CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
§ 641.5	–0013, –0016 and –0301
§ 641.6	–0305 and –0306
§ 641.10	–0297, –0298 and –0299
§ 642.4	–0205
§ 642.5	–0013 and –0016
§ 642.6	–0306
§ 644.24	–0216
§ 645.4	–0205
§ 645.6	–0205, –0305 and –0306
§ 646.4	–0205
§ 646.5	–0013 and –0016
§ 646.6	–0205, –0305 and –0306
§ 646.10	–0262
§ 649.4	–0202
§ 649.5	–0202
§ 649.6	–0202
§ 649.7	–0306
§ 649.21	–0305
§ 650.4	–0202
§ 650.5	–0202
§ 650.6	–0202
§ 650.7	–0018, –0212 and –0229
§ 650.8	–0306
§ 650.24	–0202
§ 650.25	–0202 and –0307
§ 650.26	–0202
§ 650.28	–0202
§ 651.4	–0202
§ 651.5	–0202
§ 651.6	–0202
§ 651.7	–0018, –0212 and –0229
§ 651.8	–0306
§ 651.20	–0202
§ 651.21	–0202
§ 651.22	–0202
§ 651.25	–0305
§ 651.28	–0202 and –0307
§ 651.29	–0202
§ 652.4	–0202
§ 652.5	–0202
§ 652.6	–0212 and –0229
§ 652.7	–0306
§ 652.9	–0202
§ 652.20	–0238
§ 652.24	–0240
§ 653.5	–0013
§ 654.6	–0305, –0306 and –0307
§ 655.4	–0202
§ 655.6	–0306
§ 658.5	–0013
§ 658.6	–0306
§ 661.4	–0222
§ 661.20	–0222
§ 662.5	–0306
§ 663.4	–0271
§ 663.6	–0306
§ 663.10	–0203
§ 663.11	–0203
§ 663.22	–0305
§ 663.33	–0203
§ 669.6	–0205, –0305 and –0306
§ 670.6	–0306
§ 670.23	–0303
§ 672.4	–0206
§ 672.5	–0213
§ 672.6	–0206
§ 672.24	–0305 and –0307
§ 674.4	–0206
§ 675.4	–0206
§ 675.5	–0213
§ 675.6	–0206
§ 675.24	–0305
§ 675.27	–0269
§ 676.3	–0206
§ 676.4	–0206
§ 676.5	–0206
§ 676.13	–0272
§ 676.14	–0272
§ 676.17	–0272
§ 676.20	–0272
§ 676.21	–0272
§ 676.25	–0269
§ 677.4	–0206
§ 677.6	–0280
§ 677.10	–0280 and –0307
§ 678.4	–0205
§ 678.5	–0013, –0016 and –0229
§ 678.6	–0306
§ 678.10	–0016
§ 680.4	–0204
§ 680.5	–0214
§ 680.6	–0306
§ 680.10	–0204
§ 681.4	–0204
§ 681.5	–0214
§ 681.6	–0306
§ 681.10	–0214
§ 681.24	–0214 and –0305
§ 681.25	–0214
§ 681.30	–0204
§ 683.4	–0214
§ 683.9	–0204, –0214 and –0306
§ 683.21	–0204
§ 683.25	–0204
§ 683.27	–0214
§ 683.29	–0214
§ 685.4	–0214
§ 685.9	–0204
§ 685.10	–0306
§ 685.11	–0214
§ 685.12	–0305
§ 685.13	–0214
§ 685.14	–0214
§ 685.15	–0204
§ 685.16	–0307
§ 685.24	–0214
§ 695.4	–0205
§ 695.5	–0016
§ 695.6	–0306

[FR Doc. 96–6589 Filed 3–18–96; 8:45 am]

BILLING CODE 3510–22–W

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

RIN 0960–AD88

Signature Requirements for State Agency Medical and Psychological Consultants in Disability Determinations

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: We are revising the requirements of the Social Security and Supplemental Security Income (SSI) regulations regarding the certifications required on the disability determination forms used by State agencies to certify determinations of disability. Present regulations require that, unless the disability determination is made by a State agency disability hearing officer, disability determinations made by a State agency will be made by a State agency medical or psychological consultant and a State agency disability examiner. This includes determinations made on technical, non-medical, rather than medical, grounds. We are revising our rules to remove the requirement that a medical or psychological consultant sign the disability determination forms used by the State agency to certify each determination, when there is no medical evidence to be evaluated. In such cases, the disability examiner may make the determination alone.

EFFECTIVE DATE: April 18, 1996.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, (410) 965–6243.

SUPPLEMENTARY INFORMATION:

Background

The Social Security Act (the Act) provides, in title II, for the payment of disability insurance benefits to individuals insured under the Act. Title II also provides for the payment of child's insurance benefits based on disability and widow's and widower's insurance benefits for disabled widows, widowers, and surviving divorced spouses of insured individuals. In addition, the Act provides, in title XVI, for SSI payments to persons who are aged, blind, or disabled and who have limited income and resources. For adults under both the title II and title XVI programs and for persons claiming child's insurance benefits based on disability under the title II program,

''disability'' means the inability to engage in any substantial gainful activity by reason of any medically determinable impairment which has lasted or can be expected to last for a continuous period of not less than 12 months or result in death. For an individual under age 18 claiming SSI benefits based on disability, ''disability'' means that the individual's impairment(s) is of comparable severity to one that would disable an adult (i.e., the impairment(s) substantially reduces the individual's ability to function independently, appropriately, and effectively in an age-appropriate manner such that the individual's impairment(s) and resulting limitations are comparable to those that would disable an adult). The individual's impairment(s) must also meet the statutory duration requirement.

Sections 221 and 1633(a) of the Act and §§ 404.1503 and 416.903 of our regulations provide that State agencies make disability and blindness determinations for the Commissioner of Social Security for most persons living in the State. Sections 404.1615(c) and 416.1015(c) of the regulations provide that disability determinations will be made by either: (1) a State agency medical or psychological consultant *and* a State agency disability examiner or (2) a State agency disability hearing officer. In addition, a single decisionmaker may make the determination of disability for purposes of the tests we are conducting under the authority of the final rules we published on April 24, 1995, ''Testing Modifications to the Disability Determination Procedures,'' (60 FR 20023). (To be codified at 20 CFR 404.906 and 416.1406). These final rules do not affect the procedures we are following for the purposes of those tests.

Sections 404.1615(e) and 416.1015(f) of the regulations require the State agency to certify each determination of disability to the Social Security Administration (SSA) on forms provided by SSA. The term ''determination of disability'' is defined in §§ 404.1602 and 416.1002 of the regulations to mean one or more of the following decisions: whether or not a person is under a disability; the date a person's disability began; or the date a person's disability ended.

When a disability determination is made jointly by a State agency medical or psychological consultant and a State agency disability examiner, the medical or psychological consultant is responsible for the medical portion of the determination, and the disability examiner is responsible for the remainder of the determination. Under our current procedures for these cases, both the disability examiner and the medical or psychological consultant must certify the determination on forms which we provide as required in the regulations.

In some instances the requirement for the medical or psychological consultant's certification is unnecessary because the determination is made on technical, non-medical, grounds alone, without consideration of any medical evidence. Many medical and psychological consultants who work with the State agencies do so on a part-time basis and are not always available to sign disability determination forms. This can result in delays of cases that are otherwise complete because no medical evaluation or expertise is necessary.

This happens, for example, when an individual who has no history of medical treatment or examination—and, hence, no existing medical records that we can obtain—refuses to attend a consultative examination purchased at our expense. In such a case, the State agency makes its determination on technical, non-medical, rather than medical, grounds. It denies such a claim because, without the individual's cooperation, the evidence needed to determine whether the individual is disabled cannot be obtained. Nevertheless, our current rules require that a medical or psychological consultant sign the standard disability determination form in such a case, even though there is no medical evidence and no medical findings that can be made.

Change Made by This Rule

We are addressing the above issue by revising §§ 404.1615 and 416.1015 of the regulations to provide, in a new paragraph (c)(2), that a State agency disability examiner alone may make the disability determination when there is no medical evidence to be evaluated, such as when there is no existing medical evidence and the individual refuses to attend a consultative examination. We are redesignating current paragraph (c)(2), which provides that a State agency disability hearing officer may also make disability determinations, as paragraph (c)(3).

Public Comments

On October 26, 1994, we published these revisions in a Notice of Proposed Rulemaking (NPRM) in the Federal Register (59 FR 53769). We invited interested persons, organizations, and groups to submit their comments on the NPRM within 60 days.

We received letters from four State agencies, three legal advocates, and a vocational rehabilitation council. Five commenters indicated support for the rule, two opposed it, and one provided comments without indicating either support or opposition.

Comment: One commenter requested that we broaden the provision to state that the medical or psychological consultant's signature is not required on the disability determination form if the consultant has furnished a written medical severity assessment.

Response: We are currently considering alternatives to our procedures for documenting medical or psychological consultant participation in the disability determination. In February 1994, we provided temporary procedures for State agencies to document medical or psychological consultant participation in certain cases with the consultant's signature on a document other than the disability determination form. We are also considering ways to expand this procedure to other cases. We do not believe that a regulatory change beyond the changes made by these final rules is appropriate at this time.

Comment: Another commenter recommended that we broaden the provision to include cases in which there is some medical evidence, but the substantive conclusion of whether an individual is disabled appears obvious. The commenter also suggested including cases involving only medical evidence from outside the period at issue in the case, and cases that include some medical evidence but are still denied based on failure to attend a consultative examination.

Response: This kind of expansion would not be consistent with the scope or intent of this rule. We believe that the presence of medical evidence in connection with a claim for benefits is sufficient reason to require the special expertise of a medical or psychological consultant, even if the outcome seems ''obvious'' or the evidence seems immaterial to a lay person. Therefore, we did not make these changes.

Comment: Three commenters expressed concern about the scope and meaning of the proposed provisions. All three were concerned that cases with insufficient medical evidence will be denied on a technical basis; i.e., without the participation of a medical or psychological consultant. Two of these commenters requested clarification of the phrase ''no medical evidence.'' Two stated that existing regulations (§§ 404.1516, 404.1518, 416.916, and 416.918) require a medical evaluation of the case when an individual fails or refuses to attend a consultative examination. They said that the decision should, therefore, be made

with the participation of a medical or psychological consultant.

Response: We have changed the proposed rules to clarify what we mean by ''no medical evidence.'' The final rules do not apply if the file contains *some* medical evidence, even if such evidence is insufficient to make a determination or contains no findings to support a determination that the claimant is disabled. In such a case, the medical or psychological consultant and disability examiner must make the determination as a team.

We disagree with the commenters who stated that existing regulations require a medical evaluation of the case when an individual fails or refuses to attend a consultative examination. Our current regulations (§§ 404.1518 and 416.918) state only that if a claimant does ''not have a good reason for failing or refusing to take part in a consultative examination * * *, we may find that you are not disabled * * * .'' This provision does not require a medical evaluation of such a case, and we believe that it would be futile to attempt to make such an evaluation in the absence of any medical evidence. Although we do not necessarily agree that §§ 404.1516 and 416.916 apply to this situation, they do not prescribe any specific kind of case evaluation (i.e., a medical evaluation). They merely provide that we will ''make a decision based on information available in your case.''

Comment: The same commenters were concerned that disability examiners will not make adequate attempts to obtain medical evidence. Two of these commenters stated that only a physician should decide whether the case is unsupported by medical evidence. One observed that the rule does not define ''medical evidence,'' and another stated that a physician should be involved in deciding what is or is not medical evidence.

Response: These new rules do not alter the existing statutory and regulatory requirement that, before we make a determination that an individual is not disabled, we develop a complete medical history for at least the 12 months preceding the month in which the application is filed, unless there is reason to believe that development of an earlier period is necessary or unless the claimant states that his or her disability began less than 12 months before the application is filed. These rules also do not alter the existing requirement that we make every reasonable effort to obtain medical evidence from the individual's own medical sources, as provided for in sections 223(d)(5)(B) and 1614(a)(3)(G) of the Act and §§ 404.1512(d) and 416.912(d) of our regulations. We have revised these final rules to emphasize that we will continue to do so.

Our existing regulations, §§ 404.1513 and 416.913, set forth the requirements for the contents of medical evidence and reports, and these rules do not change those requirements. We do not agree that a physician's expertise is required to determine whether evidence is ''medical evidence'', or to evaluate non-medical evidence.

Comment: Two commenters requested a more definitive identification of the circumstances that justify the provision.

Response: We have clarified the circumstances under which the final rules apply. They apply whenever there is no medical evidence to be evaluated and the claimant fails or refuses, without a good reason, to attend a consultative examination. The final versions of §§ 404.1615(c)(2) and 416.1015(c)(2) make this clear.

Comment: A number of commenters observed that mental illness or other factors may be the basis for an individual's failure to cooperate.

Response: Existing regulations include provisions on good cause for failure to attend a consultative examination. Regulations §§ 404.1518 and 416.918 require us to consider an individual's physical, mental, educational and linguistic limitations when determining whether he or she has a good reason for failing to attend a consultative examination. Nevertheless, in the final rules we have clarified that they apply only if the individual fails or refuses to attend a consultative examination without a good reason, and have provided a cross-reference to §§ 404.1518 and 416.918.

Except for these clarifications, several minor, non-substantive technical changes, and corrections to authority citations, we are adopting the proposed rules as final rules.

Regulatory Procedures

Executive Order 12866

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

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect individuals' eligibility for program benefits under the Social Security Act. Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

These regulations will impose no additional reporting or recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; and 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Death benefits, 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, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

Dated: March 8, 1996.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, subpart Q of part 404 and subpart J of part 416 of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below:

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

Subpart Q—[Amended]

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

Authority: Secs. 205(a), 221, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 421, and 902(a)(5)).

2. Section 404.1615 is amended by removing the ''or'' at the end of paragraph (c)(1), by adding a semicolon after paragraph (c)(1), by redesignating paragraph (c)(2) as paragraph (c)(3), and by adding a new paragraph (c)(2) to read as follows:

§ 404.1615 Making disability determinations.

* * * * *

(c) * * *

(2) A State agency disability examiner alone when there is no medical evidence to be evaluated (i.e., no medical evidence exists or we are unable, despite making every reasonable effort, to obtain any medical evidence

that may exist) and the individual fails or refuses, without a good reason, to attend a consultative examination (see § 404.1518); or

* * * * *

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

Subpart J—[Amended]

3. The authority citation for subpart J continues to read as follows:

Authority: Secs. 702(a)(5), 1614, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382c, 1383, and 1383b).

4. Section 416.1015 is amended by removing the ''or'' at the end of paragraph (c)(1), by redesignating paragraph (c)(2) as paragraph (c)(3), and by adding a new paragraph (c)(2) to read as follows:

§ 416.1015 Making disability determinations.

* * * * *

(c) * * *

(2) A State agency disability examiner alone when there is no medical evidence to be evaluated (i.e., no medical evidence exists or we are unable, despite making every reasonable effort, to obtain any medical evidence that may exist) and the individual fails or refuses, without a good reason, to attend a consultative examination (see § 416.918); or

* * * * *

[FR Doc. 96–6375 Filed 3–18–96; 8:45 am]

BILLING CODE 4190–29–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN 130–1–9601a; TN 116–1–9602a; TN 114–1–9603a; FRL–5345–9]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Tennessee State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Tennessee State Implementation Plan (SIP) submitted on June 21, 1993, and June 22, 1993, by the State of Tennessee, through the Tennessee Department of Environment and Conservation (DEC). The submittal of June 21, 1993 revises Chapter 1200–3–14 Control of Sulfur Dioxide Emissions and the submittal of June 22, 1993 revises Chapter 1200–3–10 Required Sampling, Recording and Reporting. On December 17, 1993, the Memphis Shelby County Health Department, through the Tennessee DEC, submitted revisions to Section 16–85 of the Memphis Shelby County Portion of the Tennessee SIP which adopt by reference revisions to Chapter 1200–3–10 of the Tennessee SIP. The intended effect of this revision is to clarify certain provisions and ensure consistency with the Clean Air Act.

DATES: This action is effective May 20, 1996 unless notice is received by April 18, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243–1531.

Memphis and Shelby County Health Department, 814 Jefferson Avenue, Memphis, Tennessee 38105.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4216.

SUPPLEMENTARY INFORMATION: On June 21, 1993, the State of Tennessee, through the Tennessee DEC, submitted revisions to Chapter 1200–3–14 Control of Sulfur Dioxide Emissions. The changes are as follows: 1.) Paragraph 1200–3–14–.03(4) was amended by inserting after the second sentence the following: ''This document will be incorporated into the State Implementation Plan. The cost of the legal notice involved must be paid by the requesting source.''

On June 22, 1993, the State of Tennessee, through the Tennessee DEC, submitted revisions to Chapter 1200–3–10 Required Sampling, Recording and Reporting. The changes are as follows: 1.) Paragraph 1200–3–10.02(1)(c)2 is amended by deleting the text and inserting the word ''(Reserved)''. This deletion removes the authority for the Technical Secretary to approve alternate monitoring standards.

On December 17, 1993, the Memphis Shelby County Health Department, through the Tennessee DEC, submitted revisions to Section 16–85 of the Memphis Shelby County Portion of the Tennessee SIP. This revision adopts by reference changes to Chapter 1200–3–10 of the Tennessee SIP identified in the previous paragraph.

Final Action

EPA is approving the above referenced revisions to the Tennessee State Implementation Plan (SIP). This action is being taken without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 20, 1996 unless, by April 18, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 20, 1996.

Under Section 307(b)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 20, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it