USC 1383(a)(6)


**Legal Deadline:** None

**Abstract:** These final rules revise the regulations that provide for the continuation of benefit payments to certain individuals who recover medically while participating in a vocational rehabilitation program with a State vocational rehabilitation agency. We are revising these regulations because of statutory amendments, which extend eligibility for these continued benefit payments to certain individuals who recover medically while participating in another appropriate program of vocational rehabilitation services. These include individuals participating in the "Ticket to Work and Self-Sufficiency Program" or another program of vocational rehabilitation services, employment services, or other support services approved by the Commissioner of Social Security.

Prior to November 1991, the Social Security Act provided for the
These final rules will also explain what we mean by “an appropriate program of vocational rehabilitation services, employment services, or other support services.” They will explain when an individual will be considered to be “participating” in the program. They will explain how we will determine whether an individual’s completion of or continuation in an appropriate program of vocational rehabilitation services, employment services, or other support services will increase the likelihood that the individual will not have to return to the disability rolls. They will also explain that, for students age 18 through 21, “an appropriate program of vocational rehabilitation services, employment services, or other support services” includes an individualized education plan developed under policies and procedures approved by the Secretary of Education for assistance to States for the education of children under the Individuals with Disabilities Education Act, as amended.

Abstract: We plan to revise our regulations to reflect a provision in Public Laws 107-117 and 108-203 that eliminates deemed military service wage credits for members of the uniformed services for all years after calendar year 2001.

Timetable:

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Gareth N. Dence, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–9872

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–0020
RIN: 0960–AF90

3585. ADMINISTRATIVE REVIEW PROCESS; INCORPORATION BY REFERENCE OF ORAL FINDINGS OF FACT AND RATIONALE IN WHOLLY FAVORABLE WRITTEN DECISIONS (964F)

Priority: Other Significant
Legal Authority: 42 USC 405(a); 42 USC 405(b); 42 USC 902(a)(5); 42 USC 1383
CFR Citation: 20 CFR 404.953; 20 CFR 416.1453
Legal Deadline: None

Abstract: These final rules will revise our regulations to provide that if an Administrative Law Judge (ALJ) enters a wholly favorable, oral decision into the record of a hearing, the ALJ may subsequently issue a written decision that gives the findings and reasons for the decision by incorporating by reference the findings and reasons stated orally at the hearing, provided that the ALJ does not determine subsequent to the hearing that the oral findings and reasons should be changed.

3584. ELIMINATION OF DEEMED MILITARY WAGES (968F)

Priority: Other Significant
Legal Authority: PL 107–117; PL 108–203
CFR Citation: 20 CFR 404.1301
Legal Deadline: None
Government Levels Affected: 

D subsidy program.

and how you can appeal a report changes in your circumstances; subsidies terminates; how you may eligibility for premium and cost-sharing your income and resources; when your apply for a subsidy; how we evaluate sharing subsidies; how we redetermine you are eligible for premium and cost-
is about; how we determine whether January 1, 2006.) These proposed rules prescription drug coverage effective part D is a program for voluntary Modernization Act of 2003. (Medicare Prescription Drug, Improvement, and which was added by the Medicare under the Medicare part D program, premium and cost-sharing subsidies include a new subpart D, Medicare part Social Security Act (42 USC 1320b-10) to: (1) require an advertiser or direct marketer who offers to assist an individual in obtaining products or services for a fee, that SSA otherwise provides free of charge, to include a written notice on the solicitation/mailing that the product or service is available from SSA free of charge; and (2) expand the list of terms in section 1140 that encompass the scope of words or phrases that the statute prohibits from being used in a misleading manner.

We propose to add to our regulations a new part 418 to contain rules that we will apply when we evaluate applications for premium and cost-sharing subsidies under the Medicare program. We propose to include a new subpart D, Medicare part D Subsidies, to this part. This new subpart would contain the rules that we use to determine eligibility for premium and cost-sharing subsidies under the Medicare part D program, which was added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. (Medicare part D is a program for voluntary prescription drug coverage effective January 1, 2006.) These proposed rules would describe: what the new subpart is about; how we determine whether you are eligible for premium and cost-sharing subsidies; how we redetermine your eligibility for a subsidy; how you apply for a subsidy; how we evaluate your income and resources; when your eligibility for premium and cost-sharing subsidies terminates; how you may report changes in your circumstances; and how you can appeal a determination we make under the part D subsidy program.

We are issuing these final rules to conform our regulations to four self-implementing provisions in the Social Security Protection Act of 2004 (SSPA). One provision adds two States to a list of States that are permitted to divide its retirement systems based on whether the employees in positions
under that system want Social Security coverage or not. The other three provisions make technical corrections to the Social Security Act (the Act) and the Internal Revenue Code (IRC) regarding various coverage issues under the Act.

**Timetable:**

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**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** Undetermined

**Agency Contact:** Cynthia Johnson, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401

**Social Security Administration (SSA)**

3589. REVISED MEDICAL CRITERIA FOR ENDOCRINE DISORDERS (436P)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 42 USC 405; 42 USC 902(a)(5); 42 USC 1383

**CFR Citation:** 20 CFR 404.1500, app 1

**Legal Deadline:** None

**Abstract:** Sections 9.00 and 109.00 of appendix 1 to subpart P of part 404 of our regulations (404.1500 through 404.1599) describe those endocrine impairments that are considered severe enough to prevent a person from doing any gainful activity, or in the case of a child claiming SSA payments under title XVI, that cause marked and severe functional limitations. We are proposing to revise the criteria in these sections to reflect advances in medical knowledge, treatment, and methods of evaluating endocrine impairments. The Supplemental Security Income Program incorporates and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance Program.

**Timetable:**

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**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** None

**Government Levels Affected:** None

**Agency Contact:** Bonnine Davis, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–4712

Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–0020

Richard M. Bresnick, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–1758

RIN: 0960–AD78

431, which are based in large measure upon the HHS regulations at 45 CFR parts 80, 81, 84, 86, and 91. These SSA regulations reflect changes necessary to adapt the HHS regulations to SSA procedures. Upon SSA’s rules becoming final regulations, the HHS regulations will cease to have application to SSA in accordance with section 106(b) of SSIPIA.

**Timetable:**

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**Regulatory Flexibility Analysis**

**Required:** To Be Determined

**Government Levels Affected:** None

**Agency Contact:** Eileen Inglesby–Houghton, Attorney, Social Security Administration, Office of the General Counsel, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–4816

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965–1769

RIN: 0960–AE63

3591. ENFORCEMENT OF NONDISCRIMINATION IN SOCIAL SECURITY PROGRAMS OR ACTIVITIES (661P)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 29 USC 794; 42 USC 902 (1972).

**CFR Citation:** 20 CFR 432

**Legal Deadline:** None

**Abstract:** These proposed regulations are intended to ensure that individuals are not subjected to discrimination on
the basis of disability, race, color, national origin, sex, age, or religion in any program or activity conducted by SSA.

### SSA

**Government Levels Affected:** Administration, Office of Regulations, Specialist, Social Security

**Agency Contact:** Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235

**Phone:** 410 965–9139

**RIN:** 0960–AE78

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**3592. DETERMINING DISABILITY FOR AN INDIVIDUAL WITH DRUG ADDICTION OR ALCOHOLISM (851P)**

**Priority:** Other Significant

**Legal Authority:** Not Yet Determined

**CFR Citation:** None

**Legal Deadline:** None

**Abstract:** We propose to revise our regulations that address drug addiction and alcoholism (DAA) under titles II and XVI of the Social Security Act. The proposed rules reflect provisions of section 105 of the Contract with America Advancement Act of 1996, Public Law 104-121; section 5525 of the Balanced Budget Act of 1997, Public Law 105-33; and section 401 of the Ticket to Work and Work Incentives Improvement Act of 1999, Public Law 106-170.

---

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Larry P. Spain, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401

**Phone:** 410 965–9139

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**3593. REVISED MEDICAL CRITERIA FOR EVALUATING GROWTH DISORDERS (444P)**

**Priority:** Other Significant

**Legal Authority:** 42 USC 405; 42 USC 902(a)(5); 42 USC 1302; 42 USC 1383

**CFR Citation:** 20 CFR 404.1500, app 1; 20 CFR 416, subpart I

**Legal Deadline:** None

**Abstract:** Section 100.00 of part B of appendix 1 to subpart P of part 404 of the Disability Regulations describes growth impairments considered severe enough to cause marked and severe functional limitations in a child under age 18. We are proposing revisions to the growth impairment listings. The revisions contained in these regulations reflect advances in medical knowledge, treatment, and methods of evaluating growth impairments. The Supplemental Security Income program incorporates and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

---

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Regina Connell, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235

**Phone:** 410 965–1891

**RIN:** Related to 0960–AD80

**RIN:** 0960–AF67

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**3594. STEPCOHLD ENTITLEMENT AND TERMINATION REQUIREMENTS (934F)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 42 USC 402; 42 USC 403(a); 42 USC 403(b); 42 USC 405(a); 42 USC 416; 42 USC 423; 42 USC 425; 42 USC 428(a) to 428(e); 42 USC 902(a)(5)

**CFR Citation:** 20 CFR 404.339; 20 CFR 404.352; 20 CFR 404.363; 42 CFR 404.364

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Sherry Pollack, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401

**Phone:** 410 965–7915
3595. REFERRAL OF PERSONS ELIGIBLE FOR DISABILITY OR BLINDNESS BENEFITS TO OTHER AGENCIES FOR VOCATIONAL REHABILITATION SERVICES (929F)

Priority: Substantive, Nonsignificant
Legal Authority: 42 USC 1320b–19 note
Legal Deadline: None
Abstract: These final rules remove regulatory provisions relating to the requirement to refer for vocational rehabilitation (VR) services those individuals who become entitled to or eligible for disability or blindness benefits under titles II and XVI of the Social Security Act (the Act). These changes are being made to reflect the repeal of section 222(a) and amendment of section 1615(a) of the Act. Prior to their repeal and amendment, these sections of the Act required the Commissioner of Social Security to refer disabled or blind beneficiaries to a State VR agency or for necessary rehabilitation services. The final rules also remove regulatory provisions for referral of disabled or blind beneficiaries to alternate participants for VR services that have become obsolete.

Timetable:
Action Date FR Cite
Final Action To Be Determined

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: State
Agency Contact: Melvin Winer, Social Insurance Specialist, Social Security Administration, Office of Employment Support Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–9175

RIN: 0960–AF78

3596. EXCLUSION OF MILITARY PAY FOR COMBAT SERVICE FROM DEEMED INCOME AND RESOURCES (978P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
Legal Authority: Sec 1614(f) of the Social Security Act
CFR Citation: 20 CFR 416.1161; 20 CFR 416.1202
Legal Deadline: None
Abstract: These proposed rules would provide for excluding additional military pay for combat service from countable income and resources when we determine the eligibility of children and spouses of military personnel for Supplemental Security Income (SSI). The exclusions ensure that the SSI benefits of children and spouses of military personnel are not adversely affected by the deployment of their family members to a combat zone.

Under these rules, in determining an individual’s eligibility for SSI, we would not count the following types of income of an ineligible parent or spouse:
Any additional increment in pay, other than any increase in basic pay, received while serving as a member of the uniformed services, if:
1. The spouse or parent received the pay as a result of deployment to or while serving in a combat zone; and
2. The spouse or parent was not receiving the additional pay immediately prior to deployment to or service in a combat zone.

Under these rules, we also would exclude from deemed resources for nine months following the month of receipt, the unspent portion of any retroactive payment of:
1. Special pay (hostile fire and imminent danger pay) received by the ineligible spouse or ineligible parent from one of the uniformed services pursuant to 37 U.S.C. 310; and
2. Family separation allowance received by the ineligible spouse or ineligible parent from one of the uniformed services pursuant to 37 U.S.C. 427 as a result of deployment to or while serving in a combat zone.

Timetable:
Action Date FR Cite
NPRM To Be Determined

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Karen E. Kerwath, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–9835

RIN: 0960–AF97

3597. LIABILITY OF REPRESENTATIVE PAYEES FOR OVERPAYMENTS TO DECEASED RECIPIENTS (796P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.
Legal Authority: PL 106–169, sec 201; 42 USC 404(a); 42 USC 405(a) ; 42 USC 902(a); 42 USC 1383(b); 42 USC 1383(d)
CFR Citation: 20 CFR 404.501; 20 CFR 416.537
Legal Deadline: None
Abstract: We propose to revise our regulations to reflect section 201 of Public Law 106-169 that amended 42 U.S.C. sections 404(a) and 1383(b) to make a representative payee personally liable for repayment of a title II/title XVI overpayment to the representative payee on behalf of an individual after the individual’s death.

Timetable:
Action Date FR Cite
NPRM To Be Determined

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Thelma Allen, Social Insurance Specialist, Social Security Administration, Office of Income Security Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–7966

RIN: 0960–AF97

Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–1769

RIN: 0960–AF80
3598. DEEMED DURATION OF MARRIAGE FOR WIDOWS/WIDOWERS AND REMOVAL OF RESTRICTION ON BENEFITS TO CHILDREN OF MILITARY PARENTS OVERSEAS (2883F)

Priority: Substantive, Nonsignificant.

Legal Authority:
PL 108–203, sec 414
PL 108–203, sec 434

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: We are issuing these final rules to reflect changes in the Social Security Act (the Act) made by section 414 and 434 of the Social Security Protection Act of 2004 (SSPA), enacted on March 2, 2004. Section 414 added a new situation in which the nine-month duration-of-marriage requirement for surviving spouses is deemed to be met. The duration-of-marriage requirement will be deemed to be met if SSA determines that the surviving spouse claimant and the deceased number holder would have been married for at least nine months, except that it was unlawful for the number holder to divorce the prior spouse by reason of the prior spouse’s institutionalization because of mental incompetence or a similar incapacity. Section 434 removed a restriction that existed for payment of title XVI benefits to children living outside the United States. As a result of section 434, payment of title XVI benefits is extended to children who are born blind or disabled and/or become blind or disabled after their military parents are stationed outside the United States.

Timetable:
Action Date FR Cite
Final Action To Be Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact:
Linda Baer, Social Insurance Specialist, Social Security Administration, Office of Income Support Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–1853

Richard M. Bresnick, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401
Phone: 410 965–1758

RIN: 0960–AG23

Social Security Administration (SSA) Completed Actions

3599. REVISED MEDICAL CRITERIA FOR EVALUATING MALIGNANT NEOPLASTIC DISEASES (399F)

Priority: Other Significant

CFR Citation: 20 CFR 404.1500, app 1

Completed:

Reason Date FR Cite
Final Rule 11/15/04 69 FR 67017
Final Rule Effective 12/15/04
Final Rule, Correcting Amendments 03/25/05 70 FR 15227

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact:
Michelle Hungerman
Phone: 410 965–2289

Suzanne DiMarino
Phone: 410 965–1769

RIN: 0960–AD67

3600. DEEMING OF INCOME FROM AN INELIGIBLE SPOUSE TO AN ELIGIBLE INDIVIDUAL AND AN ELIGIBLE CHILD (606P)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 416.1160; 20 CFR 416.1165; 20 CFR 416.1166

Completed:

Reason Date FR Cite
Withdrawn 03/08/05

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sean Balser
Phone: 410 965–7908

Richard M. Bresnick
Phone: 410 965–1758

RIN: 0960–AE50

3601. DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY (TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999) (789P)

Priority: Other Significant

CFR Citation: 20 CFR 404.1599

Completed:

Reason Date FR Cite
Withdrawn 01/24/05

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ed Beane
Phone: 410 965–9866

Suzanne DiMarino
Phone: 410 965–1769

RIN: 0960–AF41

3602. ELIMINATION OF CLOTHING FROM THE DEFINITIONS OF INCOME AND IN–KIND SUPPORT AND MAINTENANCE, EXCLUSIONS OF ONE AUTOMOBILE, AND HOUSEHOLD GOODS AND PERSONAL EFFECTS UNDER SSI FROM RESOURCES (950F)

Priority: Other Significant

### SSA Completed Actions

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**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

**Agency Contact:** Robin Weber

Phone: 410 965–7944

Richard M. Bresnick

Phone: 410 965–1758

**RIN:** 0960–AG06

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### 3603. EXPANDED AUTHORITY FOR CROSS–PROGRAM RECOVERY OF BENEFIT OVERPAYMENTS (2221F)

**Priority:** Other Significant


**Completed:**

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**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Terry Fahey, Social Insurance Specialist, Social Security Administration, Office of International Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 965–3566

Richard M. Bresnick, Social Insurance Specialist, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235–6401

Phone: 410 965–1758

**RIN:** 0960–AG16

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### 3604. NONPAYMENT OF BENEFITS WHEN THE SOCIAL SECURITY ADMINISTRATION RECEIVES NOTICE THAT AN INSURED PERSON IS DEPORTED OR REMOVED FROM THE UNITED STATES (2662F)

**Priority:** Other Significant

**Legal Authority:** 42 USC 402; 42 USC 403; 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 405(c); 42 USC 416(l); 42 USC 423(a); 42 USC 424a; 42 USC 425; 42 USC 902(a)(5); 42 USC 1320a–8a; 48 USC 1801

**CFR Citation:** 20 CFR 404.464

**Legal Deadline:** None

**Abstract:** We are issuing this final rule to conform our regulations to a legislative change, section 412 of the Social Security Protection Act of 2004 (SSPA), Public Law 108–203, which modifies the provisions of section 202(n) of the Social Security Act (the Act). Those provisions prohibit the payment of title II benefits to the insured person on a record (and, in some cases, to dependents or survivors otherwise entitled on that record) when SSA receives notice of the insured person’s deportation or removal from the United States under provisions of the Immigration and Nationality Act (INA). Section 412 was enacted, in part, to conform the Act to amendments to the INA enacted April 1, 1997, under the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (the Immigration Reform Act), Public Law 104–208. The Immigration Reform Act changed the terminology, section references and function of many provisions of the INA that, in turn, affect section 202(n) of the Act.

**Timetable:**

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**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Terry Fahey, Social Insurance Specialist, Social Security Administration, Office of International Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401

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**RIN:** 0960–AG16

[FR Doc. 05–6006 Filed 05–13–05; 8:45 am]

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