

SOCIAL SECURITY ADMINISTRATION**20 CFR Part 404****RIN 0960-AE31****Cycling Payment of Social Security Benefits****AGENCY:** Social Security Administration (SSA).**ACTION:** Proposed rules.

SUMMARY: Historically, social security benefits generally have been paid on the 3rd of each month. As a result of our ongoing efforts to improve service to our customers, we now propose to establish additional days throughout the month on which social security benefits will be paid.

DATES: To be sure that your comments are considered, we must receive them no later than March 26, 1996.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966-2830, sent by E-Mail to "regulations@ssa.gov," or delivered to the Division of Regulations and Rulings, Social Security Administration, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Lois Berg, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1713.

SSA plans to host an informational briefing on payment cycling for representatives of groups and organizations, and any others, that are interested in the initiative. The session will be designed to provide details and to answer questions on how SSA intends to implement payment cycling. It will not be designed to take public comments on the proposal. Those who would like to be invited to the session, which will be held in February, can request an invitation from SSA's Office of Communications. To reach the office, call (410) 965-1720 or fax (410) 965-3903.

SUPPLEMENTARY INFORMATION:**Background**

The second phase of the National Performance Review (NPR), the Federal Reinventing Government effort, was announced by the President and Vice

President on December 19, 1994. It was designed to focus attention on what each agency does, examining our mission and looking at our programs and functions to see if there are ways we can provide better service to the public and, at the same time, do our business in a more cost-effective manner, i.e., "make government work better and cost less." All agencies were asked to assemble a team to review the programs and functions of their own agency. SSA's team worked closely with a team of representatives from NPR and the Office of Management and Budget (OMB) to develop recommendations for the Vice President's consideration.

On April 11, 1995, the White House formally approved SSA's reinvention proposals and officially announced them the next day. One of these proposals was to cycle the payment of benefits.

Recipients of Old-Age, Survivors and Disability Insurance (OASDI) benefits and Supplemental Security Income (SSI) payments currently are paid in the first few days of each month. While these payment days have never been required by the Social Security Act (the Act), which in §§ 205(i) and 1631(a)(1) commits the time for making benefit payments to the discretion of the Commissioner of Social Security, it has been our longstanding administrative practice to make payment on these days. Monthly benefits are paid to all OASDI beneficiaries on the same day (generally the 3rd day of each month for the preceding month) and to all SSI beneficiaries on the same day (generally the 1st day of each month for which the payment is due).

Over the years, a trend has developed that has resulted in deterioration of services we provide face-to-face or over the telephone on and around our payment days. This phenomenon is described fully below and is of particular concern to us in light of the Agency's commitment to provide "world class" service to our beneficiaries and customers.

Executive Order (E.O.) 12862, issued on September 11, 1993 mandates that the standard of quality for services provided to the public for all government agencies shall be "customer service equal to the best in the business." This standard has been incorporated into SSA's goal of providing "world class" public service. For example, when you conduct business with us, we have set as goals that:

- When you make an appointment to talk with someone at one of our field offices, we will serve you within 10 minutes of the scheduled time.

- When you call our toll-free 800 number, you will get through to it within 5 minutes of your first try.

SSA's current practice of paying 47 million beneficiaries within the first 3 days of each month results in a large surge of work during the first week of each month. This surge includes a large number of visitors to field offices and calls to our toll-free 800 number to report nonreceipt of a check, question the amount paid, or ask about other payment-related issues. Approximately 9 percent of all calls during check week concern nonreceipt, compared to 3 percent during the rest of the month. As an example of the surge that occurs around the current payment days, on April 3, 1995, 1,091,282 calls were placed to SSA's 800 number. On April 14, 1995, the number of calls placed to our 800 number decreased to 229,022.

It is important to beneficiaries and customers to be able to reach SSA with fewer busy signals, and we have pledged to enable callers to get through to the 800 number within 5 minutes of their original attempt. However, in fiscal year (FY) 1994, during peak periods, customers encountered busy signals on SSA's 800 number 40-63 percent of the time and had to wait more than 5 minutes to get through about 30 percent of the time. This delay often occurs at a time when it may be the most critical for the individual to reach us, to report a lost check, for example. Anyone who experiences a delay in reaching us to report a lost check also faces a delay in receiving a replacement check. Since many beneficiaries rely solely on their social security benefits, this can be a real hardship for them.

Our goal is for our customers to have minimal waits for service when visiting a social security field office. Today, SSA does not always meet this goal. In FY 1994 there were 24 million visitors to our field offices. While the average wait during check week for individuals with an appointment was 8 minutes, some individuals with appointments had to wait over 2 hours. Thirty-two percent of the visitors to our offices without appointments in FY 1994 (typically people who have questions related to their payments or who want to report payment delivery problems) had to wait more than 30 minutes after arriving to be served. The average wait during check week for individuals without appointments was 16 minutes, although some individuals without appointments had to wait over 3 hours. This can be a particular hardship to those who are elderly or disabled, as well as to people who might take off from work to come to our offices.

The demographic and resource challenges we will face over the next 25 years will make it even more difficult for us to meet our service-delivery objectives. Currently, we pay 47 million OASDI and SSI beneficiaries within the first three days of each month. Due to the aging of the "baby boom" generation, by the year 2020, we will be paying about 75 million beneficiaries, a 60 percent increase over today's beneficiary population. This will place an unprecedented demand on our benefit delivery system.

We are concerned that, in the next 25 years, with the prospect of about 75 million beneficiaries all receiving their payments on single days, there will be a serious deterioration in our service to the public, and we will not be able to provide the kind of service to which we are committed. The growth in beneficiary population is expected to place an even greater strain on SSA's resources at the beginning of the month. At the same time that the number of SSA customers is growing, SSA's resources are being reduced. Public Law 103-226 mandates an overall 12 percent reduction of Federal staffing levels by 1999, and this will impact SSA's resources. As a result, we are particularly concerned that we will not be able to cope with the monthly workload peaks and still maintain our goal of being readily accessible to the public unless we make significant changes in the way in which we deliver service.

In the future, the increased number of beneficiaries and customers plus the mandated reduction of Federal staffing levels will have a real impact on the public's ability to contact us. This will be especially hard on individuals during check week (currently the first week in each month that benefits are paid) when the system will be overloaded. Check week is the time that beneficiaries often have the most urgent need to reach us to report nonreceipt or other problems related to their payment, and to request a replacement check.

Each attempted phone contact by an SSA beneficiary, whether over or under age 65, may represent a personal crisis due, for example, to nonreceipt of benefits. Social security benefits affect, in particular, nearly all individuals age 65 and over in the United States (U.S.). For a significant proportion of individuals over age 65, the benefits represent 90 percent or more of their total income. For these beneficiaries, nonreceipt is not an abstract concept or statistic. It may represent the difference between paying rent or mortgage payments on time or late. It may mean the ability to purchase food. It may

represent lack of gasoline or busfare to get to a medical appointment. A phone contact or visit may be by a recent widow(er) who is reporting the death of her/his spouse. One successful telephone call may be all that is necessary to enable SSA to convert retirement benefits as a spouse into higher widow(er)'s benefits. An unsuccessful phone contact could prevent us from holding back payments to the deceased individual and scheduling benefits to the newly widowed beneficiary. When individuals are unsuccessful at reaching us by telephone, either they, or a friend or family member, may take time off from work to come into a field office. Any additional delay waiting in the field office causes them to lose even more time from work.

Today, we are attempting to cope with the uneven workload pattern in order to maintain our level of service through a series of administrative and management initiatives. For example, at the beginning of the month, we redeploy staff from other work to handle the increase in telephone inquiries which sometimes exceeds two million calls a day. While this practice has been generally successful so far, it will not continue to be as effective in the future when the number of beneficiaries increases substantially and our staffing decreases.

We are considering all our options in preparing for this increase in SSA's workloads and staff reductions and, accordingly, are looking for ways to reengineer our various processes to allow us to achieve our world class customer service goals and, at the same time, increase efficiency and productivity to the maximum extent possible. It is clear, though, that SSA's goal to achieve a level of world class customer service cannot be realized unless our workloads are evened out. This is critical to providing better access to SSA's services for our beneficiaries and customers.

The release of all OASDI and SSI payments on single days also has an adverse effect on certain sectors of the economy. Based on meetings we held with representatives of the banking and business community, the Department of the Treasury (DT), the Federal Reserve System (FRS) and the U.S. Postal Service (USPS), it is clear that the large, once-a-month OASDI and SSI payment files are creating many problems. The banking and business community, the DT, FRS and the USPS all have to bear the expense of providing sufficient resources and processing capacity to deal with OASDI and SSI payments as they flow through the national payment

system at the beginning of the month. This capacity is not needed throughout the remainder of the month.

Equally significant is the growing operational risk that is associated with SSA's current payment pattern. Representatives from several large financial institutions made it clear that when the social security direct deposit payment file becomes available for processing from FRS, they stop all other business and devote their entire operation to ensuring the file is processed quickly and accurately. Because of the inordinately large number of payments involved, these institutions must ensure that nothing goes wrong as the file passes through the national payment system and is deposited into individual customers' accounts. Any event that adversely affects the operational capacity of DT, FRS or a large financial institution in the 1 to 4 day window prior to the 3rd of the month may result in the delay or nonreceipt of literally millions of social security benefit payments which could create hardship for SSA beneficiaries. Leveling the social security payment files through cycling will help prevent this operational risk and resulting hardship.

In order to improve our service to the public, both now and in the future, we propose to spread the payment of OASDI benefits throughout the month, rather than continue to make all benefit payments on single days at the beginning of the month. That is, we will establish several additional payment days for each month, and pay the full monthly benefit to some beneficiaries on the first of those payment days, to other beneficiaries on the second of those payment days, and so forth. The payment day, or cycle, on which a beneficiary is paid generally will not be changed, so that if you are paid on the second payment day in one month you will be paid on the second payment day in each succeeding month as well. This approach, which we call "cycling of payments," will level the workload peaks associated with our current practice of paying all benefits on the same day. Since calls and visits associated with receipt of the monthly benefit payment will be distributed throughout the month, rather than concentrated in a few days, there will be shorter waiting times for assistance and we will be able to achieve or sustain our world class service to the public.

It is important to note that payment cycling will not change the way benefits are computed. We will continue to follow the same rules in determining month of entitlement and the payment amount. People whose benefits are

cycled will receive the same amount they would receive if they were paid on the 3rd of the month.

The benefits to society of implementing payment cycling are potentially significant but extremely difficult to estimate. Cycling will benefit members of the public in that they will have better access to SSA services, including shorter waiting times in field offices and when calling the 800 number, as SSA's workloads increase in the future. Cycling will benefit the business and banking communities in that they will be better able to utilize their resources throughout the month, processing social security payments on a weekly basis. Cycling will also reduce the risk involved in processing large once-a-month files. If we continue to pay all beneficiaries on single days once-a-month, SSA's service to the public will deteriorate, and the adverse impact that the once-a-month payments have on the business and financial community will continue, as will the growing operational risk that goes along with processing all benefit payments at one time.

After considering how best to implement the proposal to cycle the timing of benefit payments, we are proposing the following:

1. We will establish three additional payment days throughout the month (i.e., the second, third and fourth Wednesdays of the month) on which individuals may be paid. This schedule will alleviate to the maximum extent possible the current Monday workload peak which is also now being experienced by SSA's toll-free 800 number and field offices when the payment day falls on Friday, Saturday, Sunday or Monday, which occurs more than half of the time.

2. We will implement payment cycling prospectively only for new OASDI beneficiaries whose claims are filed on or after the effective date of the final rule for payment cycling. We propose to implement payment cycling by January 1997. Payments to current beneficiaries will not be cycled, as they are already in the established pattern of receiving their benefits on the third of the month.

3. We will assign one of the newly established payment days to each new OASDI beneficiary based on the date of birth of the person on whose record entitlement is established (the insured individual). Generally, new OASDI beneficiaries who receive auxiliary or survivor benefits on an insured individual's record will be assigned to the payment day based on the insured individual's date of birth. Insured individuals who are already being paid

auxiliary or survivor benefits on the 3rd of the month when payment cycling is implemented and who subsequently become entitled on their own record after payment cycling is implemented will continue to receive all benefits on the 3rd. However, all other insured individuals who become entitled on their own record and on another record after payment cycling is implemented will be paid all benefits to which they are entitled on the payment day assigned based on their own date of birth. Insured individuals born on the 1st through the 10th of the month will be paid on the second Wednesday of each month. Insured individuals born on the 11th through the 20th of the month will be paid on the third Wednesday of each month. Insured individuals born after the 20th of the month will be paid on the fourth Wednesday of each month. With only a few exceptions described below, no new OASDI beneficiaries will receive payments on the 3rd of the month.

4. We may accommodate some beneficiaries currently being paid on the 3rd of the month who voluntarily wish to change to the payment day that would be selected by the date of birth criteria described above, in order to accelerate the workload leveling effect of cycling. For example, we plan to allow them to volunteer to switch if only one person is being paid on the record or, if there are other beneficiaries being paid on the same record, all others agree, in writing, to the change.

However, once a volunteer is assigned to a new payment day, that day will be permanent and the person will not be allowed to change back to the 3rd of the month. We will not allow beneficiaries being paid on one of the three new days to switch to a different payment day.

5. We will not include persons receiving SSI payments, and persons concurrently entitled to both OASDI and SSI benefits, in payment cycling. Since SSI is a needs-based program, we believe we should continue to pay these individuals as early in the month as possible. Concurrently entitled individuals who lose eligibility for SSI will continue to be paid on the 3rd.

6. We will not apply payment cycling to OASDI beneficiaries whose income is deemed to SSI beneficiaries. The reason is that most deeming cases involve family members who receive Federal income maintenance benefits. Those family units should continue to receive payments as early in the month as possible. Likewise, payment cycling will not apply to OASDI beneficiaries who, due to their income and/or resources, are not entitled to SSI but who are covered by the State in which

they live for Medicaid and the State covers their Medicare premium. The Health Care Financing Administration requested that these OASDI beneficiaries be paid early in the month.

7. Payment cycling will not apply to beneficiaries living in a foreign country. For those beneficiaries being paid by check, foreign check delivery is often unreliable. However, with one delivery day on the 3rd of the month it is easier to target when checks should be received than if they were sent four times throughout the month. Also, since foreign beneficiaries do not have access to the 800 number or to SSA's field offices in the country where they reside, these facilities will not be adversely affected if we continue to pay foreign beneficiaries on the 3rd of the month. The presence of a foreign address for any beneficiary on a social security record will mean that all beneficiaries on that record will be paid on the 3rd of the month. The reason is that, for operational purposes, we are assigning a single payment day for all individuals who receive benefits on the earnings record of a particular individual. Once a beneficiary has reported a foreign address and all individuals receiving benefits on that account are changed to the 3rd of the month, the payment day for all of them will remain the 3rd of the month even if the person with the foreign address returns to the U.S. This is to prevent potential confusion caused by beneficiaries frequently leaving and entering the U.S.

8. We will notify affected beneficiaries in writing of the particular monthly payment day that is assigned to them. However, the assignment of a payment day is not an initial determination and is not appealable. Beneficiaries have never been able to choose their payment day and will not be able to choose a payment day under payment cycling.

Early Consultations

We conducted 10 focus group meetings at 5 locations around the country to solicit comments and obtain reaction from the public to cycling payments throughout the month. Two meetings were held in each location: one with current beneficiaries age 21 and over and one with future beneficiaries age 21 and over. After we described our future workload projections and resultant service delivery deterioration, the vast majority of future beneficiaries with whom we met said they would not mind being paid later in the month.

We also conducted a series of separate meetings with stakeholders including representatives from the business

community, financial community, other government agencies and advocacy groups. The overwhelming consensus of opinion among all stakeholders who participated was that SSA should implement some form of payment cycling.

Request for Information From the Public

SSA is interested in receiving comments from the public. We are interested in your views about the importance of improved service and access to SSA personnel and the use of payment cycling as one means to achieve better service.

Request for Information From Business and Financial Community

SSA is particularly interested in the incremental cost or savings to the business and financial community of changing to the proposed payment schedule. Therefore, we invite commenters from the business and financial community to provide data and analysis quantifying these effects. The more specific the data, the more they will help us to assess the cost or savings or any other effect of this proposed regulation.

Explanation of Revisions

We propose to add a new § 404.1807 and to amend § 404.1805 to reflect the policies described above. We propose to add a new § 404.1807(f) to reflect § 708 of the Act, which provides that payment will be moved to the prior business day if the scheduled day for payment falls on a Saturday, Sunday, or Federal legal holiday. We also propose to add a new paragraph (s) to existing § 404.903 to show that assignment of a monthly payment day is not an initial determination and, therefore, it is not subject to the administrative review process provided in subpart J of our regulations or to judicial review.

Electronic Versions

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9 a.m. on the date of publication in the Federal Register. To download the file, modem dial (202) 512-1387. The FBB instructions will explain how to download the file and the fee. This file is in WordPerfect and will remain on the FBB during the comment period.

Regulatory Procedures

E.O. 12866

We have determined that these proposed regulations meet the criteria for a significant regulatory action under E.O. 12866. Therefore, we prepared and

submitted to OMB an assessment of the potential costs and benefits of this regulatory action. This assessment also contains an analysis of alternative policies we considered and chose not to adopt. It is available for review by members of the public by contacting SSA.

Regulatory Flexibility Act

These regulations affect when social security recipients receive their payments. Recipients are not small entities within the definition of the Regulatory Flexibility Act. Therefore, these regulations will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

These proposed regulations impose no reporting/recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program Nos. 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 in 20 CFR Part 404

Administrative Practice and Procedure, Blind benefits, Old-Age, Survivors and Disability Benefits; Reporting and recordkeeping requirements; Social Security.

Dated: November 30, 1995.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set forth in the preamble, subparts J and S of part 404 of chapter III of title 20 of the Code of Federal Regulations is proposed to be amended as set forth below.

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

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

Authority: Secs. 201(j), 205(a), (b), (d)-(h), and (j), 221, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 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); sec. 6(a), (b), and (c)-(e), Pub. L. 98-460, 98 Stat. 1802 (42 U.S.C. 1383b, 421 note).

2. Section 404.903 is amended by removing the word "and" at the end of paragraph (q), and by removing the period at the end of paragraph (r) and adding a semicolon and the word "and" in its place, and adding paragraph (s) to read as follows:

§ 404.903 Administrative actions that are not initial determinations.

* * * * *

(s) The assignment of a monthly payment day (see § 404.1807).

3. The authority citation for subpart S of part 404 is revised to read as follows:

Authority: Secs. 205(a) and (n), 207, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a) and (n), 407, and 902(a)(5)).

4. Section 404.1805 is amended by revising paragraph (a)(3) to read as follows:

§ 404.1805 Paying benefits.

(a) * * *

(3) The time at which the payment or payments should be made in accordance with § 404.1807.

* * * * *

5. Section 404.1807 is added to read as follows:

§ 404.1807 Monthly payment day.

(a) *General.* Once we have made a determination or decision that you are entitled to recurring monthly benefits, you will be assigned a monthly payment day. Thereafter, any recurring monthly benefits which are payable to you will be certified to the Managing Trustee for delivery on or before that day of the month as part of our certification under § 404.1805(a)(3). Except as provided in paragraphs (c)(2) through (c)(6), once you have been assigned a monthly payment day, that day will not be changed.

(b) *Assignment of Payment Day.* (1) We will assign the same payment day for all individuals who receive benefits on the earnings record of a particular insured individual. See paragraph (c)(5) for exception.

(2) The payment day will be selected based on the day of the month on which the insured individual was born. Insured individuals born on the 1st through the 10th of the month will be paid on the second Wednesday of each month. Insured individuals born on the 11th through the 20th of the month will be paid on the third Wednesday of each month. Insured individuals born after the 20th of the month will be paid on the fourth Wednesday of each month. See paragraph (c) for exceptions.

(3) We will notify you in writing of the particular monthly payment day that is assigned to you.

(c) *Exceptions.* (1) If you or any other person became entitled to benefits on the earnings record of the insured individual based on an application filed before (effective date of cycling), you will continue to receive your benefits on the 3rd day of the month (but see paragraph (c)(6) of this section). All

persons who subsequently become entitled to benefits on that earnings record will be assigned to the 3rd day of the month as the monthly payment day.

(2) If you or any other person became entitled to benefits on the earnings record of the insured individual based on an application filed after (effective date of cycling) and also become entitled to Supplemental Security Income (SSI) benefits or have income which is deemed to an SSI beneficiary (per § 416.1160), all persons who are or become entitled to benefits on that earnings record will be assigned to the 3rd day of the month as the monthly payment day. We will notify you in writing if your monthly payment day is being changed to the 3rd of the month due to this provision.

(3) If you or any other person became entitled to benefits on the earnings record of the insured individual based

on an application filed after (effective date of cycling) and also reside in a foreign country, all persons who are or become entitled to benefits on that earnings record will be assigned to the 3rd day of the month as the monthly payment day. We will notify you in writing if your monthly payment day is being changed to the 3rd of the month due to this provision.

(4) If you or any other person became entitled on the earnings record of the insured individual based on an application filed after (effective date of cycling) and are not entitled to SSI but are or become covered by the State where you live for Medicaid and the State covers your Medicare premium, all persons who are or become entitled to benefits on that earnings record will be assigned to the 3rd day of the month as the monthly payment day. We will notify you in writing if your monthly

payment day is being changed to the 3rd of the month due to this provision.

(5) Insured individuals who are already being paid auxiliary or survivor benefits on the 3rd of the month and who become entitled on their own record after (effective date of cycling) will continue to receive all benefits on the 3rd of the month. However, all other insured individuals entitled on their own record and on another record after (effective date of cycling), will be paid all benefits to which they are entitled on the payment day assigned based on their own date of birth.

(6) If the day regularly scheduled for the delivery of your benefit payment falls on a Saturday, Sunday, or Federal legal holiday, you will be paid on the first preceding day that is not a Saturday, Sunday, or Federal legal holiday.

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