

effective as moderating agents. The Commission will address this issue of homogenous versus heterogeneous mixture in a future rulemaking.

#### IV. Request for Cost Information

As stated above, the NRC has received comments on the emergency final rule which indicated that the rule had an unintended economic impact. NRC staff has attempted to solicit information on the costs associated with implementing the emergency final rule so as to quantify the unintended impact of the emergency final rule. However, staff has not been successful in obtaining this information. Consequently, the Commission is using this opportunity to explicitly request information from the public, industry, and the DOE on the costs of shipments made under the fissile material exemption and general license provisions of Part 71 prior to the emergency rule; and those costs and/or changes in costs resulting from implementation of the emergency final rule. The Commission is requesting that comments be submitted to the NRC by January 10, 2000.

#### V. Conclusion

The NRC staff is in the process of developing a rulemaking plan to revise Part 71 to make it compatible with the 1996 IAEA transportation standard ST-1, as well as to include other non-IAEA amendments. The staff intends to include in this rulemaking plan, proposed revisions to the fissile material exemption and general license limits, based on the ORNL recommendations.

As stated previously, the DOT deferred any rulemaking on 49 CFR 173.453 until DOT staff could review the public comments received on the NRC's emergency final rule and review the NRC's study on the fissile exemptions contained in NUREG/CR-5342. The NRC staff is currently coordinating with the DOT the resolution of these issues and the development of the rulemaking plan for the Part 71 revisions. In addition, NRC will coordinate the rulemaking plan with the Agreement States for issues that are a matter of compatibility.

Dated at Rockville, Maryland, this 20th day of October, 1999.

For the Nuclear Regulatory Commission.  
Annette L. Vietti-Cook,  
Secretary for the Commission.  
[FR Doc. 99-28049 Filed 10-26-99; 8:45 am]

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## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 404

RIN 0960-AE85

#### Reduction of Title II Benefits Under the Family Maximum Provisions in Cases of Dual Entitlement

**AGENCY:** Social Security Administration.

**ACTION:** Interim final rules with a request for comments.

**SUMMARY:** We are amending our rules concerning the family maximum provisions under title II of the Social Security Act (the Act). These rules amend how we compute the total monthly benefits payable to a family when one or more of the beneficiaries are entitled to benefits on another earnings record. In certain specific circumstances, this change to our rules will increase the amount of benefits payable to some family members entitled on the record to which the family maximum applies. These final rules adopt nationwide the holding of the U.S. Court of Appeals for the First Circuit in *Parisi by Cooney v. Chater*. Although we are issuing these rules as interim final rules, we are also asking for public comments on this change.

**DATES:** These regulations are effective October 27, 1999. To be sure your comments are considered, we must receive them by December 27, 1999.

**ADDRESSES:** Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235-7703, sent by telefax to (410) 966-2830, sent by E-mail to "[regulations@ssa.gov](mailto:regulations@ssa.gov)," or delivered to the Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, between 8:00 A.M. and 4:30 P.M. on regular business days. Comments may be inspected during these hours by making arrangements with the contact person shown below.

#### FOR FURTHER INFORMATION CONTACT:

Regarding this **Federal Register** document—Bill E. Hilton, Social Insurance Specialist, Office of Program Benefits, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-2468 or TTY (410) 966-5609; regarding eligibility or filing for benefits—our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778.

#### SUPPLEMENTARY INFORMATION:

## Background

Section 203(a) of the Act establishes a limit, derived from a worker's primary insurance amount (PIA), on the total monthly benefits to which dependents or survivors may be entitled on the basis of one worker's earnings record (the family maximum). Under our previous regulations, the benefits of each claimant entitled on the worker's earnings record were reduced proportionally so that the total monthly benefits of those entitled on the record in one month did not exceed the family maximum. In calculating total monthly benefits, we included all benefits of the claimants who were entitled on the worker's record without considering whether the benefits were actually due or payable.

Our previous regulations were challenged in court by the child of a worker who was disabled. The worker and his dependent child, the plaintiff in this case, began receiving Social Security benefits on the worker's earnings record. The worker's spouse became entitled to retirement benefits (old-age benefits) based on her own earnings record. Under section 202(r) of the Act, she was deemed also to have applied for and become entitled to wife's benefits based on the worker's earnings record. The Social Security Administration (SSA) determined that because the monthly retirement benefits that she was entitled to receive on her own exceeded the amount of her monthly wife's benefits on the worker's earnings record, she could only receive payment for the retirement benefits payable on her own earnings record. However, SSA counted the benefits to which she was entitled on the worker's earnings record, but which were not actually paid to her, toward the monthly maximum amount of benefits payable on the worker's earnings record (the family maximum). Because the total monthly amount of the worker's disability benefits, the plaintiff's child's benefits, and the wife's benefits exceeded the monthly family maximum limit, SSA reduced the amount of the plaintiff's and the wife's monthly benefits.

In *Parisi By Cooney v. Chater*, 69 F.3d 614 (1st Cir., 1995), the court held that, when computing a reduction under the family maximum pursuant to section 203(a) of the Act, SSA should not include the monthly benefit that would otherwise be payable to a spouse if payment of that spouse's benefit is precluded (by section 202(k)(3)(A) of the Act), due to the spouse's dual entitlement to a higher benefit on the spouse's own earnings record. To

implement the Court's ruling in the First Circuit, we issued an Acquiescence Ruling (AR) on January 13, 1997 (62 FR 1792). Under this ruling (AR 97-1(1)), which applied only to claims for benefits in the First Circuit, SSA considers only the amount of monthly dependent's or survivor's benefits actually due or payable to the dually-entitled person when determining the amount of the benefit reduction because of the family maximum. As a result of the Court's decision, we reassessed our interpretation in our prior regulations and consistent with our rules on acquiescence which were designed to restore national uniformity to our programs, we have decided to adopt the court's holdings nationwide.

### Explanation of Changes

We are amending § 404.403 of our regulations by adding a new paragraph (a)(5). This new paragraph specifies that, in cases involving benefits subject to reduction for both the family maximum and dual entitlement, we consider only the amount of monthly dependent's or survivor's benefits actually due or payable to the dually-entitled person when we determine how much to reduce total monthly benefits because of the family maximum. We have included examples of how we compute benefits payable in such cases.

These changes are effective for benefits payable for months beginning October 1999.

In conjunction with the revisions we are making to adopt the holdings of the *Parisi* court nationwide, we are publishing elsewhere in today's **Federal Register** a notice rescinding AR 97-1(1).

### Clarity of These Regulations

Executive Order (E.O.) 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. In addition to your substantive comments on these rules, we invite your comments on how to make these rules easier to understand.

For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that is unclear.
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?

- What else could we do to make the rules easier to understand?

### Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** on the Internet site for the Government Printing Office [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html). It is also available on the Internet site for SSA (i.e., SSA Online): <http://www.ssa.gov/>.

### Regulatory Procedures

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), as amended by section 102 of Public Law 103-296, SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case. We have determined that prior public notice and comment in this instance would be contrary to the public interest since any delay in issuing these rules as final rules would unnecessarily deprive the small number of affected beneficiaries of increased benefits. Therefore, we are issuing these regulations as interim final rules. However, even though we are issuing these rules as interim final regulations, we are requesting public comments and will issue revised rules if necessary.

For the same reasons, we also find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d).

### Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these interim final rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to OMB review. We have also determined that these rules meet the plain language requirement of Executive Order 12866 and the President's memorandum of June 1, 1998. However, as noted earlier, we invite your comments on how to make the rules easier to understand.

### Regulatory Flexibility Act

We certify that these interim final regulations will not have a significant

economic 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 interim final regulations will impose no additional reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance)

### List of Subjects in 20 CFR Part 404

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

Dated: October 20, 1999.

**Kenneth S. Apfel,**

*Commissioner of Social Security.*

For the reasons set forth in the preamble, we are amending subpart E of part 404 of Title 20 of the Code of Federal Regulations as follows:

### PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950— )

#### Subpart E—[Amended]

1. The authority citation for subpart E of part 404 continues to read as follows:

**Authority:** Secs. 202, 203, 204(a) and (e), 205(a) and (c), 222(b), 223(e), 224, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 422(b), 423(e), 424a, 425, and 902(a)(5)).

2. We are amending § 404.403 by adding a new paragraph (a)(5) to read as follows:

#### § 404.403 Reduction where total monthly benefits exceed maximum family benefits payable.

(a) \* \* \*

(5) When a person entitled on a worker's earnings record is also entitled to benefits on another earnings record, we consider only the amount of benefits actually due or payable on the worker's record to the dually-entitled person when determining how much to reduce total monthly benefits payable on the worker's earnings record because of the maximum. We do not include, in total benefits payable, any amount not paid because of that person's entitlement on another earnings record (see § 404.407). The effect of this provision is to permit payment of up to the full maximum benefits to other beneficiaries who are not subject to a deduction or reduction.

(See § 404.402 for other situations where we apply deductions or reductions before reducing total benefits for the maximum.)

**Example 1:** A wage earner, his wife and child are entitled to benefits. The wage earner's primary insurance amount is \$600.00. His maximum is \$900.00. Due to the maximum limit, the monthly benefits for the wife and child must be reduced to \$150.00 each. Their original benefit rates are \$300.00 each.

Maximum—\$900.00  
Subtract primary insurance amount—\$600.00  
Amount available for wife and child—\$300.00

Divide by 2—\$150.00 each for wife and child

The wife is also entitled to benefits on her own record of \$120.00 monthly. This reduces her wife's benefit to \$30.00. The following table illustrates this calculation.

Wife's benefit, reduced for maximum—\$150.00  
Subtract reduction due to dual entitlement—\$120.00  
Wife's benefit—\$30.00

In computing the total benefits payable on the record, we disregard the \$120.00 we cannot pay the wife. This allows us to increase the amount payable to the child to \$270.00. The table below shows the steps in our calculation.

Amount available under maximum—\$300.00  
Subtract amount due wife after reduction due to entitlement to her own benefit—\$30.00  
Child's benefit—\$270.00

**Example 2:** A wage earner, his wife and 2 children are entitled to benefits. The wage earner's primary insurance amount is \$1,250.00. His maximum is \$2,180.00. Due to the maximum limit, the monthly benefits for the wife and children must be reduced to \$310.00 each. Their original rates (50 percent of the worker's benefit) are \$625.00 each. The following shows the calculation.

Maximum—\$2,180.00  
Subtract primary insurance amount—\$1,250.00  
Amount available for wife and children—\$930.00

Divide by 3—\$310 each for wife and children

The children are also entitled to benefits on their own records. Child one is entitled to \$390.00 monthly and child two is entitled to \$280.00 monthly. This causes a reduction in the benefit to child one to 0.00 and the benefit to child two to \$30.00. Again, the following illustrates the calculation.

Benefit payable to child 1 reduced for maximum—\$310.00  
Subtract reduction due to dual entitlement—\$390.00

Benefit payable to child 1—\$0.00  
Benefit payable to child 2, reduced for maximum—\$310.00

Subtract reduction for dual entitlement—\$280.00

Benefit payable to child 2—\$30.00

In computing the total benefits payable on the record, we consider only the benefits actually paid to the children, or \$30. This

allows payment of an additional amount to the wife, increasing her benefit to \$625.00. This is how the calculation works.

Amount available under maximum for wife and children—\$930.00  
Subtract amount due children after reduction due to entitlement to their own benefits—\$30.00

Amount available for wife—\$900.00  
Amount payable to wife (original benefit)—\$625.00

**Example 3:** A wage earner, his wife and 4 children are entitled to benefits. The wage earner's primary insurance amount is \$1,250.00. His maximum is \$2,180.00. Due to the maximum limit, the monthly benefits for the wife and children must be reduced to \$186.00 each. Their original rates are \$625.00 each. This is how the calculation works.

Maximum—\$2,180.00  
Subtract primary insurance amount—\$1,250.00  
Amount available for wife and children—\$930.00  
Divide by 5—\$186.00 each for wife and four children

Two children are also entitled to benefits on their own records. Child one is entitled to \$390.00 monthly and child two is entitled to \$280.00 monthly. This causes a reduction in the benefit to child one to \$0.00 and the benefit to child two to \$0.00. This calculation is as follows.

Benefit to child 1, reduced for maximum—\$186.00  
Subtract reduction due to dual entitlement—\$390.00

Benefit payable to child 1—\$0.00

Benefit to child 2, reduced for maximum—\$186.00  
Subtract reduction for dual entitlement—\$280.00

Benefit payable to child two—\$0.00

In computing the total benefits payable on the record, we disregard the \$372.00 we cannot pay the children. This allows payment of an additional amount to the wife, and the two remaining children as follows:

Amount available under maximum for wife and children—\$930.00  
Subtract amount due child one and child two after reduction due to entitlement to their own benefits—\$0.00  
Amount available for wife and the other two children—\$930.00  
Amount payable to the wife and each of the remaining two children—\$310.00

\* \* \* \* \*

[FR Doc. 99-28017 Filed 10-26-99; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 26

[Docket No. 98S-1064]

### Mutual Recognition of Pharmaceutical Good Manufacturing Practices Annex; Public Meeting

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

**ACTION:** Announcement of public meeting.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a public meeting to discuss the progress of implementing the Mutual Recognition Agreement (MRA) Pharmaceutical Good Manufacturing Practices (GMP's) Annex between the United States and the European Community (EC). FDA is inviting interested persons, including industry, trade, and consumer groups.

**DATES:** The meeting will be held on Wednesday, December 8, 1999, from 9 a.m. to 1 p.m. Registration and requests to make an oral presentation should be received by Monday, November 22, 1999.

**ADDRESSES:** The meeting will be held in the Center for Drug Evaluation and Research Advisory Committee Conference Room, 5630 Fishers Lane, Rockville, MD 20857. To register and request time for an oral presentation, send or fax written material to the listed contact person.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Gaylord, Office of International and Constituent Relations (HFG-1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-0909, FAX 301-443-0235.

#### SUPPLEMENTARY INFORMATION:

#### I. Background

Regulations implementing the MRA were published as a final rule in the **Federal Register** of November 6, 1998 (63 FR 60122). In the preamble to the final rule, FDA stated that it plans to hold periodic meetings with interested parties and make public summaries of key meetings held with its EU counterparts concerning implementation of the MRA (63 FR 60122 and 60127). The regulations were codified in part 26 (21 CFR part 26). FDA established Docket No. 98S-1064 to share public information concerning the implementation of part 26 (64 FR 11376, March 9, 1999). FDA has and