

15 does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, section 15 simply requires the Commission to "consider the costs and benefits" of its action, in light of five broad areas of market and public concern: protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas of concern and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effective any of the provisions or to accomplish any of the purposes of the Act.

The submission of new products for Commission review and approved by designated contract markets or DTFs is voluntary. The Commission has therefore concluded that those entities choosing to make such submissions find that the benefits of doing so equal or exceed the fees, which, as explained above, are derived from the Commission's actual processing costs.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 USC 601, *et seq.*, requires agencies to consider the impact of rules on small business. The fees implemented in this release affect contract markets and registered DTFs. The Commission has previously determined that contract markets and registered DTFs are not "small entities" for purposes of the Regulatory Flexibility Act. Accordingly, the Chairman, on behalf of the Commission, certifies pursuant to 5 USC 605(b), that the fees implemented here will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, DC, on May 29, 2002 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02-13861 Filed 6-3-02; 8:45 am]

BILLING CODE 6351-01-M

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

RIN 0960-AF53

Collection of Supplemental Security Income Overpayments From Special Benefits for Certain World War II Veterans

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are revising our regulations to permit the Social Security Administration (SSA) to recover Supplemental Security Income (SSI) overpayments under title XVI of the Social Security Act (the Act) by adjusting the amount of Special Benefits for Certain World War II Veterans (SVB) payable under title VIII of the Act. This collection practice is limited to individuals who are not currently eligible to receive any cash payments under any provision of title XVI or any State supplementary payments that we administer. Also, the amount of SVB to be withheld in a month to recover the SSI overpayment will not exceed 10 percent unless the overpaid person requests us to withhold a different amount or the overpaid person (or his or her spouse) willfully misrepresented or concealed material information in connection with the SSI overpayment. If there was willful misrepresentation or concealment, the entire SVB amount will be withheld to recover the SSI overpayment. These revisions will permit SSA to recover SSI overpayments from SVB payable to the overpaid individual when SSI cash benefits are not payable.

EFFECTIVE DATE: These rules are effective on July 5, 2002.

FOR FURTHER INFORMATION CONTACT:

Patricia Hora, Social Insurance Specialist, Office of Process and Innovation Management, 2109 West Low Rise Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, regulations@ssa.gov, (410) 965-7183 or TTY (410) 966-5609 for information about these rules. For information on eligibility or filing for benefits, call our national toll-free numbers, 1-800-772-1213 or TTY 1-800-325-0778 or visit our Internet web site, SSA Online, at <http://www.ssa.gov>.

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** on the Internet site for the Government Printing Office: <http://www.access.gpo.gov/su-docs/aces/aces140.html>. It is also available

on the Internet site for SSA (i.e. Social Security Online): <http://www.ssa.gov/regulations/>. Electronic copies of public comments may also be found on this site.

SUPPLEMENTARY INFORMATION: On December 14, 1999, Pub. L. 106-169, the "Foster Care Independence Act of 1999" was enacted. Section 251(a) of Pub. L. 106-169 added title VIII to the Social Security Act, establishing a new benefit program—Special Benefits for Certain World War II Veterans. Under this program, if you are a World War II veteran who was eligible for SSI for December 1999 and for the month of application for SVB, and who meets other criteria specified in the law, you may be entitled to SVB for each month in which you reside outside the United States.

Section 251(b) of Pub. L. 106-169 amended section 1147 of the Act. Prior to the enactment of Pub. L. 106-169, section 1147 of the Act (added by section 8 of Pub. L. 105-306) allowed SSA to recover SSI overpayments from you, if you were no longer receiving SSI cash payments, by reducing the amount of any benefits payable to you under title II of the Act. Final regulations on recovery of SSI overpayments from title II benefits were published on July 26, 2001, at 66 FR 38902. Section 251(b) of Pub. L. 106-169 amended section 1147 to allow recovery of SSI overpayments from title VIII benefits, as well as title II benefits, payable in a month. Throughout this preamble, this type of overpayment recovery is called "cross-program recovery." With certain exceptions, the amount of the reduction permitted under cross-program recovery cannot exceed 10 percent of the benefits payable in a month.

On July 26, 2001 we published a Notice of Proposed Rulemaking in the **Federal Register** at 66 FR 38963 and provided a 60-day period for interested individuals and organizations to comment on the proposed rules. We received one public comment from an individual. A summary of the comment and our response to it follows.

Comment: The commenter believes we should not reduce an individual's SVB payments to recover an SSI overpayment unless there was willful concealment or misrepresentation on the part of the overpaid person. The commenter points out that the overpaid individual is an aged veteran who may not even understand why the overpayment occurred. The commenter argues that, rather than holding the veteran liable, we should make stronger efforts to eliminate payment errors within SSA.

Response: We are not adopting this comment. As indicated above, Congress specifically amended section 1147 of the Act to give SSA authority to use cross-program recovery to recover SSI overpayments from SVB payments. In recognition of the fact that the veteran is an elderly former SSI recipient, Congress limited to 10 percent the amount we may withhold from an individual's monthly SVB payment to recover an SSI overpayment. In addition, in the cross-program recovery notice that we will send to an overpaid individual, we will explain that he/she has both the right to request that we waive recovery of the overpayment and the right to request that we use a rate of withholding that is less than 10 percent of the monthly payment amount. We will waive recovery of an SSI overpayment in any case where the individual was without fault in causing the overpayment and recovery would either defeat the purpose of title XVI (i.e., deprive the individual of income or resources needed for ordinary and necessary living expenses) or be against equity and good conscience (e.g., the overpaid individual changed his or her position for the worse or relinquished a valuable right in reliance on the overpayment). We believe the final rules strike the proper balance between protecting the rights of the overpaid individual and satisfying our obligation to ensure the fiscal integrity of the SSI program.

Regarding payment errors within SSA, we are pursuing several initiatives that address the causes of overpayments in the benefit programs we administer. We are hopeful that these initiatives will help to reduce the number of overpayments that occur.

We are publishing these final rules with only minor changes from the proposed rule.

Explanation of Changes

In order to implement cross-program recovery from SVB, we are modifying several provisions of § 416.572.

Paragraph (a) is revised as follows:

- We are revising the definition of "cross-program recovery" to include the process of collecting title XVI overpayments from SVB payable to you in a month.

- We are revising the definition of "benefits payable in a month" to include the amount of SVB you would actually receive in a given month. Under this definition, "benefits payable in a month" includes the monthly SVB amount and any past due SVB you receive, after any reduction by the amount of income for the month as required by section 805 of the Act (42

U.S.C. 1005). We have added to the definition an example to show how we determine SVB payable in a month.

- We changed the language of paragraph (a)(3), as published with the notice of proposed rulemaking, to conform it to the language of the final regulation published at 66 FR 38902, 38907.

We are revising paragraph (b) of § 416.572 to explain that we may use cross-program recovery to collect title XVI overpayments if you are not currently receiving SSI cash benefits and are receiving benefits under title II or title VIII of the Act. Therefore, if your title II and/or title VIII benefits are being adjusted to recover a title XVI overpayment and you again become eligible for SSI benefits, cross-program recovery will end with the month in which SSI cash benefits resume. We will begin collecting the remaining title XVI overpayment by monthly adjustment of SSI payments. We are also revising paragraph (b) to explain that:

- We will not start cross-program recovery from SVB if we already are adjusting SVB to recover an SVB overpayment, and
- We will not start cross-program recovery from title II benefits if we are already adjusting title II benefits to recover an SVB or title II overpayment.

Adjustment of title VIII and title II benefits to recover SVB overpayments is authorized by section 808(a)(1) of the Act (42 U.S.C. 1008(a)(1)).

Paragraph (c) of § 416.572 lists the information that we include in the notice sent to a person whose benefits are subject to cross-program recovery. We are revising paragraph (c)(2) to add that the information will include the amount we will withhold from SVB payable in a month. The notice will state that you may ask us to review our determination that you still owe the overpayment balance and that you may ask us to waive collection of the overpayment balance. The notice will inform you how to request a waiver. Unless you or your spouse willfully misrepresented or concealed material information in connection with the overpayment, the notice also will state that you may request that we withhold from SVB a different amount than the amount stated in the notice.

Paragraph (d) of § 416.572 currently explains that we will begin to withhold no sooner than 30 days after the date of the notice. If you pay the entire overpayment balance within that 30-day period, we will not impose cross-program recovery. If within the 30-day period you ask us to review the determination that you still owe us the overpayment balance and/or request us

to waive recovery of the overpayment balance, we will not begin cross-program recovery until we review the matter(s) and notify you of our decision(s). If within the 30-day period, you request that we withhold a different amount, we will not begin cross-program recovery until we determine the amount we will withhold. These provisions apply when we pursue cross-program recovery to collect SSI overpayments from SVB payable under title VIII of the Act. No revisions to the regulatory text are needed.

We are revising paragraph (e) of § 416.572 to explain that when cross-program recovery is applied, we will collect the overpayment at a rate of 10 percent of the title II benefits and SVB payable in any month, respectively. However, we will collect at a rate of 100 percent of the title II benefits and SVB payable in any month if you (or your spouse) willfully misrepresented or concealed material information in connection with the overpayment.

Other Revisions

We are revising the language of § 416.570 to state that we will not adjust title XVI benefits to recover SVB overpayments without a specific request from the SSI beneficiary. Without the consent of the overpaid person, we have no authority to recover SVB overpayments from SSI payments.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these final regulations meet the criteria for a significant regulatory action under Executive Order (E.O.) 12866. Thus, the regulations were reviewed by OMB. However, the estimated amounts of the savings or costs involved do not cross the threshold for an economically significant regulation as defined in E.O. 12866. The estimated program savings from increased collections as a result of implementation of section 251(b)(7) of Pub. L. 106-169 are negligible, less than \$2.5 million over the next 10 years. The administrative impact is also negligible.

Regulatory Flexibility Act

We certify that these final rules will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These final rules contain reporting requirements at sections 416.570 and

416.572(e). The public reporting burden is accounted for in the Information Collection Requests for the forms that the public uses to submit the information to SSA. Consequently, a 1-hour placeholder burden is being assigned to the specific reporting requirements contained in these rules. We are seeking clearance of the burden referenced in these rules because the rules were not considered during the clearance of the forms. An Information Collection Request has been submitted to OMB. While these rules will be effective 30 days from publication, these burdens will not be effective until cleared by OMB. We are soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. We will publish a notice in the **Federal Register** upon OMB approval of the information collection requirements. Comments should be submitted to the OMB desk officer for SSA within 30 days of publication of these final rules at the following address: Office of Management and Budget, Attn: Desk Officer for SSA, ≤ New Executive Office Building, Room 10230, 725 17th St., NW., Washington, DC 20530.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 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 (SSI).

Dated: March 27, 2002.

Jo Anne B. Barnhart,
Commissioner of Social Security.

For the reasons set forth in the preamble, we are amending Chapter III of Title 20, Code of Federal Regulations as follows:

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

1. The authority citation for Subpart E of Part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1147, 1601, 1602, 1611(c) and (e), and 1631(a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1320b–17, 1381, 1381a, 1382(c)

and (e), and 1383(a)–(d) and (g)); 31 U.S.C. 3720A.

2. Section 416.570 is amended by revising the third sentence to read as follows:

§ 416.570 Adjustment-general rule.

* * * Absent a specific request from the person from whom recovery is sought, no overpayment made under title II, title VIII or title XVIII of the Act will be recovered by adjusting SSI benefits.

* * * * *

3. Section 416.572 is amended by revising the heading and paragraphs (a), (b), (c)(2), and (e) to read as follows:

§ 416.572 Are title II benefits and title VIII benefits subject to adjustment to recover title XVI overpayments?

(a) Definitions.

(1) *Cross-program recovery.* Cross-program recovery is the process that we will use to collect title XVI overpayments from benefits payable to you in a month under title II and title VIII of the Act.

(2) *Benefits payable in a month.* For purposes of this section, benefits payable in a month means the amount of title II or title VIII benefits that you would actually receive in that month. For title II benefits, it includes your monthly benefit and any past due benefits after any reductions or deductions listed in § 404.401(a) and (b) of this chapter. For title VIII benefits, it includes your monthly benefit and any past due benefits after any reduction by the amount of income for the month as required by section 805 of the Act.

Title II Example: A person is entitled to monthly title II benefits of \$1000. The first benefit payment the person would receive includes past-due benefits of \$1000. The amount of benefits payable in that month for purposes of cross-program recovery is \$2000. So, if we were recovering 10 percent of that month's benefit, we would be recovering \$200. The monthly benefit payable for subsequent months is \$1000. So, if we were recovering 10 percent of that amount, we would be recovering \$100. If \$200 would be deducted from the person's title II benefits in a later month because of excess earnings as described in §§ 404.415 and 404.416 of this chapter, the benefit payable in that month for purposes of cross-program recovery would be \$800. So, if we were recovering 10 percent of that month's benefit, we would be recovering \$80.

Title VIII Example: A person qualifies for monthly title VIII benefits of \$384. The person is receiving a monthly pension payment of \$150 from his employer. The title VIII benefit payable in a particular month would be reduced by \$150 under section 805 of the Act (42 U.S.C. 1005). The title VIII benefit payable and subject to withholding in that month for purposes of cross-program

recovery would be \$234. So, if we were recovering 10 percent of that month's benefit, we would be recovering \$23.40.

(3) *Not currently eligible for SSI cash benefits.* This means that you are not receiving any cash payment, including State supplementary payments that we administer, under any provision of title XVI of the Act or under section 212(b) of Pub. L. 93–66 (42 U.S.C. 1382 note).

(b) *When we may collect title XVI overpayments using cross-program recovery.*

(1) Except as provided in paragraphs (b)(2) through (4) of this section, we may use cross-program recovery to collect a title XVI overpayment you owe if:

(i) You are not currently eligible for SSI cash benefits, and

(ii) You are receiving title II or title VIII benefits.

(2) We will not start cross-program recovery against your title II or title VIII benefits if you are refunding your title XVI overpayment by regular monthly installments.

(3) We will not start cross-program recovery against your title II benefits if we are adjusting your title II benefits to recover a title II overpayment under § 404.502 of this chapter or a title VIII overpayment under section 808(a)(1) of the Act (42 U.S.C. 1008(a)(1)).

(4) We will not start cross-program recovery against your title VIII benefits if we are adjusting your title VIII benefits to recover a title VIII overpayment under section 808(a)(1) of the Act (42 U.S.C. 1008(a)(1)).

(c) * * *

(2) We will withhold a specific amount from the title II benefits and/or title VIII benefits payable to you in a month (see paragraph (e) of this section);

* * * * *

(e) *Rate of withholding.*

(1) We will collect the overpayment at the rate of 10 percent of the title II benefits and title VIII benefits payable to you in any month, unless:

(i) You request and we approve a different rate of withholding, or

(ii) You or your spouse willfully misrepresented or concealed material information in connection with the overpayment.

(2) In determining whether to grant your request that we withhold at a lower rate than 10 percent of the title II or title VIII benefits payable in a month, we will use the criteria applied under § 416.571 to similar requests about withholding from title XVI benefits.

(3) If you or your spouse willfully misrepresented or concealed material information in connection with the overpayment, we will collect the

overpayment at the rate of 100 percent of the title II benefits and title VIII benefits payable in any month. We will not collect at a lesser rate. (See § 416.571 for what we mean by concealment of material information.)

[FR Doc. 02-13902 Filed 6-3-02; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 18, 44, 46, 48, 49, 56, 57, 70, 71, 75 and 90

MSHA Headquarters Address Change

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule.

SUMMARY: The Mine Safety and Health Administration is amending its regulations to reflect changes to the address of the Headquarters office. MSHA is relocating its Headquarters offices and these amendments to the regulations are necessary to inform the public of MSHA's new address.

EFFECTIVE DATE: June 10, 2002.

ADDRESSES: This final rule is available on MSHA's internet site, <http://www.msha.gov>, at the "Statutory and Regulatory Information" icon.

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Jr., Director, Office of Standards, Regulations, and Variances, MSHA, 4015 Wilson Blvd., Room 627, Arlington, Virginia 22203-1984, Nichols-Marvin@msha.gov, (703) 235-1910 (telephone) or (703) 235-5551 (facsimile) before June 10, 2002 and 1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209-3939, (202) 693-9440 (telephone), (202) 693-9441 (facsimile) thereafter.

SUPPLEMENTARY INFORMATION:

A. Background

On June 10, 2002, MSHA will move its Headquarters office from 4015 Wilson Blvd., Arlington, Virginia 22203-1984 to 1100 Wilson Blvd., Arlington, Virginia 22209-3939.

Because this amendment deals with agency management and procedures, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 USC 553(a)(2) and (b)(3)(A).

Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature dealing with a change in address.

B. Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

C. Executive Order 12866 Regulatory Planning and Review

This final rule is not a "regulatory action" under section 3 of Executive Order 12866, and has not been reviewed by the Office of Management and Budget. The rule is an administrative action that changes the address of a Federal agency. Because the rule is limited to agency organization, management and personnel, it falls within the exclusion set forth in section 3(d)(3) of the Executive Order.

In promulgating this rule, the Agency has adhered to the regulatory philosophy and applicable principles of regulation set forth in section 1 of the Executive Order.

D. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995, this rule does not include any Federal mandate that may result in increased expenditures by State, local or tribal governments, or by the private sector.

Accordingly, Chapter I of Title 30 of the Code of Federal Regulations is amended as follows:

PART 18—ELECTRIC MOTOR-DRIVEN MINE EQUIPMENT AND ACCESSORIES

1. The authority citation for part 18 continues to read as follows:

Authority: 30 U.S.C. 957 and 961.

§ 18.82 [Amended]

2. In § 18.82(a), the address for the Assistant Secretary of Labor for Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2322, Arlington, Virginia 22209-3939."

PART 44—RULES OF PRACTICE FOR PETITIONS FOR MODIFICATION OF MANDATORY SAFETY STANDARDS

3. The authority citation for part 44 continues to read as follows:

Authority: 30 U.S.C. 957.

§ 44.10 [Amended]

4. In § 44.10, the address for the Office of Standards, Regulations and Variances is revised to read "1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209-3939."

§ 44.21 [Amended]

5. In § 44.21(a), the address for the Assistant Secretary of Labor for Mine Safety and Health is revised to read "1100 Wilson Blvd., Room 2322, Arlington, Virginia 22209-3939."

PART 46—TRAINING AND RETRAINING OF MINERS ENGAGED IN SHELL DREDGING, OR EMPLOYED AT SAND, GRAVEL, SURFACE STONE, SURFACE CLAY, COLLOIDAL PHOSPHATE, OR SURFACE LIMESTONE MINES.

6. The authority citation for part 46 continues to read as follows:

Authority: 30 U.S.C. 811, 825.

§ 46.2 [Amended]

7. In § 46.2(d)(1)(iii), the address for the Office of Standards, Regulations and Variances is revised to read "1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209-3939."

§ 46.3 [Amended]

8. In § 46.3(h), the address for the Office of Educational Policy and Development is revised to read "1100 Wilson Blvd., Room 2100, Arlington, Virginia 22209-3939."

PART 48—TRAINING AND RETRAINING OF MINERS

9. The authority citation for part 48 continues to read as follows:

Authority: 30 U.S.C. 811, 825.

§ 48.3 [Amended]

10. In § 48.3(i), the addresses for the Administrator for MSHA Coal Mine Safety and Health and the Administrator for Metal and Non-metal Safety and Health are revised to read "1100 Wilson Blvd., Room 2424 (Coal) or Room 2436 (Metal and Nonmetal), Arlington, Virginia 22209-3939."

§ 48.23 [Amended]

11-12. In § 48.23(i), the addresses for the Administrator for Coal Mine Safety and Health and the Administrator for Metal and Non-metal Safety and Health are revised to read "1100 Wilson Blvd., Room 2424 (Coal) or Room 2436 (Metal and Nonmetal), Arlington, Virginia 22209-3939."

§ 48.32 [Amended]

13. In § 48.32(a), the addresses for the Administrator for Coal Mine Safety and Health and the Administrator for Metal and Non-metal Safety and Health are revised to read "1100 Wilson Blvd., Room 2424 (Coal) or Room 2436 (Metal and Nonmetal), Arlington, Virginia 22209-3939."