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Dated: October 18, 2005.

**James C. Leonard III,**

*Deputy Assistant Secretary for Textiles and Apparel.*

### **PART 335—IMPORTS OF WORSTED WOOL FABRICS AND PART 340—MODIFICATION OF THE TARIFF RATE QUOTA LIMITATION ON WORSTED WOOL FABRIC IMPORTS**

■ Accordingly, the interim rule that amends 15 CFR part 335 and removes 15 CFR part 340, which was published at 70 FR 25774 on May 16, 2005, is adopted as final rule without change.

[FR Doc. 05-21215 Filed 10-21-05; 8:45 am]

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## **SOCIAL SECURITY ADMINISTRATION**

### **20 CFR Parts 404 and 416**

[Regulations Nos. 4 and 16]

RIN 0960-AG23

#### **Deemed Duration of Marriage for Widows/Widowers and Removal of Restriction on Benefits to Children of Military Parents Overseas**

**AGENCY:** Social Security Administration.  
**ACTION:** Final rules.

**SUMMARY:** We are issuing these final rules to reflect in our regulations changes to the Social Security Act (the Act) made by two provisions in the Social Security Protection Act of 2004 (SSPA), enacted on March 2, 2004. One provision added a new situation in which the 9-month duration-of-marriage requirement for surviving spouses under title II of the Act is deemed to have been met. The other provision removed a restriction against payment of Supplemental Security Income (SSI) benefits, under title XVI of the Act, to certain blind or disabled children who were not eligible for SSI benefits the month before their military parents reported for duty outside the United States.

**DATES:** These regulations are effective October 24, 2005.

### **Electronic Version**

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>. It is also available on the Internet site for SSA (i.e., Social Security Online) at <http://policy.ssa.gov/pnpublic.nsf/LawsRegs>.

### **FOR FURTHER INFORMATION CONTACT:**

Richard Bresnick, Social Insurance Specialist, Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-1758 or TTY (410) 966-5609. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

### **SUPPLEMENTARY INFORMATION:**

#### **Background**

Prior to enactment of section 414 of the SSPA, Public Law 108-203, if an applicant for surviving spouse's benefits did not meet the 9-month duration-of-marriage requirement or alternative requirements, the 9-month requirement would be deemed to be met if:

- The insured's death was accidental;
- The insured's death occurred in the line of duty while he or she was a member of a uniformed service on active duty; or
- The surviving spouse was previously married to the insured for at least 9 months, the previous marriage ended in divorce, and the surviving spouse had remarried the insured prior to the insured's death.

Section 414 of the SSPA amended sections 216(c) and (g) of the Act to add a new situation in which the 9-month duration-of-marriage requirement is deemed met. The requirement will be deemed met if:

- The insured had been married prior to the marriage to the surviving spouse;
- The prior spouse was institutionalized during the marriage to the insured, due to mental incompetence or similar incapacity;
- We determine, based on satisfactory evidence, that during this institutionalization the insured would have divorced the prior spouse and married the surviving spouse but the divorce would have been unlawful in the State of the insured's domicile because of the institutionalization;
- The prior spouse remained institutionalized up until the time of his or her death; and

- The insured married the surviving spouse within 60 days after the prior spouse's death.

Prior to enactment of section 434 of the SSPA, section 1614(a)(1)(B)(ii) of the Act included within the definition of a blind or disabled individual, for purposes of SSI eligibility and payment under title XVI, a blind or disabled child who lived outside the United States if the child:

- Was a citizen of the United States;
- Was living with a parent and that parent was a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States; and
- Was eligible for an SSI benefit for the month before the parent reported for such assignment.

Section 434 of the SSPA amended section 1614(a)(1)(B)(ii) by eliminating the requirement that the child must have been eligible for an SSI benefit for the month before the parent reported for the military assignment.

#### **Explanation of Changes**

We are revising § 404.335 to extend title II benefits to a surviving spouse who would have met the duration-of-marriage requirement to the insured, except that as determined based on evidence satisfactory to the Agency, it was unlawful under State law for the insured to divorce the prior spouse by reason of the prior spouse's institutionalization because of mental incompetence or similar incapacity. The prior spouse must have been institutionalized during the marriage to the insured and remained institutionalized until the time of his or her death, and the insured must have married the surviving spouse within 60 days after the prior spouse's death. We also are revising the last sentence of § 404.357 to update the reference to the revised paragraphs in § 404.335 and clarify that this new situation where the duration-of-marriage requirement is deemed to have been met does not apply to stepchildren.

We are revising § 416.216 by amending paragraph (a) to include a definition of the regulatory term "overseas." The amended paragraph (a) clarifies that by overseas we mean "outside the United States." We are revising paragraph (a)(3) to substitute the newly defined term "overseas" for "outside the United States." The relevant statutory section uses the term "outside the United States." The regulation already uses "overseas" several times but text we are removing from the section includes the term "outside the United States." We are removing paragraph (a)(4), which

contains the requirement that a blind or disabled child who is a United States citizen, living with a parent who is a member of the U.S. Armed Forces assigned to permanent duty ashore outside the U.S., must have been eligible for an SSI benefit for the month before the parent reported for the assignment, in order to be eligible for a payment of SSI benefits while outside the U.S.

#### *Regulatory Procedures*

Pursuant to sections 205(a), 702(a)(5) and 1631(d)(1) of the Act, 42 U.S.C. 405(a), 902(a)(5) and 1383(d)(1), we follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the promulgation of our regulations. The APA provides exceptions to its prior notice and public comments 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.

In the case of these rules, we have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures. Good cause exists because these regulations merely revise our rules on title II widows/widowers benefits and title XVI blind or disabled children's benefits to reflect, without exercise of discretion, the provisions in sections 414 and 434 of the SSPA that we have been following operationally since enactment of the provisions on March 2, 2004. Therefore, opportunity for prior comment is unnecessary, and we are issuing these regulations as final rules.

In addition, we 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). As explained above, we are revising our rules on title II benefits for widows/widowers and title XVI benefits for blind or disabled children to reflect current law. Without these changes, our rules will not reflect current law and thus may mislead the public. Therefore, we find that it is in the public interest to make these rules effective upon publication.

#### *Executive Order 12866*

We have consulted with the Office of Management and Budget (OMB) and determined that these final rules meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were subject to OMB review. We have also determined that these rules meet the plain language

requirement of Executive Order 12866, as amended by Executive Order 13258.

#### *Regulatory Flexibility Act*

We certify that these 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 final regulations will impose no additional reporting or record keeping requirements requiring OMB clearances.

(Catalog of Federal Domestic Assistance Program Nos. 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; and 96.006, Supplemental Security Income)

#### **List of Subjects**

##### *20 CFR Part 404*

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

##### *20 CFR Part 416*

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

Dated: July 25, 2005.

**Jo Anne B. Barnhart,**  
*Commissioner of Social Security.*

■ For the reasons set out in the preamble, we amend subpart D of part 404 and subpart B of part 416 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

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

##### **Subpart D—[Amended]**

■ 1. The authority citation for subpart D of part 404 is revised to read as follows:

**Authority:** Secs. 202, 203(a) and (b), 205(a), 216, 223, 225, 228(a)–(e), and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403(a) and (b), 405(a), 416, 423, 425, 428(a)–(e), and 902(a)(5)).

■ 2. Amend § 404.335 by revising paragraph (a)(2) to read as follows:

##### **§ 404.335 How do I become entitled to widow's or widower's benefits?**

\* \* \* \* \*

(a) \* \* \*

(2) Your relationship to the insured as a wife or husband did not last 9 months

before the insured died, but you meet one of the conditions in paragraphs (a)(2)(i) through (iv) of this section.

(i) At the time of your marriage the insured was reasonably expected to live for 9 months, and the death of the insured was accidental. The death is accidental if it was caused by an event that the insured did not expect, if it was the result of bodily injuries received from violent and external causes, and if, as a direct result of these injuries, death occurred not later than 3 months after the day on which the bodily injuries were received. An intentional and voluntary suicide will not be considered an accidental death.

(ii) At the time of your marriage the insured was reasonably expected to live for 9 months, and the death of the insured occurred in the line of duty while he or she was serving on active duty as a member of the uniformed services as defined in § 404.1019.

(iii) At the time of your marriage the insured was reasonably expected to live for 9 months, and you had been previously married to the insured for at least 9 months.

(iv) The insured had been married prior to his or her marriage to you and the prior spouse was institutionalized during the marriage to the insured due to mental incompetence or similar incapacity. During the period of the prior spouse's institutionalization, the insured, as determined based on evidence satisfactory to the Agency, would have divorced the prior spouse and married you, but the insured did not do so because the divorce would have been unlawful, by reason of the institutionalization, under the laws of the State in which the insured was domiciled at the time. Additionally, the prior spouse must have remained institutionalized up to the time of his or her death and the insured must have married you within 60 days after the prior spouse's death.

\* \* \* \* \*

■ 3. Amend § 404.357 by revising the last sentence to read as follows:

##### **§ 404.357 Who is the insured's stepchild.**

\* \* \* This 9-month requirement will not have to be met if the marriage between the insured and your parent lasted less than 9 months under one of the conditions described in § 404.335(a)(2)(i)–(iii).

## PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

### Subpart B—[Amended]

■ 4. The authority citation for subpart B of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1110(b), 1602, 1611, 1614, 1619(a), 1631, and 1634 of the Social Security Act (42 U.S.C. 902(a)(5), 1310(b), 1381a, 1382, 1382c, 1382h(a), 1383, and 1383c); secs. 211 and 212, Pub. L. 93–66, 87 Stat. 154 and 155 (42 U.S.C. 1382 note); sec. 502(a), Pub. L. 94–241, 90 Stat. 268 (48 U.S.C. 1681 note); sec. 2, Pub. L. 99–643, 100 Stat. 3574 (42 U.S.C. 1382h note).

■ 5. Amend § 416.216 by revising paragraph (a) to read as follows:

**§ 416.216 You are a child of armed forces personnel living overseas.**

(a) *General Rule.* For purposes of this part, *overseas* means any location outside the United States as defined in § 416.215; i.e., the 50 States, the District of Columbia and the Northern Mariana Islands. You may be eligible for SSI benefits if you live overseas and if—

(1) You are a child as described in § 416.1856;

(2) You are a citizen of the United States; and

(3) You are living with a parent as described in § 416.1881 who is a member of the armed forces of the United States assigned to permanent duty ashore overseas.

\* \* \* \* \*

[FR Doc. 05–21117 Filed 10–21–05; 8:45 am]

BILLING CODE 4191–02–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 990

[Docket No. FR–4874–C–09]

RIN 2577–AC51

### Revisions to the Public Housing Operating Fund Program; Correction to Formula Implementation Date

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects HUD's final rule published on September 19, 2005, that implements revisions to the public housing Operating Fund Program. The final rule includes dates from the proposed rule that assumed both an initial implementation of the revised formula in fiscal year (FY) 2006 and a one-year period for PHAs to transition to the new

formula. In converting the rule from a proposed to final rule, HUD unintentionally failed to revise certain dates to reflect the updated schedule for implementation of the revised formula. Accordingly, the September 19, 2005, final rule inadvertently denies PHAs the one-year transition period. This document corrects the September 19, 2005, final rule to provide that the revised allocation formula will be implemented for calendar year 2007, and adjusts the related dates specified in the rule to reflect the corrected implementation date.

**EFFECTIVE DATE:** The final rule is effective on November 18, 2005.

#### FOR FURTHER INFORMATION CONTACT:

Elizabeth Hanson, Public Housing Financial Management Division, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410; telephone (202) 475–7949 (this telephone number is not toll-free). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On September 19, 2005, (70 FR 54983), HUD published a final rule amending the regulations of the Public Housing Operating Fund Program at 24 CFR part 990, to provide a new formula for distributing operating subsidy to public housing agencies (PHAs) and establish requirements for PHAs to convert to asset management. More detailed information about this rule can be found in the preamble to the September 19, 2005, final rule.

##### II. This Document

The September 19, 2005, final rule establishes several requirements and determinations connected to the calendar year in which the distribution of operating subsidies will be made. Some of the dates in the final rule were carried over from the proposed rule and assumed both an initial implementation of the revised formula in FY2006, and a one-year transition period prior to implementation of the new formula.

Given the timing of publication and the effective date of the final rule, initial implementation of the revised formula must be deferred to calendar year 2007 in order to provide PHAs with the necessary one year transition period. However, in converting this rule from a proposed rule to a final rule, HUD inadvertently failed to revise certain

dates to reflect the updated schedule for implementation of the new formula, and unintentionally denied PHAs the one-year transition period.

This document corrects certain provisions in the September 19, 2005, final rule to appropriately reflect initial implementation of the revised Operating Fund formula in calendar year 2007. The corrections made by this document are necessary to assist PHAs in proper budgetary planning and to bring their policies and procedures into compliance with the new formula requirements. The effective date of the rule remains November 18, 2005, and all other dates contained in the final rule that do not affect the new formula allocation of operating subsidies are unchanged.

The following section of this document describes the most significant corrections being made to the September 19, 2005, final rule.

### III. Corrections to the September 19, 2005, Final Rule

Revised subpart F of 24 CFR part 990 establishes procedures to assist PHAs in transitioning to the new funding levels under the new Operating Fund formula. As provided in § 990.225 of the final rule, the determination of the amount and period of the transition funding will be based on the difference in subsidy levels between the revised formula and the formula in effect prior to implementation of the final rule. Differences in subsidy levels will be calculated using FY 2004 data.

1. *Transition Funding.* Under §§ 990.230 and 990.235 of the final rule, PHAs that experience a decrease or increase in operating subsidy will have that decrease phased-in over a specified number of years following the effective date of the final rule (November 18, 2005). The phase-in period is five years for subsidy reductions and two years for increases in operating subsidies. By specifying the date of November 18, 2005, the final rule incorrectly connects the first year of the phased-in reduction to initial formula implementation in FY 2006. This document corrects §§ 990.230 and 990.235 by removing references to specific dates.

2. *Discontinuation of subsidy reduction as a result of conversion to asset management (“stop-loss” provision).* As noted above, the final rule provides that phased-in reductions in operating subsidy will be discontinued if the PHA can demonstrate successful conversion to the asset management requirements contained in revised subpart H of the part 990 regulations. HUD will discontinue the reduction in accordance