

review is always scheduled at least 5 days before the personal conference.

(d) At the file review, the individual and the individual's representative have the right to review the claims file and applicable law and regulations with the decisionmaker or another SSA representative who is prepared to answer questions. We will provide copies of material related to the overpayment and/or waiver from the claims file or pertinent sections of the law or regulations that are requested by the individual or the individual's representative.

(e) At the personal conference, the individual is given the opportunity to:

(1) Appear personally, testify, cross-examine any witnesses, and make arguments;

(2) Be represented by an attorney or other representative (see § 410.684), although the individual must be present at the conference; and

(3) Submit documents for consideration by the decisionmaker.

(f) At the personal conference, the decisionmaker:

(1) Tells the individual that the decisionmaker was not previously involved in the issue under review, that the waiver decision is solely the decisionmaker's, and that the waiver decision is based only on the evidence or information presented or reviewed at the conference;

(2) Ascertains the role and identity of everyone present;

(3) Indicates whether or not the individual reviewed the claims file;

(4) Explains the provisions of law and regulations applicable to the issue;

(5) Briefly summarizes the evidence already in file which will be considered;

(6) Ascertains from the individual whether the information presented is correct and whether he/she fully understands it;

(7) Allows the individual and the individual's representative, if any, to present the individual's case;

(8) Secures updated financial information and verification, if necessary;

(9) Allows each witness to present information and allows the individual and the individual's representative to question each witness;

(10) Ascertains whether there is any further evidence to be presented;

(11) Reminds the individual of any evidence promised by the individual which has not been presented;

(12) Lets the individual and the individual's representative, if any, present any proposed summary or closing statement;

(13) Explains that a decision will be made and the individual will be notified in writing; and

(14) Explains repayment options and further appeal rights in the event the decision is adverse to the individual.

(g) SSA issues a written decision to the individual (and his/her representative, if any) specifying the findings of fact and conclusions in support of the decision to approve or deny waiver and advising of the individual's right to appeal the decision. If waiver is denied, adjustment or recovery of the overpayment begins even if the individual appeals.

(h) If it appears that the waiver cannot be approved, and the individual declines a personal conference or fails to appear for a second scheduled personal conference, a decision regarding the waiver will be made based on the written evidence of record. Reconsideration is then the next step in the appeals process (but see § 410.630(c)).

Subpart F—[Amended]

10. The authority citation for subpart F of part 410 is revised to read as follows:

Authority: Secs. 413(b), 426(a), 507, and 508 of the Federal Coal Mine Health and Safety Act of 1977, as amended (30 U.S.C. 923(b), 936(a), 956, and 957).

11. Section 410.623 is revised to read as follows:

§ 410.623 Reconsideration; right to reconsideration.

(a) We shall reconsider an initial determination if a written request for reconsideration is filed, as provided in § 410.624, by or for the party to the initial determination (see § 410.610). We shall also reconsider an initial determination if a written request for reconsideration is filed, as provided in § 410.624, by an individual as a widow, child, parent, brother, sister, or representative of a decedent's estate, who makes a showing in writing that his or her rights with respect to benefits may be prejudiced by such determination.

(b) Reconsideration is the first step in the administrative review process that we provide for an individual dissatisfied with the initial determination, except that we provide the opportunity for a hearing before an administrative law judge as the first step for those situations described in § 410.630(b) and (c), where an individual appeals an initial determination denying waiver of adjustment or recovery of an overpayment (see § 410.561a).

12. Section 410.630 is revised to read as follows:

§ 410.630 Hearing; right to hearing.

An individual referred to in §§ 410.632 or 410.633 who has filed a written request for a hearing under the provisions in § 410.631 has a right to a hearing if:

(a) An initial determination and reconsideration of the determination have been made by the Social Security Administration concerning a matter designated in § 410.610;

(b) An initial determination denying waiver of adjustment or recovery of an overpayment based on a personal conference has been made by the Social Security Administration (see § 410.561a); or

(c) An initial determination denying waiver of adjustment or recovery of an overpayment based on a review of the written evidence of record has been made by the Social Security Administration (see § 410.561a) and the determination was made concurrent with, or subsequent to, our reconsideration determination regarding the underlying overpayment but before an administrative law judge holds a hearing.

[FR Doc. 96-27707 Filed 10-30-96; 8:45 am]

BILLING CODE 4190-29-P

20 CFR Part 416

[Regulations No. 16]

RIN 0960-AD90

Evidence of Lawful Admission for Permanent Residence in the United States (U.S.)

AGENCY: Social Security Administration (SSA).

ACTION: Final rule.

SUMMARY: This final regulation sets forth the type of documentation required for an alien to establish the status of lawfully admitted for permanent residence for eligibility purposes under the Supplemental Security Income (SSI) program. The Immigration and Naturalization Service (INS), the Agency responsible for determining alien status and issuing documents certifying alien status in the U.S., changed its policy with regard to what constitutes definitive evidence of lawful permanent resident alien status. In this final SSI regulation, we are removing references to specific INS form numbers and substituting a general reference to an Alien Registration Receipt Card issued under current INS regulations. Thus, SSA's regulations will be broad enough not only to be consistent with the new INS policy, but also to accommodate future INS regulatory changes regarding

acceptable documentary evidence of lawful permanent resident alien status. In the future, SSA will not have to revise its regulations to conform to changes in INS policy unless the form name changes. Historically, the form name has remained the same.

EFFECTIVE DATE: This regulation is effective December 2, 1996.

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. For information on eligibility, claiming benefits, or coverage of earnings, call our national toll-free number, 1-800-772-1213.

SUPPLEMENTARY INFORMATION: To be eligible for SSI benefits, an individual must be either a citizen or national of the U.S. or a qualified alien as defined in 8 U.S.C. 1641(b) and (c) who meets one of the exceptions in 8 U.S.C. 1612(a)(2). Our regulation at § 416.1615(a)(1) sets forth the types of alien registration documents issued by INS which constitute valid evidence of lawful permanent residence status.

INS is responsible for determining alien status and issuing documents certifying alien status within the U.S. INS does, when necessary, revise its regulations specifying acceptable documentation of alien status.

Aliens who are lawfully admitted for permanent residence and who apply for SSI benefits are required to submit evidence of lawful permanent residence status to be eligible for benefits. Such evidence must be a valid document issued by INS under current INS policy.

On September 20, 1993, INS published a final rule at 58 FR 48775 to terminate the validity of several older versions of the Alien Registration Receipt Card and to establish the Alien Registration Receipt Card, I-551, as the exclusive alien registration card for the use of permanent resident aliens. This INS rule originally was to have been effective on September 20, 1994. However, INS subsequently published two final rules in the Federal Register (on September 14, 1994 at 59 FR 47063 and on March 17, 1995 at 60 FR 14353) to delay the effective date of this rule. The rule became effective on March 20, 1996. As a result of the INS regulatory change, lawful permanent resident aliens must have replaced previously issued obsolete forms, such as the I-151, AR-3, AR-3a and AR-103, with the current Alien Registration Receipt Card, Form I-551, by March 20, 1996.

SSA's current regulation on evidence of lawful permanent resident status

specifies the form numbers of all previously acceptable versions of the INS Alien Registration Receipt Card. Thus, any INS policy which changes acceptable documentation of alien status, such as the change effective March 20, 1996, requires SSA to revise its regulation to conform to those changes. We want to ensure that our regulation not only reflects current INS policy on alien status documentation but is broad enough to encompass changes INS might make in the future.

Therefore, in this final regulation, we are removing references in § 416.1615(a)(1) to specific INS form numbers which are obsolete as of the effective date of INS' new regulatory change, and substituting a single reference to the Alien Registration Receipt Card issued under current INS regulations. As revised, our regulation simply indicates that the individual must submit an Alien Registration Receipt Card which is issued by INS in accordance with that Agency's current regulations.

On August 30, 1995, we published a proposed rule in the Federal Register at 60 FR 45110 and provided a 60-day period for interested individuals to comment. We received no comments. We are, therefore, publishing this final rule essentially unchanged.

Regulatory Procedures

Regulatory Flexibility Act

We certify that this final regulation will not have a significant economic impact on a substantial number of small entities because it only affects individuals who claim benefits under title XVI of the Social Security Act. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review.

Paperwork Reduction Act

This final regulation revises paragraph (a)(1) of § 416.1615. Section 416.1615 of the regulations contains reporting requirements. We would normally seek approval of these requirements (under the Paperwork Reduction Act) from OMB. We are not doing so because we already have

clearance from OMB to collect this information under OMB No. 0960-0451.

Public reporting burden for this collection of information is estimated to average 5 minutes per response. This includes the time it will take to read the instructions, gather the necessary facts, and provide the information. We expect approximately 271,800 claimants will be responding, and estimate the total burden to be 22,650 hours.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

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

Dated: October 8, 1996.

Approved.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set forth in the preamble, subpart P of part 416 of chapter III of title 20 of the Code of Federal Regulations is amended as set forth below.

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

Subpart P—[Amended]

1. The authority citation for subpart P of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1614(a)(1)(B) and (e), and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382c(a)(1)(B) and (e), and 1383); 8 U.S.C. 1254a; sec. 502, Pub. L. 94-241, 90 Stat. 268 (48 U.S.C. 1681 note).

2. Section 416.1615 is amended by revising paragraph (a)(1) to read as follows:

§ 416.1615 How to prove you are lawfully admitted for permanent residence in the United States.

(a) * * *

(1) An Alien Registration Receipt Card issued by the Immigration and Naturalization Service (INS) in accordance with that Agency's current regulations;

* * * * *

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