

Subpart E—[Amended]

5. The authority citation for subpart E of part 422 is revised to read as follows:

Authority: Secs. 205(a), 702(a)(5), and 1106 of the Social Security Act (42 U.S.C. 405(a), 902(a)(5), and 1306); 5 U.S.C. 552 and 552a; 8 U.S.C. 1360; 26 U.S.C. 6103; 30 U.S.C. 923(b).

Subpart F—[Amended]

6. The authority citation for subpart F of part 422 is revised to read as follows:

Authority: Secs. 205 and 702(a)(5) of the Social Security Act (42 U.S.C. 405 and 902(a)(5)). Section 422.512 is also issued under 30 U.S.C. 901 *et seq.*

Subpart G—[Amended]

7. The authority citation for subpart G of part 422 is revised to read as follows:

Authority: 26 U.S.C. 9701–9708.

PART 423—SERVICE OF PROCESS

1. The authority citation for part 423 is revised to read as follows:

Authority: Sec. 701 and 702(a)(5) of the Social Security Act (42 U.S.C. 901 and 902(a)(5)).

[FR Doc. 96–3405 Filed 2–14–96; 8:45 am]

BILLING CODE 4190–29–P

20 CFR Part 416

[Regulations No. 16]

RIN 0960–AD87

Supplemental Security Income for the Aged, Blind, and Disabled; Extension of Time Period for Not Counting as Resources, Funds Received for Repair or Replacement of Damaged or Destroyed Excluded Resources in the Supplemental Security Income Program

AGENCY: Social Security Administration.
ACTION: Final rules.

SUMMARY: In the past several years, portions of the United States have experienced natural disasters that have had unprecedented effects on supplemental security income (SSI) recipients. To provide us with the flexibility to deal with these and future occurrences, we are modifying our current regulations regarding the period of time that cash and in-kind items received for the repair or replacement of certain destroyed or damaged excluded resources would not count toward the resource limit.

EFFECTIVE DATE: These rules are effective February 15, 1996.

FOR FURTHER INFORMATION CONTACT: Regarding this Federal Register

document—Henry D. Lerner, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1762; regarding eligibility or filing for benefits—our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: The regulations at § 416.1205(c) provide that SSI recipients can have no more than \$2,000 in countable resources and SSI couples can have no more than \$3,000. The regulations at § 416.1237 provide that assistance received under the Disaster Relief and Emergency Assistance Act or other assistance provided under a Federal statute because of a catastrophe which is declared to be a major disaster by the President of the United States or comparable assistance received from a State or local government, or from a disaster assistance organization, is excluded permanently under the SSI program in determining countable resources.

The regulations at § 416.1232 complement the disaster assistance exclusion by providing that cash or in-kind items for the repair or replacement of lost, stolen, or damaged excluded resources are not treated as resources for 9 months.

The regulations also provide for one extension for a reasonable period up to an additional 9 months for good cause if circumstances do not permit repair or replacement within the initial 9-month period and the individual intends to use the funds for repair or replacement.

Excluded resources generally include the individual's home, household goods and personal effects, and the automobile, as are described in §§ 416.1212, 416.1216 and 416.1218 respectively.

Private insurance payments do not qualify as disaster assistance and, therefore, cannot be permanently excluded from resources. For some SSI recipients affected by natural disasters, the maximum period of 18 months during which monies received to repair or replace excluded resources are not treated as resources will not be sufficient and some of these individuals will consequently lose SSI and Medicaid eligibility.

In the past several years, portions of the United States have experienced natural disasters that have had unprecedented effects on SSI recipients. In August 1992, Hurricane Andrew devastated south Florida causing damage estimated in excess of \$18 billion. Because of the extent of the devastation, SSI recipients in the area

were unable to use insurance payments to repair or replace their damaged property within the maximum 18-month period provided by regulations during which those payments would not be treated as resources. With the expiration of this period, the payments would have counted as resources for SSI purposes. On March 17, 1994 (59 FR 12544), we published interim final regulations with a request for comments which provided victims of Hurricane Andrew with an additional 12-month time period in which to repair or replace their property.

History has shown that current regulations generally provide a sufficient time period for individuals to repair or replace their excluded resources destroyed or damaged by natural disasters. However, in the event disasters of the magnitude of Hurricane Andrew occur, we wish to have the flexibility in regulations to extend the period that payments or in-kind assistance for the repair or replacement of affected excluded resources will not count as resources.

We are revising our regulations to provide us with the flexibility to provide individuals with additional time to repair or replace destroyed or damaged excluded resources when such disasters occur and certain other criteria are met. These regulations will extend the maximum 18-month period during which cash or in-kind replacement received from any source for purposes of repairing or replacing an excluded resource is not counted as a resource for up to an additional 12 months. This additional time period only applies in the case of Presidentially declared major disasters as long as the individual intends to repair or replace the property and good cause still exists.

These regulations were published in the Federal Register (60 FR 26387) as a notice of proposed rulemaking (NPRM) on May 17, 1995. Interested parties were given 60 days to submit comments. Public comments were received from two legal services organizations who were concerned about how the regulations would affect individuals who suffered losses in recent disasters. These comments raised an issue regarding how we will apply the additional 12-month extension. We address this issue by clarifying the scope of the regulation in the response below. With this clarification, we are adopting the regulations as proposed.

Comment: The additional 12-month extension for not counting certain funds as a resource under these regulations should apply to individuals for whom the original 18-month noncounting period (9 months and 9-month good

cause extension) has expired prior to the effective date of these regulations.

Response: Prior to the promulgation of these rules, our regulations provided that cash or in-kind replacement received for purposes of repairing or replacing an excluded resource would not be counted as a resource for a maximum period of 18 continuous months, commencing with the month following the month of receipt. These rules provide, under certain circumstances, for an additional 12-month extension to the former maximum noncounting period, thereby establishing a new 30-month maximum period during which such cash or in-kind replacement will not be considered resources. The total noncounting period may not exceed 30 months from the month of receipt because it is reasonable to expect individuals to begin rebuilding or repairing within that timeframe. We chose not to provide a full 12-month extension to individuals whose prior 18-month noncounting period had expired because to do so would provide a noncounting period in excess of the 30-month maximum established by this regulation.

Therefore, if the original 18-month noncounting period (9 months plus 9-month good cause extension under § 416.1232(b)) has expired prior to the effective date of these regulations, we will extend the period for not counting the funds as a resource if the requirements in § 416.1232(c) are met, but only within the limits of the new 30-month maximum (9-months plus 9-month good cause extension plus 12-month good cause extension provided under § 416.1232(c)). The extension would be applicable with the first day of the month which immediately follows the month these regulations become effective, and will remain applicable for a period not to exceed the number of months remaining in the 30-month period that commences with the month following the month of receipt of the funds.

For example, if the individual's 18-month noncounting period expired 6 months prior to the effective date of these regulations, we would extend the period for not counting the funds as resources prospectively for up to an additional 6 months. There will be no retroactive effect. The last month of the noncounting period cannot exceed the 30th (thirtieth) month following the month of receipt of any payment.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and

determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they are not subject to OMB review.

Paperwork Reduction Act of 1980

These regulations impose no new reporting or recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect eligibility for SSI payments of individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

Waiver of 30-Day Delay in Effective Date

These new SSI resource regulations are effective on publication, rather than 30 days after publication. Section 702(a)(5) of the Social Security Act makes the regulations we prescribe subject to the rulemaking procedures established under section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553. Section 553(d) of the APA requires that the effective date of a substantive rule be no less than 30 days after its publication, except in cases of: Rules which grant or recognize an exemption or relieve a restriction; interpretative rules and statements of policy; or as otherwise provided by the Agency for good cause found and published with the rule.

In accordance with 5 U.S.C. 553(d)(1), these rules grant or recognize an exemption or relieve a restriction because under certain circumstances, they remove from consideration as resources for a period, cash or in-kind replacement received for the repair or replacement of certain lost or damaged property. Furthermore, we have determined that under 5 U.S.C. 553(d)(3), good cause exists for dispensing with the minimum 30-day period between the publication date and the effective date. A delay in the application of these rules may result in the loss of SSI benefits for certain individuals who have been unable to repair or replace certain property lost or damaged as a result of a presidentially-declared disaster. We believe that making available to these individuals the relief provided by these rules as quickly as possible is good cause sufficient to dispense with the minimum 30-day period prescribed by 5 U.S.C. 553(d). Accordingly, these rules are effective on publication.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income.

Dated: February 2, 1996.

Shirley S. Chater,

Commissioner of Social Security.

Part 416 of chapter III of title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

Subpart L—[Amended]

1. The authority citation for subpart L of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93-66, 87 Stat. 154 (42 U.S.C. 1382 note).

2. Section 416.1232 is amended by revising paragraph (b), by redesignating paragraph (c) as paragraph (d) and by adding a new paragraph (c), to read as follows:

§ 416.1232 Replacement of lost, damaged, or stolen excluded resources.

* * * * *

(b) The initial 9-month time period will be extended for a reasonable period up to an additional 9 months where we find the individual had good cause for not replacing or repairing the resource. An individual will be found to have good cause when circumstances beyond his or her control prevented the repair or replacement or the contracting for the repair or replacement of the resource. The 9-month extension can only be granted if the individual intends to use the cash or in-kind replacement items to repair or replace the lost, stolen, or damaged excluded resource in addition to having good cause for not having done so. If good cause is found for an individual, any unused cash (and interest) is counted as a resource beginning with the month after the good cause extension period expires.

Exception: For victims of Hurricane Andrew only, the extension period for good cause may be extended for up to an additional 12 months beyond the 9-month extension when we find that the individual had good cause for not replacing or repairing an excluded resource within the 9-month extension.

(c) The time period described in paragraph (b) of this section (except the time period for individuals granted an additional extension under the Hurricane Andrew provision) may be extended for a reasonable period up to an additional 12 months in the case of a catastrophe which is declared to be a major disaster by the President of the United States if the excluded resource is geographically located within the disaster area as defined by the Presidential order; the individual intends to repair or replace the excluded resource; and, the individual demonstrates good cause why he or she has not been able to repair or replace the excluded resource within the 18-month period.

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[FR Doc. 96-3406 Filed 2-14-96; 8:45 am]

BILLING CODE 4190-29-P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2619 and 2676

Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Amendments Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal. The former regulation contains the interest assumptions that the PBGC uses to value benefits under terminating single-employer plans. The latter regulation contains the interest assumptions for valuations of multiemployer plans that have undergone mass withdrawal. The amendments set out in this final rule adopt the interest assumptions applicable to single-employer plans with termination dates in March 1996, and to multiemployer plans with valuation dates in March 1996. The effect of these amendments is to advise the public of the adoption of these assumptions.

EFFECTIVE DATE: March 1, 1996.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202-326-4024 (202-326-4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: This rule adopts the March 1996 interest assumptions to be used under the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619, the "single-employer regulation") and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676, the "multiemployer regulation").

Part 2619 sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended. Under ERISA section 4041(c), all single-employer plans wishing to terminate in a distress termination must value guaranteed benefits and "benefit liabilities," *i.e.*, all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart C formulas to determine the amount of the plan's underfunding. Part 2676 prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of ERISA.

Appendix B to part 2619 sets forth the interest rates and factors under the single-employer regulation. Appendix B to part 2676 sets forth the interest rates and factors under the multiemployer regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The PBGC issues two sets of interest rates and factors, one set to be used for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. The same assumptions apply to terminating single-employer plans and to multiemployer plans that have undergone a mass withdrawal. This amendment adds to appendix B to parts 2619 and 2676 sets of interest rates and factors for valuing benefits in single-employer plans that have termination dates during March 1996 and multiemployer plans that have undergone mass withdrawal and have valuation dates during March 1996.

For annuity benefits, the interest rates will be 5.50% for the first 20 years following the valuation date and 4.75%

thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 4.25% for the period during which benefits are in pay status, and 4.0% during all years preceding the benefit's placement in pay status. The above annuity interest assumptions represent an increase (from those in effect for February 1996) of .10 percent for the first 20 years following the valuation date and are otherwise unchanged. The lump sum interest assumptions are unchanged from those in effect for February 1996.

Generally, the interest rates and factors under these regulations are in effect for at least one month. However, the PBGC publishes its interest assumptions each month regardless of whether they represent a change from the previous month's assumptions. The assumptions normally will be published in the Federal Register by the 15th of the preceding month or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on these amendments are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates and factors can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in single-employer plans whose termination dates fall during March 1996, and in multiemployer plans that have undergone mass withdrawal and have valuation dates during March 1996, the PBGC finds that good cause exists for making the rates and factors set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, parts 2619 and 2676 of chapter XXVI, title 29, Code of Federal Regulations, are hereby amended as follows: