

**SUPPLEMENTARY INFORMATION:** Fort Dodge Animal Health, Div. of American Home Products Corp., 800 Fifth St. NW., P.O. Box 518, Fort Dodge, IA 50501, filed original NADA 141-051 that provides for oral use of ProHeart™ (moxidectin) tablets in dogs to prevent infections by the canine heartworm *Dirofilaria immitis* and the subsequent development of canine heartworm disease. The drug is limited to use by or on the order of a licensed veterinarian.

The NADA is approved as of May 27, 1997, and the regulations are amended by adding new 21 CFR 520.1451 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning May 27, 1997, because no active ingredient of the drug, including any ester or salt of the active ingredient, has been previously approved in any other application filed under 512(b)(1) of the act.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

#### List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

#### PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

**Authority:** Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. New § 520.1451 is added to read as follows:

#### § 520.1451 Moxidectin.

(a) *Specifications.* Each tablet contains 30, 68, or 136 micrograms of moxidectin.

(b) *Sponsor.* See No. 000856 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Conditions of use*—(1) *Amount.* 3 micrograms per kilogram (1.36 micrograms per pound) of body weight.

(2) *Indications for use.* To prevent infection by the canine heartworm *Dirofilaria immitis* and the subsequent development of canine heartworm disease.

(3) *Limitations.* Use once-a-month in dogs at 8 weeks of age or older. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: June 20, 1997.

**Michael J. Blackwell,**

*Deputy Director, Center for Veterinary Medicine.*

[FR Doc. 97-18457 Filed 7-14-97; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 522

#### Implantation of Injectable Dosage New Animal Drugs; Change of Sponsor

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for an abbreviated new animal drug application (ANADA) from Phoenix Pharmaceutical, Inc., to Phoenix Scientific, Inc.

**EFFECTIVE DATE:** July 15, 1997.

#### FOR FURTHER INFORMATION CONTACT:

Thomas J. McKay, Center for Veterinary Medicine (HFV-102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-0213.

**SUPPLEMENTARY INFORMATION:** Phoenix Pharmaceutical, Inc., 4621 Easton Rd., P.O. Box 6457 Farleigh Station, St. Joseph, MO 64506-0457, has informed FDA that it has transferred ownership of, and all rights and interests in, approved ANADA 200-108 (dexamethasone injection) to Phoenix Scientific, Inc., 3915 South 48th St.

Terrace, P.O. Box 6457, St. Joseph, MO 64506-0457. Accordingly, FDA is amending the regulations in 21 CFR 522.540 to reflect the change of sponsor.

#### List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

#### PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

**Authority:** Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

#### § 522.540 [Amended]

2. Section 522.540 *Dexamethasone injection* is amended in paragraph (a)(2) by removing “057319” and adding in its place “059130”.

Dated: June 27, 1997.

**Robert C. Livingston,**

*Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.*

[FR Doc. 97-18461 Filed 7-14-97; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Office of Justice Programs

#### 28 CFR Part 32

[OJP(BJA)-1121]

RIN 1121-AA44

#### Federal Law Enforcement Dependents Assistance Program

**AGENCY:** Office of Justice Programs, Bureau of Justice Assistance, Public Safety Officers' Benefits Office, Justice.

**ACTION:** Final rule.

**SUMMARY:** Regulations are being issued to comply with the Federal Law Enforcement Dependents Assistance (FLEDA) Act of 1996. The FLEDA Program, to be administered by the Bureau of Justice Assistance through a delegation of authority from the Attorney General, will provide financial assistance in the form of awards to the children and spouses of Federal civilian law enforcement officers whose deaths or permanent and total disabilities in the line of duty resulted in the payment of benefits under the Public Safety Officers' Benefits (PSOB) Program. The financial assistance provided through

the FLEDA Program is designed to defray costs associated with higher education for these children and spouses.

**EFFECTIVE DATE:** This regulation is effective July 15, 1997.

**FOR FURTHER INFORMATION CONTACT:** Jeff Allison, Chief, Public Safety Officers' Benefits Office, 633 Indiana Avenue, N.W. Washington, D.C. 20531. Telephone: (202) 307-0635.

**SUPPLEMENTARY INFORMATION:** The Federal Law Enforcement Dependents Assistance Act, P.L. 104-238, 110 Stat. 3114, Oct. 3, 1996, established a new subpart 2 in Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3796 *et seq.* to provide financial assistance to the children and spouses of Federal civilian law enforcement officers killed or permanently and totally disabled in the line of duty. The legislation redesignated the existing Public Safety Officers' Benefit (PSOB) Act as subpart 1 of Part L.

This Act further recognizes the sacrifices and invaluable contributions made to public safety in our Nation by Federal law enforcement officers and their families. The Federal Law Enforcement Dependents Assistance (FLEDA) program extends to the families of fallen or disabled Federal law enforcement officers the higher education assistance already available to state and local law enforcement officers in many states. As stated in the Act, the purposes of this program are—

(1) to enhance the appeal of service in civilian Federal law enforcement agencies;

(2) to extend the benefits of higher education to qualified and deserving persons who, by virtue of the death or total disability of an eligible officer, may not be able to afford it otherwise; and

(3) to allow the family members of eligible officers to attain the vocational and educational status which they would have attained had a parent or spouse not been killed or disabled in the line of duty.

As an amendment to the existing PSOB program, the FLEDA program offers educational benefits to the spouse or children of Federal law enforcement officers with respect to whom a claim has already been approved under the PSOB program. Thus, although the standards for the two programs differ, these regulations are drafted as far as possible to rely on existing determinations made by the Bureau of Justice Assistance under the PSOB program regarding the death or disability of a Federal law enforcement officer in the line of duty.

The FLEDA program authorizes the payment of benefits to eligible dependents for attendance at an approved program of education at institutions of higher learning. The program incorporates by reference established definitions relating to eligible institutions and other standard requirements for federal student aid programs under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1970 *et seq.*).

In general, eligible dependents may receive educational assistance for up to 45 months of full-time education or training, or a proportionately longer period of time for a part-time program. Absent a finding of extraordinary circumstances, a dependent child will not be eligible to receive educational benefits under the FLEDA program after the child's 27th birthday.

Educational benefits under FLEDA are calculated under the standards of 38 U.S.C. 3532, at the time the educational expenses are incurred. Presently, the educational assistance allowance for an eligible person pursuing a program of education consisting of institutional courses is \$404 per month for full-time, \$304 for three-quarter-time, and \$202 for half-time pursuit, and proportional amounts for persons pursuing a program of education less than half-time. Separately determined amounts are available for a program of education that includes training in a business or industrial establishment; for a "farm cooperative" program; or for an independent study program.

All eligible dependents may seek assistance prospectively for attendance at an approved program of education. Dependents of a Federal law enforcement officer who was killed in the line of duty on or after May 1, 1992, also are eligible to receive retroactive benefits for a program of education they have already undertaken. The calculation of retroactive benefits shall be on the same basis as prospective assistance. Such dependents are eligible for prospective assistance as well, although the amount of retroactive benefits will be counted in applying the durational limits on assistance. Dependents entitled to retroactive benefits, if they so choose, may forgo such benefits and apply only for prospective assistance.

On April 24, 1997, the Bureau of Justice Assistance (Bureau) published proposed regulations in the **Federal Register** for implementation of the FLEDA Program. In addition to publication, the proposed regulations were sent to Federal law enforcement agencies, and the families of Federal law enforcement officers killed or

permanently and totally disabled in the line of duty. Reviewers were invited to comment over a thirty-day period, which ended May 27, 1997.

Comments were received from one individual, the United States Postal Service, and the U.S. Department of Education. The Postal Service expressed the support of its Postal Inspection Service for the proposed regulations, and the FLEDA Program in general.

The U.S. Department of Education recommended that the Section 32.38(a)(4) provision in the proposed regulations for denial of FLEDA benefits to dependents who are in default on federally guaranteed student loans be expanded to apply to persons in default on any student loan made through Title IV of the Higher Education Act of 1965. The Bureau concurs with this recommendation and has modified Section 32.38(a)(4) accordingly. This modification does not limit FLEDA applicants' ability to use financial assistance being provided by the Bureau to repay defaulted loans consistent with an approved repayment plan.

The U.S. Department of Education also pointed out that, with the exception of Federal Pell Grants, assistance received through the FLEDA Program will be considered by the Secretary of Education in determining a student's need for financial assistance through the Title IV Student Financial Assistance Program. This finding does not necessitate a modification to Section 32.37(c) of the FLEDA regulations, but is nonetheless important for FLEDA applicants to be aware of. It is the opinion of the U.S. Department of Education and the Bureau that this finding will not adversely affect an individual's financial ability to obtain the benefits of higher education because reductions in Title IV assistance are anticipated to be offset by FLEDA assistance.

The individual respondent asked whether the age 27 limitation set forth in the FLEDA statute and at 32.22 (c) of the regulations pertains to the age of the child at the time of his or her parent's death or disability, or rather to the child's age at the time of application for FLEDA benefits. Section 32.22 (c) refers to the child's age at the time of application for FLEDA assistance. However, under the FLEDA statute and regulations as written, a child over the age of 27 could request retroactive assistance for educational costs incurred prior to his or her 27th birthday. In addition, the current wording of the regulations allows for exceptions, consistent with the statute, for extraordinary circumstances that precluded the child from pursuing a

program of higher education prior to age 27.

The individual's second question was whether FLEDA assistance could be applied to graduate school if the child was younger than 27 at the time of his or her parent's death, but over age 27 while attending graduate school. FLEDA assistance can be used to defray the costs of graduate school. However, as indicated above, educational costs incurred beyond the age of 27 are not compensable under the FLEDA Program, absent a finding of extraordinary circumstances which precluded the child from pursuing a program of higher education prior to age 27.

The third question asked by the respondent was whether FLEDA assistance could be received retroactively to reimburse a student for loans that were paid off after the death or disability of his or her parent. Consistent with Section 32.35 of the regulations, FLEDA assistance can be used to reimburse a student for higher education loans that were paid off following the death or disability of his or her parent. Consistent with Section 32.35 of the regulations, FLEDA assistance can be used to reimburse a student for higher education loans that were paid off following the death or disability of his or her parent if the loans were for educational expenses incurred following the death or disability of the Federal law enforcement officer.

#### **Executive Order 12866**

This regulation has been written and reviewed in accordance with Executive Order 12866, § 1(b), Principles of Regulation. The Office of Justice Programs has determined that this rule is not a "significant regulatory action" under Executive Order 12866, § 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

#### **Executive Order 12612**

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### **Regulatory Flexibility Act**

The Office of Justice Programs, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: The FLEDA program will be administered by the Office of Justice Programs, and any funds distributed under it shall be distributed to individuals, not entities, and the economic impact is limited to the Office of Justice Program's appropriated funds.

#### **Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private section, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### **Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### **Paperwork Reduction Act**

The collection of information requirements contained in the proposed regulation will be submitted to the Office of Management and Budget for review under the Paperwork Reduction Act (44 U.S.C. 3504(h)).

#### **List of Subjects in 28 CFR Part 32**

Administrative practice and procedure, Claims, Disability benefits, Law enforcement officers.

For the reasons set out in the preamble, title 28, part 32 of the Code of Federal Regulations is amended as follows:

#### **PART 32—PUBLIC SAFETY OFFICER'S DEATH AND DISABILITY BENEFITS**

1. The authority citation for Part 32 continues to read as follows:

**Authority:** Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. 3711 *et seq.*)

#### **Subpart A—[Amended]**

2. The heading "Subpart A—Introduction" is revised to read "Subpart A—Death and Disability Benefits".

##### **§ 32.1 [Amended]**

3. In § 32.1(a), in the first sentence, the phrase "The purpose of this part" is revised to read "The purpose of this subpart" and in the parenthetical, the phrase "part L" is revised to read "subpart 1 of part L".

##### **§ 32.2 [Amended]**

4. In § 32.2, the phrase "For purposes of this subpart—" is added as introductory text before paragraph (a).

#### **Subpart B—[Amended]**

5. The heading "Subpart B—Officers Covered" is removed and an undesignated center heading reading "Officers Covered" is inserted in its place.

#### **Subpart C—[Amended]**

6. The heading "Subpart C—Beneficiaries" is revised to read "Beneficiaries" as an undesignated center heading.

##### **§ 32.10 [Amended]**

7. In § 32.10(a) introductory text, the phrase "subpart B of this part and § 32.11 of subpart C of this part" is revised to read "this subpart".

#### **Subpart D—[Amended]**

8. The heading "Subpart D—Interim and Reduced Death Payments" is removed and an undesignated center heading reading "Interim and Reduced Death Payments" is added in its place.

##### **§ 32.16 [Amended]**

9. In § 32.16(a), the phrase "subpart C" is revised to read "§§ 32.10 through 32.15".

#### **Subpart E—[Amended]**

10. The heading "Subpart E—Filing and Processing of Claims" is removed and an undesignated center heading reading "Filing and Processing of Claims" is added in its place.

#### **Subpart F—[Amended]**

11. The heading "Subpart F—Determination, Hearing, and Review" is removed and an undesignated center heading reading "Determination,

Hearing, and Review" is added in its place.

#### Subpart G—[Amended]

12. The heading "Subpart G—National Programs for Families of Public Safety Officers Who Have Died in the Line of Duty" is removed and an undesignated center heading reading "National Programs for Families of Public Safety Officers Who Have Died in the Line of Duty" is added in its place.

13. Part 32 is amended by adding the following new subpart B following § 32.25:

#### Subpart B—Federal Law Enforcement Dependents Assistance

Sec.

- 32.31 Purpose.
- 32.32 Definitions.
- 32.33 Eligibility for assistance.
- 32.34 Application for assistance.
- 32.35 Retroactive benefits.
- 32.36 Action on applications for benefits.
- 32.37 Determination of benefits.
- 32.38 Denial of benefits.
- 32.39 Appeals.
- 32.40 Repayment.

#### Subpart B—Federal Law Enforcement Dependents Assistance

##### § 32.31 Purpose.

This subpart implements the Federal Law Enforcement Dependents Assistance Act of 1996, which authorizes the payment of financial assistance for the purpose of higher education to the dependents of Federal law enforcement officers who are found, under the provisions of subpart A of this part, to have died as a direct and proximate result of a personal injury sustained in the line of duty, or to have been permanently and totally disabled as the direct result of a catastrophic injury sustained in the line of duty.

##### § 32.32 Definitions.

For purposes of this subpart:

(a) The *Act* means the Federal Law Enforcement Dependents Assistance Act of 1996, Pub. L. 104–238, Oct. 3, 1996, codified as Subpart 2 of Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3796d *et seq.*

(b)(1) *Bureau* means the Bureau of Justice Assistance of the Office of Justice Programs, which is authorized to implement the provisions of this subpart.

(2) *PSOB* means the Public Safety Officers' Benefits program administered by the Bureau under subpart A of this part.

(3) *FLEDA* means the Federal Law Enforcement Dependents Assistance program administered by the Bureau under this subpart.

(c) *Federal law enforcement officer* means any law enforcement officer, as defined in § 32.2(m), employed in a civilian capacity by an agency of the United States Government, with respect to whom PSOB benefits have been approved under subpart A of this part on account of the officer's death or disability in the line of duty.

(d) *Child* means any person who was the biological, adopted, or posthumous child, or the stepchild, of a Federal law enforcement officer at the time of the officer's death or disabling injury with respect to which PSOB benefits were approved under subpart A of this part. A step-child must meet the provisions set forth in § 32.15.

(e) *Spouse* means the husband or wife of a deceased or permanently and totally disabled officer at the time of the officer's death or disabling injury with respect to which PSOB benefits were approved under subpart A of this part, and includes a spouse living apart from the officer at that time for any reason.

(f) *Dependent* means the child or spouse of any eligible Federal law enforcement officer.

(g) *Program of education* means any curriculum or any combination of unit courses or subjects pursued at an eligible educational institution, which generally is accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. It includes course work for the attainment of more than one objective if, in addition to the previous requirements, all of the objectives generally are recognized as reasonably related to a single career field.

(h) *Eligible educational institution* means a postsecondary institution which—

(1) Is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on October 3, 1996, including—

(i) An institution of higher education as defined in section 1201(a) of such Act (20 U.S.C. 1141(a)),

(ii) A proprietary institution of higher education,

(iii) A postsecondary vocational institution, or

(iv) A foreign medical school; and

(2) Is eligible to participate in student assistance programs under title IV of such Act (20 U.S.C. 1070 *et seq.*).

(i) *Satisfactory progress* means that the dependent is maintaining satisfactory progress in the program of education, as determined under section 484(c) of the Higher Education Act of 1965, as amended (20 U.S.C. 1091(c)).

(j) *Educational expenses* means tuition, room and board, books,

supplies, fees, and transportation expenses that are consistent with the educational, professional or vocational objectives set forth by the applicant in the application for assistance.

##### § 32.33 Eligibility for assistance.

(a) Subject to the availability of appropriations, and the provisions of the Act and this subpart, the Bureau shall provide financial assistance to a dependent who attends a program of education at an eligible educational institution and is—

(1) The child of any Federal law enforcement officer with respect to whom PSOB benefits have been approved under subpart A of this part; or

(2) The spouse of such an officer at the time of the officer's death or on the date of the officer's totally and permanently disabling injury.

(b) The educational assistance under this subpart is intended for the sole purpose of defraying the costs of educational expenses and may only be used to defray such costs. A certification of educational use will be required.

(c) No child shall be eligible for assistance under this subpart after the child's 27th birthday, absent a finding by the Bureau of extraordinary circumstances precluding the child from pursuing a program of education, including but not limited to the death of a relative, personal injury or illness of the student, military service, or financial hardship.

(d) No dependent shall receive assistance under this subpart for a period in excess of forty-five months of full-time education or training, or a proportionate period of time for a part-time program.

##### § 32.34 Application for assistance.

(a) A person seeking assistance under this subpart shall submit an application to the Bureau in such form and containing such information as the Bureau may reasonably require. The provisions of § 32.21 relating to evidence shall apply to applications under this subpart.

(b) An applicant for assistance under this subpart must establish that the Bureau previously has received and approved a claim for PSOB benefits under subpart A of this part with respect to the death or disability of the parent or spouse of the applicant.

(1) A spouse or child recognized as the beneficiary of a PSOB claim under subpart A of the part with respect to a deceased officer will be recognized as a spouse or child for purposes of this subpart.

(2) In the case of a disabled Federal law enforcement officer approved for PSOB benefits under subpart A of this part, applicants for assistance under this subpart must submit birth or marriage certificates or other proof of relationship consistent with §§ 32.12 (spouse) and 32.13 (child), if such evidence had not been submitted with respect to the PSOB claim.

(c) The application shall describe the program of education at an eligible educational institution, and the educational expenses for which assistance is sought. A request for assistance may be for prospective assistance, for retroactive benefits pursuant to § 32.35 (if applicable), or both.

(d)(1) A request for prospective assistance must be accompanied by a certified copy of the official letter of acceptance from the eligible educational institution (on official letterhead) to the dependent, accepting the applicant into an educational program.

(2) The applicant also shall submit to the Bureau, when it is available, the schedule of classes in which the applicant is enrolled, and which must be consistent with the educational, professional, or vocational objectives stated in the application.

(e) An applicant may be represented in any proceeding before the Bureau by an attorney or other person authorized to act on behalf of the applicant pursuant to §§ 32.19 and 32.22.

#### **§ 32.35 Retroactive benefits.**

(a) Each dependent of a Federal law enforcement officer killed in the line of duty on or after May 1, 1992, shall be eligible for assistance, on the same basis and subject to the limitations of this subpart, for each month in which the dependent had pursued a program of education at an eligible educational institution.

(b) To be eligible for retroactive benefits, the applicant must submit a certified copy of transcripts from the educational institution covering the relevant time period. Absent compelling justification, no application will be accepted more than five years from the last date the applicant pursued such program of education.

(c) Subject to applicable limitations, retroactive benefits shall be in addition to prospective assistance provided under this subpart. A dependent eligible for retroactive benefits may choose to waive such assistance and apply only for prospective assistance under the provisions of this subpart.

#### **§ 32.36 Action on applications for assistance.**

(a) After examining the application for prospective or retroactive assistance under the provisions and limitations of this subpart, and any additional relevant information, the Bureau shall notify the dependent in writing of the approval or disapproval of the application.

(b) If the application is denied, in whole or part, the Bureau shall explain the reasons for the denial. A copy of the decision, together with information as to the right to an appeal, shall be mailed to the applicant's last known address.

#### **§ 32.37 Determination of benefits.**

(a)(1) Financial assistance under this subpart shall consist of direct payments to an eligible dependent and shall be computed on the basis set forth in 38 U.S.C. 3532.

(2) The dependent's status as a full-time, three-quarter-time, half-time, or less-than-half-time student will be determined in accordance with the requirements of, and must be certified by, the eligible educational institution.

(b) In applying the limitations under this subpart with respect to prospective assistance, the Bureau shall consider any retroactive benefits provided to the dependent pursuant to § 32.35.

(c) Benefits payable under this subpart shall be in addition to any other benefit that may be due from any other source, except that, if the FLEDA assistance in combination with other benefits would exceed the total approved costs for the applicant's program of education, the assistance under this subpart will be reduced by the amount of such excess.

#### **§ 32.38 Denial of benefits.**

(a) No benefit shall be paid under this subpart if the Bureau determines that the dependent is not eligible for, is no longer eligible for, or is not entitled to the assistance for which application is made. Without limitation, this will include circumstances in which—

(1) The benefits would exceed the applicable durational limits;

(2) A dependent child has exceeded the age limit for benefits;

(3) The dependent has failed to maintain satisfactory progress in the selected program of education as defined in § 32.32(i);

(4) The dependent is in default on any student loan obtained through Title IV of the Higher Education Act of 1965, unless the assistance under this subpart is used for repayment of the defaulted loans and the applicant provides evidence of this fact to the Bureau in the form of an approved repayment plan; or

(5) The dependent is subject to a denial of federal benefits under 21 U.S.C. 862.

(b) The Bureau shall deny benefits under this subpart if—

(1) The educational institution attended by the dependent fails to meet a requirement for eligibility described in § 32.32(h);

(2) The dependent's enrollment in or pursuit of the selected program of education would fail to meet the criteria established in § 32.32(g); or

(3) The dependent already is qualified by previous education or training for the educational, professional or vocational objective for which the program of education is offered.

#### **§ 32.39 Appeals.**

An applicant may, within 30 days after notification of denial, submit a written appeal request to the Bureau. Appeals will be handled consistent with § 32.24 and the appendix to this part, except that such appeals shall not be handled by oral hearing but will be conducted through a record review by an administrative hearing officer. Provisions in § 32.24 and the appendix to this part relating to oral hearings shall not be applicable to appeals under this subpart.

#### **§ 32.40 Repayment.**

In the event that the recipient of financial assistance under this subpart fails to maintain satisfactory progress, as defined in § 32.32(i), or otherwise become ineligible for assistance (other than as a result of age or the expiration of the time limit for assistance), the dependent is liable for repayment of funds awarded for prospective assistance. The Director of the Bureau may waive all or part of such repayment, based on a consideration of the circumstances and the hardship that would result from such repayment.

Dated: July 10, 1997.

**Richard H. Ward,**

*Deputy Director, Bureau of Justice Assistance.*  
[FR Doc. 97-18584 Filed 7-14-97; 8:45 am]

BILLING CODE 4410-18-P

## **PENSION BENEFIT GUARANTY CORPORATION**

### **29 CFR Part 4044**

#### **Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.