

affected by the initial determination may request a reconsideration. We may accept requests for reconsideration that are filed by electronic or other means that we determine to be appropriate. Subject to the provisions of this section and § 418.1330, when you request a reconsideration, we will use the rules in §§ 404.907 through 404.922 of this chapter.

**§ 418.1330 Can you request a reconsideration when you believe that the IRS information we used is incorrect?**

If you request a reconsideration solely because you believe that the information that IRS gave us is incorrect, we will dismiss your request for a reconsideration and notify you to obtain proof of a correction from IRS and request a new initial determination (§ 418.1335).

Our dismissal of your request for reconsideration is not an initial determination subject to further administrative or judicial review.

**§ 418.1335 What should you do if our initial determination is based on modified adjusted gross income information you believe to be incorrect?**

If you believe that IRS or you provided incorrect modified adjusted gross income information to us that we used to determine your income-related monthly adjustment amount, you can request information from us on how to contact IRS regarding the information we used.

(a) If IRS determines that the information it provided is not correct, IRS will provide you with documentation of the error, such as a copy of your Federal income tax return. If you would like us to use the revised or corrected information to determine your income-related monthly adjustment amount, you will need to request that we use that information and provide us with the IRS documentation confirming the error. We will make any necessary retroactive corrections as described in § 418.1110(d) to your income-related monthly adjustment amount.

(b) If you provided information to us about your modified adjusted gross income that we used to determine your income-related monthly adjustment amount, and that information is not correct, you may provide revised or corrected information. We will use the revised or corrected information if it reduces or eliminates your income-related monthly adjustment amount. We will make any necessary retroactive corrections as described in § 418.1110 to your income-related monthly adjustment amount. If you are providing corrected information about a more

recent tax year's modified adjusted gross income that we used due to your major life-changing event, as described in § 418.1240, we will use the rules in § 418.1245 to determine how it will affect your income-related monthly adjustment amount.

**§ 418.1340 What are the rules for our administrative review process?**

To the extent that they are not inconsistent with the rules in this subpart for making initial determinations and reconsidered determinations, we will use the same rules for the administrative review process that we use for determinations and decisions about your rights regarding non-medical issues under title II of the Act, as described in subpart J of part 404 of this chapter. We will accept oral requests as well as the written requests required in subpart J of part 404 of this chapter for requesting administrative review of our determination. If you are dissatisfied with our reconsidered determination, you may request review in accordance with § 418.1350 for this subpart. A request for a new initial determination, described in § 418.1310, is not the same as a request for reconsideration or further administrative review.

**§ 418.1345 Is reopening of an initial or reconsidered determination made by us ever appropriate?**

We may reopen an initial or reconsidered determination made by us when the conditions for reopening are met as described in § 404.988 of this chapter. We will use the rules in §§ 404.987 through 404.991a of this chapter when we reopen determinations made by us.

**§ 418.1350 What are the rules for review of a reconsidered determination or an administrative law judge decision?**

You may request a hearing before an OMHA administrative law judge consistent with HHS' regulations at 42 CFR part 405. You may seek further review of the administrative law judge's decision by requesting MAC review and judicial review in accordance with HHS' regulations. For the purpose of your request for an administrative law judge hearing or MAC review, you will be required to provide your consent for us to release your relevant tax return information to OMHA or the MAC for the purposes of adjudicating any appeal of the amount of an income-related adjustment to the Part B premium subsidy and for any judicial review of that appeal.

**§ 418.1355 What are the rules for reopening a decision by an administrative law judge of the Office of Medicare Hearings and Appeals (OMHA) or by the Medicare Appeals Council (MAC)?**

The rules in 42 CFR 405.980 through 405.986 govern reopenings of decisions by an administrative law judge of the OMHA and decisions by the MAC. A decision by an administrative law judge of the OMHA may be reopened by the administrative law judge or by the MAC. A decision by the MAC may be reopened only by the MAC.

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

[DOD-2006-OS-0106]

### 32 CFR Part 286

### DoD Freedom of Information Act Program Regulation

**AGENCY:** Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** This document removes Subpart D, "For Official Use Only" (FOUO) from 32 CFR part 286, "DoD Freedom of Information Act Program Regulations" and reserves that subpart for future use. Removing this from 32 CFR part 286 will eliminate confusion of the authoritative FOUO guidance and who is the authority on FOUO. This removal will alleviate any further uncertainty, avoid duplication of FOUO guidance, and is considered an administrative action.

**DATES:** *Effective Date:* November 27, 2006.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen Fisher, 703-696-4697.

**SUPPLEMENTARY INFORMATION:** The Under Secretary of Defense (Intelligence) (USD(I)) is responsible for FOUO guidance. This guidance (FOUO) is included in Appendix 3 of DoD 5200.1-R<sup>1</sup> which is the current FOUO guidance for the Department of Defense.

### List of Subjects in 32 CFR Part 286

Freedom of information.

### PART 286—DOD FREEDOM OF INFORMATION ACT PROGRAM REGULATIONS

■ Accordingly, by the authority of 10 U.S.C. 301, 32 CFR part 286 is amended as follows:

<sup>1</sup> Copies may be obtained at [http://www.dtic.mil/whs/directives/corres/pdf/52001r\\_0197/p52001r.pdf](http://www.dtic.mil/whs/directives/corres/pdf/52001r_0197/p52001r.pdf).

■ 1. The authority citation for 32 CFR part 286 continues to read as follows:

**Authority:** 5 U.S.C. 552.

■ 2. 32 CFR part 286 is amended by removing and reserving subpart D.

Dated: October 23, 2006.

**L.M. Bynum,**

*OSD Federal Register Liaison Officer, DoD.*

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