

SUPPLEMENTARY INFORMATION: Section 8(b) of Public Law 101-552, enacted November 15, 1990, amended section 3711 of title 31 of the United States Code to increase from \$20,000 to \$100,000 (or a higher amount if so prescribed by the Attorney General) the amount of a claim that an agency is authorized to compromise. Consistent with the change in the law, the Board is amending § 340.13 of its regulations under the Railroad Unemployment Insurance Act to reflect this change in law.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a major rule for the purposes of Executive Order 12866. Therefore, no regulatory analysis is required. This rule does not involve any information collection requirements.

The Board published this rule as an interim final rule on August 1, 1997 (62 FR 41270), and comments were invited by September 30, 1997. No comments were received. Accordingly, the interim final rule is adopted as a final rule without change.

Dated: November 25, 1997.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 97-31905 Filed 12-4-97; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 422

RIN 0960-AE09

Federal Old-Age, Survivors, and Disability Insurance; Disclosure of Information to Consumer Reporting Agencies and Overpayment Recovery Through Administrative Offset Against Federal Payments

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: In this final rule, we are making several revisions to our regulations dealing with debt collection. First, we are modifying the regulations dealing with the recovery of benefit overpayments under title II of the Social Security Act (the Act) to reflect statutory authority for the Social Security Administration (SSA) to selectively

refer information to consumer reporting agencies and to recover title II overpayments through administrative offset by the Department of the Treasury against other Federal payments to which the overpaid individual may be entitled. These collection practices are limited to overpayments made to a person after he or she attained age 18 that are determined to be otherwise unrecoverable under section 204 of the Act after the individual ceases to be a beneficiary under title II of the Act. Second, as an independent agency in the executive branch of the U.S. Government, we are establishing a new subpart D in part 422 of title 20 of the Code of Federal Regulations which explains our rules on debt collection procedures for both administrative debts and for title II program overpayments determined to be otherwise unrecoverable under section 204 of the Act. These rules for the new subpart D address the reporting of delinquent debts to consumer and other credit reporting agencies and the use of administrative offset through the Department of the Treasury. Third, we are revising our rules on the recovery of title II program overpayments through the use of the Federal income tax refund offset (TRO) provisions to reflect that, beginning January 1, 1998, the Department of the Treasury, rather than the Internal Revenue Service (IRS), will administer the TRO program, and to reflect other changes in policies and procedures applied by the IRS and the Department of the Treasury in the TRO program.

EFFECTIVE DATE: This final rule is effective January 5, 1998.

FOR FURTHER INFORMATION CONTACT: Robert J. Augustine, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 966-5121. For information on eligibility or claiming benefits, call our national toll-free number, 1-800-772-1213.

SUPPLEMENTARY INFORMATION: Section 204 of the Act prescribes the methods SSA may use to recover Social Security benefits erroneously paid under title II of the Act (title II program overpayments), as distinguished from the methods SSA may use to collect other debts owed the agency

(administrative debts) that are recoverable under other statutory authority. Until recently, SSA was authorized to recover title II program overpayments only through adjustment of future benefits payable to the overpaid individual or to others on the earnings record on which the overpayment was made, by direct recovery from the overpaid person (or the overpaid person's estate, if deceased), or by offset against Federal income tax refunds due from the Department of the Treasury. Amendments to section 204 of the Act by section 5 of Pub. L. 103-387 (1994) and section 31001(z)(2) of Pub. L. 104-134 (1996) permit SSA to use several debt collection procedures that have been available to Federal agencies (including SSA) by statute since 1982, but that SSA had been precluded from using to recover title II program overpayments. Among other things, these procedures include reporting delinquent debts to consumer and other credit reporting agencies and recovering debts by administrative offset against other Federal payments to which the debtor is entitled. Under section 204(f) of the Act (42 U.S.C. 404(f)), these additional debt collection procedures may be used to recover title II program overpayments only if the overpayment was made to a person after he or she attained age 18 and the overpayment has been determined to be otherwise unrecoverable under section 204 of the Act after the overpaid person is no longer entitled to benefits under title II of the Act.

Before we can refer information to consumer or other credit reporting agencies or refer a debt to the Department of the Treasury for administrative offset (either title II program overpayments or administrative debts), we must (1) send the debtor written notice (or, in the case of an individual for whom we do not have a current address, take reasonable action to locate and send written notice) describing the amount and nature of the debt, the action that we propose to take, and the debtor's rights to an explanation of the debt, to request us to review the debt, to dispute the accuracy of the information about the debt, and to inspect or copy our records about the debt; and (2) give the debtor at least 60

calendar days to present evidence that all or part of the debt is not past-due or not legally enforceable, or enter into a written agreement to pay the debt.

Prior to March 31, 1995, SSA was an operating division of the Department of Health and Human Services (DHHS). SSA relied on the DHHS rules at 45 CFR part 30 for debt collection (other than collection of title II program overpayments). The Social Security Independence and Program Improvements Act of 1994 (SSIPIA), Pub. L. 103-296, established SSA as an independent agency in the executive branch of the Federal government effective March 31, 1995, and vested general regulatory authority in the Commissioner of Social Security (the Commissioner). Under section 106(b) of the SSIPIA, DHHS regulations in effect immediately before March 31, 1995, which relate to functions now vested in the Commissioner by reason of SSA's independence, continue to apply to SSA until such time as they are modified, suspended, terminated, or repealed by the Commissioner. In this final rule, we are establishing a new subpart D in part 422 of our regulations which sets forth the SSA rules on debt collection for title II program overpayments that have been determined to be otherwise unrecoverable under section 204 of the Act and for administrative debts. At this time, we are setting forth in subpart D our rules on referral to consumer and other credit reporting agencies and referral to the Department of the Treasury for administrative offset. In the future, as we make the necessary systems changes and develop policies and procedures to enable us to use additional debt collection tools for recovery of title II program overpayments, we will modify subpart D of part 422. In the meantime, we will continue to rely on the definitions and additional collection methods contained in the DHHS regulations in 45 CFR part 30 to recover administrative debts owed the Federal government.

We are also revising our rules on the recovery of title II program overpayments through the withholding of amounts due to former beneficiaries as Federal income tax refunds to reflect the fact that, beginning January 1, 1998, the TRO program will be administered by the Department of the Treasury, Financial Management Service (FMS), instead of the IRS. The policy requiring agencies to delay referral of debts for TRO for three months after the right to collect first accrued has been rescinded. Also, the TRO program, as administered by FMS, will be ongoing rather than cyclical so that it will no longer be necessary for agencies to recertify

amounts of a particular debt for collection by TRO each year. Instead, if the entire debt is not recovered in a given year, the case will remain with FMS for collection of the remainder by offset in succeeding years.

Public Comments

On August 7, 1997, we published proposed rules in the **Federal Register** at 62 FR 42439 and provided a 60-day period for interested individuals to comment. We received a total of three letters on the proposed rules: one from a private attorney, one from a disability law center, and one from a member of Congress. After carefully considering the comments received, we have decided to adopt the proposed rules with only a few clarifying changes. The comments and our responses to them are summarized below.

Comment: Two commenters objected to the proposed rules based on the assumption that the debtors subject to these rules have no input into the calculation of their debts and are without adequate protections.

Response: The debtors who will be selected for the new debt collection techniques are those from whom SSA has attempted numerous times to collect the debts, both by written notices and personal contacts. In the initial overpayment notice, SSA advises the debtor of the right to request reconsideration of the fact and amount of the debt, and thereby challenge the calculation and existence of the debt. In this same notice, SSA also advises the debtor about the right to request waiver. In addition, SSA's separate notice to the debtor of the Agency's intent to refer information about the debt to the Department of the Treasury and to the consumer reporting agencies offers the debtor the opportunity to request waiver, present evidence showing that the debt is not past-due and/or legally enforceable, and dispute the accuracy of information about the debt that we would refer. We believe that our procedures adequately protect individuals by allowing ample opportunity to the debtors to both dispute the amount of the overpayment and/or to request waiver.

Comment: One commenter asked the Agency not to issue final regulations until it: (1) runs a test program to assure that overpayments preventable by SSA are not occurring; (2) tests a program of appointing free advocates (who may be SSA employees) to counsel and represent those accused of receiving overpayments; and (3) assures that people accused of using overpayments understand that a report is made to a consumer reporting agency immediately

unless they appeal or reach agreement with SSA.

Response: We are not adopting this comment. With regard to the commenter's first concern above, SSA has had a longstanding and comprehensive quality assurance program that reviews overpayments, including those preventable by SSA. The program studies significant samples of claims, identifying problem areas that need to be corrected. We believe this quality assurance program corresponds to the test program suggested by the commenter.

With regard to the commenter's second point, SSA already takes several steps toward helping overpaid individuals obtain representation. Information on the individual's right to seek and use representation is included in SSA's initial overpayment notices. In addition, SSA offers to provide information on advocacy groups that do not charge people who qualify for their services.

Regarding the commenter's third point, SSA will not report information to consumer reporting agencies immediately. SSA will wait at least 60 days after the date of the notice to report the delinquency to consumer reporting agencies. During the 60-day due process period, SSA provides the debtor with the opportunity to request review of the debt, dispute the accuracy of the information to be reported, request waiver, or enter into an installment agreement. All of these rights are clearly explained in the notice to the debtor.

Comment: One commenter objected to the practice of sending one pre-offset notice to the debtor explaining that the debt is being referred to the Department of the Treasury for TRO and that future tax refunds will be offset to recover the overpayment. The commenter believes that we should provide separate notices before subsequent offsets.

Response: This practice is consistent with the Department of the Treasury's existing process whereby no additional notice is necessary if there are multiple offsets in one year to recover an overpayment debt. It is also consistent with the Department of the Treasury's regulations and operating procedures which require notice at least 60 calendar days before the date of referral to the Department of the Treasury.

Comment: SSA's notices described in § 404.521 of the proposed rules should contain language explaining that the debtor may enter into a repayment agreement with SSA.

Response: Since the beginning of the TRO program, SSA's notices have contained such language. The notices issued under these final regulations also

contain the language which offers the opportunity to pay the debt by installments. One of the principles that SSA uses in the offset program is to extend to the debtor as many opportunities as possible to pay the debt voluntarily, rather than by offset. As long as the debtor repays by regular installments in accordance with his or her payment agreement with SSA, offset will not be used to collect the debt.

Comment: No referral to the Department of the Treasury should occur until all administrative reviews have been completed or until a decision of the Agency becomes final, in the event that no appeal is taken. In addition, recovery efforts by the SSA and the Department of the Treasury should be stopped until a waiver request received after referral to the Department of the Treasury has been given full consideration.

Response: When an individual submits a timely request for reconsideration of the initial overpayment decision and/or requests waiver of collection of the overpayment, SSA is precluded from any recovery action until SSA renders a decision affirming the initial determination and/or denying the waiver request. See *Califano v. Yamasaki*, 442 U.S. 682 (1979) and § 404.506. SSA is not required to refrain from taking collection action concerning a title II overpayment debt after a decision on a request for reconsideration of the initial overpayment determination is issued and after a determination on a request for waiver of recovery of the overpayment is made after the debtor had the opportunity for a prerecoumpment personal conference. However, under the process adopted to implement these final regulations SSA would not select a title II overpayment debt for referral to the Department of the Treasury while an administrative appeal regarding that debt is pending.

Section 204(f) of the Act, as amended, authorizes SSA to collect such debts through administrative offset by the Department of the Treasury against Federal payments due the debtor when, among other things, SSA determines, under regulations, that such debts are otherwise unrecoverable under section 204 of the Act. In accordance with § 404.527(b) of these final regulations, SSA would not select a debt as

“unrecoverable” until a reconsideration determination requested on the initial determination of overpayment, or an initial determination (after opportunity for a personal conference) on a request for waiver of collection, is issued and either the billing system sequence is completed or further collection action is

suspended or terminated. The billing system sequence on a title II overpayment debt would not be completed, and collection action on such a debt would not be suspended or terminated, while an administrative appeal at any level of adjudication is pending on the matter. Thus, under these final regulations SSA would not select a title II overpayment debt for collection by the Department of the Treasury through offset against other Federal payments while an administrative appeal is pending at any level of adjudication on the fact or amount of the overpayment or on waiver.

Similarly, the changes in these regulations will not affect any former beneficiary's ability to request waiver. If the debtor requests waiver after a case has been referred, SSA will instruct the Department of the Treasury to cease collection efforts until the waiver request is adjudicated.

Comment: SSA should raise its monetary threshold for referral to the Department of the Treasury from \$25 to \$500.

Response: The \$25 debt threshold is consistent with the regulations issued by Treasury and is used governmentwide. SSA has also determined it to be cost-effective. SSA will continue to use the \$25 threshold in applying these rules.

Comment: The notice SSA will send to debtors informing them that the Agency intends to report their debts to consumer reporting agencies should include the right to request waiver of the overpayment.

Response: Unlike 31 U.S.C. 3720A(f) pertaining to the TRO notice to debtors, the statute (31 U.S.C. 3711(e)(1)(C)) pertaining to the notice to debtors about referral to consumer reporting agencies does not require an explanation of waiver. However, SSA notifies debtors about TRO, offset of other Federal payments and referral to consumer reporting agencies concurrently, and these notices explain the debtors' waiver rights. If the debtor requests waiver within the 60-calendar-day period allowed by the notice, SSA will not report the debt to the credit bureaus until the waiver request has been adjudicated.

Explanation of Changes to Regulations

We are revising our title II rules on TRO at §§ 404.520–404.526 to reflect several changes in the TRO process promulgated by the Department of the Treasury. Beginning January 1, 1998, we will be referring title II program overpayments for TRO to the Department of the Treasury, rather than

to IRS. Section 404.520 is revised to delete the requirement that a debt may not be referred for TRO before the expiration of three months after our right to collect first accrued. Section 404.526 is also revised by deleting reference to the need to recertify an overpayment for TRO in cases where a tax refund is insufficient to recover the entire amount of an overpayment in a given year, reflecting the fact that the case will now remain with the Department of the Treasury for offset in succeeding years without need for recertification. In this final rule, we have inserted at the end of § 404.520(a) a reference to the current regulation of the Department of the Treasury (31 CFR 285.2) which supersedes the IRS regulation (26 CFR 301.6402–6) that was cited in the notice of proposed rulemaking.

We are adding a new § 404.527 to our regulations to explain that we will use the additional debt collection methods authorized by section 204(f) of the Act to recover title II program overpayments if the overpayment occurred after the individual attained age 18, and the overpayment has been determined to be otherwise unrecoverable under section 204 of the Act after the individual is no longer entitled to benefits under title II of the Act. Section 404.527 also contains the criteria under which we determine that an overpayment is “otherwise unrecoverable under section 204 of the Act.” An overpayment debt will be determined to be unrecoverable when all of the following conditions are met: we completed our billing sequence or collection activity has been suspended or terminated in accordance with the Federal Claims Collection Standards in 4 CFR 104.2 and 104.3; there is no installment payment agreement or the overpaid person has failed to pay in accordance with such an agreement for two consecutive months; the overpaid individual has not requested waiver or, after appropriate review of such a request, we have determined that we will not waive collection of the overpayment; the overpaid person has not requested reconsideration of the initial overpayment determination or, after our review of such determination, we have affirmed such determination wholly or partially; we cannot collect the overpayment by adjusting benefits payable to individuals other than the overpaid person. For purposes of § 404.527, an overpayment will be deemed to be unrecoverable from an individual who lived in a separate household from the overpaid person when the overpayment occurred and who did not receive the overpayment.

Adjustment of benefits is waived when waiver is requested under these circumstances. See § 404.509.

We are adding to § 404.903 new paragraphs (t) and (u) to include in the list of administrative actions that are not initial determinations our determinations whether we will refer information about an overpayment debt to consumer reporting agencies and whether we will refer the debt to the Department of the Treasury for offset against other Federal payments due the overpaid person. Administrative actions that are not initial determinations may be reviewed by us, but they are not subject to the administrative review process provided by subpart J of our regulations at 20 CFR Part 404, and they are not subject to judicial review.

We are also creating a new subpart D to part 422 of our regulations to contain our rules on certain debt collection practices and procedures. In § 422.301, we specify that the debt collection tools in subpart D may be used to recover both title II program overpayments the Commissioner has determined to be unrecoverable under section 204 of the Act and overdue administrative debts owed the agency.

In § 422.305, we explain that we will refer all overdue title II program debts over \$25, found to be otherwise unrecoverable under section 204 of the Act, to consumer reporting agencies. We describe the information we must include in the notice we send to the debtor before we report the debt to a consumer reporting agency. We also explain in this section that, in cases where an individual disputes the information we propose to refer to a consumer reporting agency within 60 calendar days of our notice of our proposed referral, we will not send the information until we determine the correct information.

In § 422.306, we explain that we will refer all overdue administrative debts over \$25 to credit reporting agencies. We also describe the information we must include in the notice we send to the debtor before we report the debt to a credit reporting agency. Examples of administrative debts are overpayments of employees' pay and allowances, debts for civil money penalties imposed under section 1140(b) of the Act, debts for unpaid fees for reimbursable services by SSA (e.g., disclosure of information), contractor debts, etc.

In § 422.310, we explain our rules relating to referring debts to the Department of the Treasury for administrative offset. Specifically, we explain that we will refer overdue debts over \$25 to the Department of the Treasury for offset against any Federal

payments due the debtor. We also describe the information we must include in the notice we send to the debtor before referring the debt to the Department of the Treasury for administrative offset.

In this final rule, we are revising the language of §§ 422.305(b)(2), 422.306(b)(2) and 422.310(c)(2) as it appeared in the proposed rules to clearly state that we will not refer information on debts to consumer reporting agencies or to the Department of the Treasury for administrative offset before the expiration of 60 calendar days from the dates of the notices described in those regulations.

In § 422.315, we explain that a debtor has the right to inspect or copy our records related to a debt before we refer the debt to a consumer or credit reporting agency or to the Department of the Treasury for administrative offset, and the procedures for exercising that right.

In § 422.317, we explain that a debtor has the right to have us review the debt. To exercise this right, the debtor must notify us within 60 calendar days from the date of our notice of proposed referral and give us evidence that he or she does not owe all or part of the debt, or we do not have the right to collect it. After our review of the evidence, we explain that we will issue written findings of our review. If the debtor requests review and submits evidence within the 60-day period, we will not refer the debt to consumer or credit reporting agencies or to the Department of the Treasury unless and until we have completed our review and sent our findings to the debtor that all or part of the debt is overdue and legally enforceable.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to OMB review.

Regulatory Flexibility Act

We certify that these proposed regulations will not have a significant impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis, as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These proposed regulations will impose no new reporting or

recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Programs No. 96.001, Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.003 Social Security—Special Benefits for Persons Aged 72 and Over; 96.004, Social Security—Survivors Insurance)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 422

Administrative practice and procedure, Organization and functions (Government agencies), Social Security.

Dated: December 2, 1997.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set out in the preamble, subparts F and J of Part 404 of Chapter III of Title 20 of the Code of Federal Regulations are amended and a new subpart D is added to Part 422 of Chapter III of Title 20 of the Code of Federal Regulations as follows:

PART 404—[AMENDED]

1. The authority citation for subpart F of Part 404 is revised to read as follows:

Authority: Secs. 204, 205(a), and 702(a)(5) of the Social Security Act (42 U.S.C. 404, 405(a), and 902(a)); 31 U.S.C. 3720A.

2. Section 404.520 is revised to read as follows:

§ 404.520 Referral of overpayments to the Department of the Treasury for tax refund offset—General.

(a) The standards we will apply and the procedures we will follow before requesting the Department of the Treasury to offset income tax refunds due taxpayers who have an outstanding overpayment are set forth in §§ 404.520 through 404.526. These standards and procedures are authorized by 31 U.S.C. 3720A and are implemented through Department of the Treasury regulations at 31 CFR 285.2.

(b) We will use the Department of the Treasury tax refund offset procedure to collect overpayments that are certain in amount, past due and legally enforceable, and eligible for tax refund offset under regulations issued by the Department of the Treasury. We will use these procedures to collect overpayments only from individuals who are not currently entitled to

monthly Social Security benefits under title II of the Act. We will refer an overpayment to the Department of the Treasury for offset against tax refunds no later than 10 years after our right to collect the overpayment first accrued.

3. Section 404.521 is amended by revising the introductory text to read as follows:

§ 404.521 Notice to overpaid individual.

A request for reduction of a Federal income tax refund will be made only after we determine that an amount is owed and past due and send the overpaid individual written notice. Our notice of intent to collect an overpayment through tax refund offset will state:

* * * * *

4. Section 404.526 is revised to read as follows:

§ 404.526 Tax refund insufficient to cover amount of overpayment.

If a tax refund for a given taxable year is insufficient to recover an overpayment completely, the case will remain with the Department of the Treasury for offset, assuming that all criteria for offset continue to be met.

5. Section 404.527 is added to subpart F to read as follows:

§ 404.527 Additional methods for recovery of title II benefit overpayments.

(a) *General.* In addition to the methods specified in §§ 404.502 and 404.520, an overpayment under title II of the Act is also subject to recovery under the rules in subpart D of part 422, provided:

(1) The overpayment occurred after the individual has attained age 18;

(2) The overpaid individual is no longer entitled to benefits under title II of the Act; and

(3) Pursuant to paragraph (b) of this section, we have determined that the overpayment is otherwise unrecoverable under section 204 of the Act.

(b) *When an overpayment is considered to be otherwise unrecoverable.* An overpayment under title II of the Act is considered to be otherwise unrecoverable under section 204 of the Act if all of the following conditions are met:

(1) Our billing system sequence has been completed (i.e., we have sent the individual an initial notice of the overpayment, a reminder notice, and a past-due notice) or collection activity has been suspended or terminated in accordance with the Federal Claims Collection Standards in 4 CFR 104.2 or 104.3.

(2) We have not entered into an installment payment arrangement with

the overpaid individual or, if we have entered into such an arrangement, the overpaid individual has failed to make any payment for two consecutive months.

(3) The overpaid individual has not requested waiver pursuant to § 404.506 or § 404.522 or, after a review conducted pursuant to those sections, we have determined that we will not waive collection of the overpayment.

(4) The overpaid individual has not requested reconsideration of the initial overpayment determination pursuant to §§ 404.907 and 404.909 or, after a review conducted pursuant to § 404.913, we have affirmed, in whole or in part, the initial overpayment determination.

(5) The overpayment cannot be recovered pursuant to § 404.502 by adjustment of benefits payable to any individual other than the overpaid individual. For purposes of this paragraph, an overpayment will be deemed to be unrecoverable from any individual who was living in a separate household from the overpaid person at the time of the overpayment and did not receive the overpayment.

6. In addition to the amendments set forth above, remove the acronym "IRS" and add, in its place, the words "Department of the Treasury" in the following places:

(a) Section 404.521(b);

(b) Section 404.522(b);

(c) Section 404.523 (a) and (c) (both places); and

(d) Section 404.525.

7. The authority citation for subpart J of Part 404 is revised to read as follows:

Authority: Secs. 201(j), 204(f), 205(a), (b), (d)–(h), and (j), 221, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a), (b), (d)–(h), and (j), 421, 425, and 902(a)(5)); 31 U.S.C. 3720A; sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note).

8. Section 404.903 is amended by deleting the word "and" at the end of paragraph (r), replacing the period at the end of paragraph (s) with a semicolon, and adding paragraphs (t) and (u) to read as follows:

§ 404.903 Administrative actions that are not initial determinations.

* * * * *

(t) Determining whether we will refer information about your overpayment to a consumer reporting agency (see §§ 404.527 and 422.305 of this chapter); and

(u) Determining whether we will refer your overpayment to the Department of the Treasury for collection by offset against Federal payments due you (see §§ 404.527 and 422.310 of this chapter).

PART 422—ORGANIZATION AND PROCEDURES

10. Subpart D is added to read as follows:

Subpart D—Claims Collection

Sec.

422.301 Material included in this subpart.

422.305 Report of overdue title II program overpayment debts to consumer reporting agencies.

422.306 Report of overdue administrative debts to credit reporting agencies.

422.310 Collection of overdue debts by administrative offset.

422.315 Review of our records related to the debt.

422.317 Review of the debt.

Subpart D—Claims Collection

Authority: Secs. 204(f), 205(a), and 702(a)(5) of the Social Security Act (42 U.S.C. 404(f), 405(a), and 902(a)(5)); 31 U.S.C. 3711(e); 31 U.S.C. 3716.

§ 422.301 Material included in this subpart.

This subpart describes the procedures relating to collection of:

(a) Overdue administrative debts, and

(b) Overdue title II program overpayments described in § 404.527 of this chapter.

§ 422.305 Report of overdue title II program overpayment debts to consumer reporting agencies.

(a) *Debts we will report.* We will report to consumer reporting agencies all overdue title II program overpayment debts over \$25.

(b) *Notice to debtor.* Before we report any such debt to a consumer reporting agency, we will send the debtor written notice of the following:

(1) We have determined that payment of the debt is overdue;

(2) We will refer the debt to a consumer reporting agency at the expiration of not less than 60 calendar days after the date of the notice unless, within that 60-day period, the debtor pays the full amount of the debt or takes either of the actions described in paragraphs (b)(6) or (b)(7) of this section;

(3) The specific information we will provide to the consumer reporting agency, including information that identifies the debtor (e.g., name, address, and social security number) and the amount, status, and history of the debt;

(4) The debtor has the right to a complete explanation of the debt;

(5) The debtor may dispute the accuracy of the information to be provided to the consumer reporting agency;

(6) The debtor may request a review of the debt by giving us evidence

showing that he or she does not owe all or part of the amount of the debt or that we do not have the right to collect it; and

(7) The debtor may request an installment payment plan.

(c) *Disputing the information that we would send to consumer reporting agencies.* If a debtor believes that the information we propose to send to consumer reporting agencies is incorrect, the debtor may ask us to correct such information. If, within 60 calendar days from the date of our notice described in paragraph (b) of this section, the debtor notifies us that any information to be sent to consumer reporting agencies is incorrect, we will not send the information to consumer reporting agencies until we determine the correct information.

§ 422.306 Report of overdue administrative debts to credit reporting agencies.

(a) *Debts we will report.* We will report to credit reporting agencies all overdue administrative debts over \$25. Some examples of administrative debts are as follows: overpayments of pay and allowances paid to employees, debts for civil monetary penalties imposed under section 1140(b) of the Act, debts for unpaid fees for reimbursable services performed by SSA (e.g., disclosures of information), and contractor debts.

(b) *Notice to debtor.* Before we report any administrative debt to a credit reporting agency, we will send the debtor written notice of the following:

(1) We have determined that payment of the debt is overdue;

(2) We will refer the debt to a credit reporting agency at the expiration of not less than 60 calendar days after the date of the notice unless, within that 60-day period, the debtor pays the full amount of the debt or takes either of the actions described in paragraphs (b)(6) or (b)(7) of this section;

(3) The specific information we will provide to the credit reporting agency, including information that identifies the debtor (e.g., name, address, social security number, and employer identification number) and the amount, status, and history of the debt;

(4) The debtor has the right to a complete explanation of the debt;

(5) The debtor may dispute the accuracy of the information to be provided to the credit reporting agency;

(6) The debtor may request a review of the debt by giving us evidence showing that he or she does not owe all or part of the amount of the debt or that we do not have the right to collect it; and

(7) The debtor may request an installment payment plan.

§ 422.310 Collection of overdue debts by administrative offset.

(a) *Referral to the Department of the Treasury for offset.* We will recover overdue debts by offsetting Federal payments due the debtor through the Treasury Offset Program (TOP). TOP is a Governmentwide delinquent debt matching and payment offset process operated by the Department of the Treasury, whereby debts owed to the Federal Government are collected by offsetting them against Federal payments owed the debtor.

(b) *Debts we will refer.* We will refer for administrative offset all overdue debts over \$25.

(c) *Notice to debtor.* Before we refer any debt for collection by administrative offset, we will send the debtor written notice that:

(1) We have determined that payment of the debt is overdue;

(2) We will refer the debt for administrative offset at the expiration of not less than 60 calendar days after the date of the notice unless, within that 60-day period, the debtor pays the full amount of the debt or takes either of the actions described in paragraphs (c)(4) or (c)(5) of this section;

(3) The debtor may inspect or copy our records relating to the debt;

(4) The debtor may request a review of the debt by giving us evidence showing that the debtor does not owe all or part of the amount of the debt or that we do not have the right to collect it; and

(5) The debtor may request an installment payment plan.

§ 422.315 Review of our records related to the debt.

(a) *Notification by the debtor.* The debtor may request to inspect or copy our records related to the debt.

(b) *Our response.* In response to a request from the debtor described in paragraph (a) of this section, we will notify the debtor of the location and time at which the debtor may inspect or copy our records related to the debt. We may also, at our discretion, mail to the debtor copies of the records relating to the debt.

§ 422.317 Review of the debt.

(a) *Notification and presentation of evidence by the debtor.* A debtor who receives a notice described in § 422.305(b), § 422.306(b), or § 422.310(c) has a right to have us review the debt. To exercise this right, within 60 calendar days from the date of our notice, the debtor must notify us and give us evidence that he or she does not owe all or part of the debt or that we do not have the right to collect it. If

the debtor does not notify us and give us this evidence within the 60 calendar-day period, we may take the action described in our notice.

(b) *Review of the evidence.* If the debtor notifies us and presents evidence within the 60 calendar-day period described in paragraph (a) of this section, we will not take the action described in our notice unless and until we consider all of the evidence and send the debtor our findings that all or part of the debt is overdue and legally enforceable.

(c) *Findings by SSA.* Following our review of all of the evidence presented, we will issue written findings, including the supporting rationale for the findings. Issuance of these findings will be the final Agency action on the debtor's request for review. If we find that the debt is not overdue or we do not have the right to collect it, we will not send information about the debt to consumer or other credit reporting agencies or refer the debt to the Department of the Treasury for administrative offset.

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LIBRARY OF CONGRESS

36 CFR Part 701

[Docket No. LOC 98-1]

Assignment of Special Research Facilities

AGENCY: Library of Congress.

ACTION: Final regulation.

SUMMARY: The Library of Congress issues this final regulation to revise Library of Congress Regulation 815-3. The revised regulation will reflect the change in availability for assignment of study shelves, study desks and study rooms, the renaming of the responsible division from General Reading Rooms Division to Humanities and Social Sciences Division and to the Congressional Relations Office for study rooms for Congressional use.

EFFECTIVE DATE: December 5, 1997.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This Regulation states the Library's policy regarding the assignment of special research facilities, including study shelves, desks, and other facilities designed for the use of scholars