*Size, Container and Pack Regulation* to read as follows:

**§ 923.322 Cherry Regulation 22.**

(a) On and after July 21, 1982, no handler shall handle, except as otherwise provided in paragraphs (b), (c) and (d) of this section, any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries meet each of the following applicable requirements:

(1) Washington No. 1 grade except that the following tolerances, by count, of the cherries in the lot shall apply in lieu of the tolerances for defects provided in the Washington State Standards for Grades of Sweet Cherries: *Provided,* That a total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided further,* That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(2) At least 95 percent, by count, of the cherries in the lot shall measure not less than $^{48}/_{64}$ inch in diameter, except as hereinafter provided in paragraph (b)(2)(ii) and paragraph (a)(3) of this section.

(3) At least 90 percent, by count, of the cherries in any lot of face-packed containers or any containers of 20 pounds, net weight, or more shall measure not less than $^{54}/_{64}$ inch in diameter and not more than 5 percent, by count, of such cherries may be less than $^{48}/_{64}$ inch in diameter.

(b) *Containers.* On and after July 21, 1982, no handler shall handle any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries are in containers which meet each of the following applicable requirements:

(1) The net weight of loose packed (jumble-filled) cherries in any container shall be 12 pounds or 20 pounds, or greater. The net weight of face-packed cherries in any container shall be 15 pounds.

(2) Subject to the provisions of paragraphs (b)(2) (i) and (ii) of this section, shipments of cherries may be handled in such experimental containers as have been approved by the Washington Cherry Marketing Committee.

(i) All shipments handled in such containers shall be under the supervision of the committee; and

(ii) At least 90 percent, by count, of the cherries in any lot of such containers shall measure not less than $^{54}/_{64}$ inch in diameter, and not more than 5 percent, by count, of such cherries may be less than $^{48}/_{64}$ inch in diameter.

(c) *Pack.* (1) When containers of cherries are marked with one of the row count/row size designations shown in Column 1 of the following table, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the corresponding diameter shown in Column 2 of such table: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than $^{54}/_{64}$ inch in diameter.

TABLE

| Column 1, row count/row size | Column 2, diameter (inches) |
|---|---|
| 9 | $^{72}/_{64}$ |
| 10 | $^{66}/_{64}$ |
| 11 | $^{60}/_{64}$ |

(2) When containers of cherries are marked with a minimum diameter of $^{54}/_{64}$ inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than such minimum diameter: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than $^{48}/_{64}$ inch in diameter.

(3) When containers of cherries are marked with a minimum diameter larger than $^{54}/_{64}$ inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the diameter so marked: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than $^{54}/_{64}$ inch in diameter.

(d) *Exceptions.* Any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraphs (a), (b), and (c) of this section, and of §§ 923.41 and 923.55 of this part:

(1) The shipment consists of cherries sold for home use and not for resale;

(2) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(3) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(e) *Definitions.* When used herein, "Washington No. 1" and "diameter" shall have the same meaning as when used in the Washington State Standards for Grades of Sweet Cherries (Order 1550 effective April 29, 1978, WAC 16-414-050); "face packed" means that cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container; "row count/row size" means the number of cherries of a uniform size necessary to pack row-faced across a 10½ inch inside width container or comparable number of cherries when packed loose in a container.

Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Dated: July 16, 1982.

D. S. Kuryloski,

*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc. 82-19646 Filed 7-20-82; 8:45 am]

BILLING CODE 3410-02-M

## DEPARTMENT OF ENERGY

## Economic Regulatory Administration

## 10 CFR Part 508

## Powerplant and Industrial Fuel Use Act of 1978; Electric Utility Conservation Plan

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Notice of effectiveness.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing this notice to announce the effectiveness of its final rule, 10 CFR Part 508 (47 FR 25729 (June 15, 1982)) ("final rule") implementing the new section 808 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA), which was added to FUA by section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35. Section 808 of FUA and ERA's implementing rules require certain electric utilities which have used and intend to continue to use natural gas as a primary energy source to submit conservation plans to DOE.

**EFFECTIVE DATE:** The final rule shall be effective as of July 21, 1982.

**FOR FURTHER INFORMATION CONTACT:**

Clifford Tomaszewski, Fuels Conservation Division, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Room GA-073F, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-1251

Henry K. Garson, Assistant General Counsel for Coal Regulations (GC-14), Office of the General Counsel, Department of Energy, Room 6B-178,

1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–2967

**SUPPLEMENTARY INFORMATION:** ERA's final rule under section 808 of FUA, 10 CFR Part 508 (47 FR 25729 (June 15, 1982)), sets forth the procedures for submission of conservation plans to DOE and establishes the substantive requirements for such plans. The purpose of this notice is to announce the immediate effectiveness of that final rule.

Issued in Washington, D.C., on July 12, 1982.

**Rayburn Hanzlik,**

*Administrator, Economic Regulatory Administration.*

[FR Doc. 82-19725 Filed 7-20-82; 8:45 am]

BILLING CODE 6450-01-M

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 217

**[Docket No. R-0412; Reg. Q]**

### Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

**AGENCY:** Federal Reserve System.

**ACTION:** Temporary suspension of the Regulation Q early withdrawal penalty.

**SUMMARY:** The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe storms and flooding in Washington Township in Jackson County, Kansas, and Rossville Township in Shawnee County, Kansas.

**EFFECTIVE DATE:** June 28, 1982.

**FOR FURTHER INFORMATION CONTACT:** Daniel L. Rhoads, Attorney (202/452–3711) or Beverly A. Belcamino, Attorney (202/452–3623).

**SUPPLEMENTARY INFORMATION:** On June 28, 1982, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated Washington Township in Jackson County, Kansas, and Rossville Township in Shawnee County, Kansas major disaster areas. The Board regards the President's action as recognition by the Federal Government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty (12 CFR 217.4(d)). The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms and flooding beginning on or about June 8, 1982. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to June 28, 1982, and will remain in effect until 12 midnight, December 28, 1982.

**List of Subjects in 12 CFR Part 217**

Advertising; Banks, banking; Federal Reserve System; Foreign Banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated townships of Kansas directly affected by the severe storms and flooding, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, July 16, 1982.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 82-19766 Filed 7-20-82; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Social Security Administration

### 20 CFR Parts 404 and 416

### Federal Old-Age, Survivors and Disability Insurance Benefits

**AGENCY:** Social Security Administration, HHS.

**ACTION:** Final Rules.

**SUMMARY:** The Department of Health and Human Services is revising its regulations to provide that, in certain cases, a disabled person who has medicially recovered will not have his or her disability benefits terminated if he or she is participating in an approved vocational rehabilitation program under a State plan approved under Title I of the Rehabilitation Act of 1973. These revisions implement the change made by section 301 of the Social Security Disability Amendments of 1980, Pub. L. 96–265, and apply to disabled workers, persons disabled before age 22, and disabled widow(er)s under title II and disabled persons under title XVI, whose disabilities did not end before December 1, 1980. The changes provide for continuation of payment of cash benefits after disability ceases within the meaning of the Social Security Act (the Act), although some residual functional limitation remains, to those persons who are enrolled in a vocational rehabilitation (VR) program and who were not, at the beginning of the program, expected to medically recover before the scheduled completion date of the program.

**EFFECTIVE DATE:** These rules will be effective July 21, 1982.

**FOR FURTHER INFORMATION CONTACT:** Harry J. Short, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone (301) 594–7337.

**SUPPLEMENTARY INFORMATION:** The Social Security Disability Amendments of 1980 change the title II and title XVI disability programs regarding payment of benefits to persons who recover medically while engaged in a program of vocational rehabilitation (VR). Section 301 of the amendments provides that disability benefits under title II or title XVI shall not be terminated or suspended because the physical or mental impairment on which the person's entitlement is based has or may have ceased if (1) the person is participating in an approved VR program under a State plan approved under Title I of the Rehabilitation Act of 1973 and (2) the Commissioner of Social Security has determined that completion of the program, or its continuation for a specified period, will significantly increase the likelihood that the person will be permanently removed from the diability rolls. An approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973 (an appropriate program) is one that meets the requirements and specifications of 45 CFR 1361.2 and 1361.39. These sections describe the general requirements for a State to be eligible for grants under title I of the Rehabilitation Act, and the specifications for an individualized written rehabilitation program.

**Background**

Prior to passage of the Social Security Disability Amendments of 1980, persons who were participating in a VR program were eligible for disability benefits only so long as they continued to meet the definition of disability for the title II and title XVI programs. Some of these people who no longer meet the definition of disability may still have some residual functional limitation from the impairment. Even in cases where continuation in a VR program might have substantially improved a person's chances of returning to productive employment permanently, his or her disability benefits were ended when he or she was no longer considered disabled within the meaning of the Act. As a result, some persons who no longer met the definition of disability but who still had some functional limitation were forced to discontinue participation in a VR program.

**Regulatory Provisions**

In order to obtain the public's views and comments before proceeding with these amendments, we published proposed rules along with a Notice of Proposed Rulemaking in the **Federal Register** on October 30, 1981 (46 FR 53684). Interested persons and organizations were invited to submit comments within 60 days of the date of publication of the notice. We have carefully considered all the comments we received pertaining to the proposed amendments and we respond to the issues raised by the comments later in this preamble.

These regulations apply to title II disability insurance benefits, disabled child's insurance benefits, disabled widow/widower's insurance benefits, and title XVI supplemental security income (SSI) benefits based on disability and reflect and implement Section 301 of Pub. L. 96–265, the Social Security Disability Amendments of 1980. These regulations do not apply to persons who are receiving title XVI benefits because of blindness. The language in Section 301 of the Social Security Disability Amendments of 1980 relating to the SSI program refers only to those aged, blind, or disabled individuals receiving benefit payments solely by reason of disability. The SSI program treats disabled and blind as two different and distinct categories. Each category has several provisions not in common with the other category.

The regulations provide that a person may continue to receive cash benefits after medical recovery if some residual functional limitation remains, he or she is participating in an appropriate VR program, and the Commissioner of Social Security has determined that completion of or continuation for a specified period of time in the program will significantly increase the likelihood that the person will not again have to return to the disability rolls. The regulations also provide that benefits to a person's spouse and children will continue while a person remains in the VR program and meets all other requirements for a continued payment of benefits. For purposes of establishing a disability "freeze" on the earnings records of disabled workers receiving title II disability benefits, the period of disability will end two months after disability ceases, as at present.

To effect these changes, we have changed the rules in §§ 404.316, 404.337, 404.352, 404.902, 404.1596, 404.1597, 416.1321, 416.1331, and 416.1402. We also have added a new § 416.1338 to show under what conditions an SSI recipient may continue to receive benefits if he or she is in an appropriate VR program. In §§ 404.902 and 416.1402, we provide that determinations as to whether a person's completion of or continuation for a specified period of time in a VR program will significantly increase the likelihood that he or she will not have to return to the disability benefit rolls (and thus whether benefits may be continued) are initial determinations and subject to administrative and judicial review. We also added a statement to § 416.1402 to show that determinations relating to a person's disability are also initial determinations. In §§ 404.1596 and 416.1321 we explain the circumstances under which we will not suspend a person's benefits if he or she is participating in an appropriate VR program. In §§ 404.1597 and 416.1331 we make clear that a person may appeal a determination that he or she is not disabled while continuing to receive benefits because of his or her continued participation in an appropriate VR program, or that he or she is not entitled to receive benefits even though continuing to participate in an appropriate VR program.

The changes we have made stress throughout that a person must have begun participating in the VR program before his or her disability ended and reflect the intent of Congress that in most cases medical cessation of disability will result in the termination of benefits.

Further, the regulations expressly limit the provisions to those persons who were not expected, at the beginning of the program, to recover medically before the end of the program. The Conference Report (House of Representatives Report No. 96–944, 96th Congress, Second Session) makes clear that the provisions are expected to be so limited. It states on page 52:

> It is the intent of the provision to consider only those exceptional cases where the disabled beneficiary is not expected at the beginning of the program to recover medically before the end of the program, but he or she does recover and is no longer considered disabled within the meaning of the Social Security Act, although some residual functional limitation still remains.

**Comments on Notice of Proposed Rulemaking**

Interested parties were given 60 days to submit comments on the proposed rules. We received comments from two sources—both advocacy groups.

*Comment:* Both writers objected to the requirement that, for disability payments to be continued after medical recovery, a person must not have been expected to recover medically before the scheduled completion date of the VR program. (Sections 404.316(c)(1)(iv), 404.337(c)(1)(iv), 404.352(c)(1)(iv), 404.1596(c)(4)(iv), 416.1321(d)(4), and 416.1338(a)(4).)

Both of the writers emphasize that vocational rehabilitation agencies primarily serve people who are expected to recover, and assert that by excluding those who are expected to recover from continued benefits under this rule, we are arbitrarily excluding the population that the law is intended to benefit. They point out that the statutory language does not specifically limit the provisions of section 301 (of Pub. L. 96–265) to those not expected, at the beginning of the program, to recover medically before the scheduled completion date of the program.

*Response:* In the preamble of the Notice of Proposed Rulemaking, we quoted the Conference Report, House of Representatives, Report No. 96–944 to explain this requirement. The law requires that the Commissioner of Social Security must determine whether the completion or continuation of the vocational rehabilitation program will increase the likelihood that the person will be permanently removed from the disability rolls. As the term "likelihood" refers to a degree of expectation, we looked to the legislative history for guidance in applying it to recovery cases. The conference report reconciled a difference between House and Senate versions of this law by affirming the responsibility of the Commissioner of Social Security to make "likelihood" determinations. The report then made the statement of intent on which we based the requirement to which the

commenters object. We believe that Congress intended that the Commissioner follow its expression of intent when making determinations of eligibility for continued payment of benefits under this provision. Not all persons who are expected to recover are excluded by the rule; only those who are expected to recover before their scheduled completion date of the vocational rehabilitation program.

*Comment:* One of the writers believes that the requirement that a person not be expected to recover medically before the expected completion date of his or her VR program will require SSA to conduct a separate prognostic medical review at the beginning of a VR program, in addition to those review made on initial application for benefits and as a result of periodic diaries.

*Response:* We do not intend to conduct a separate prognostic medical review of a person's medical condition when he or she begins a VR program to determine if that person can be expected to recover before the program will be completed. We believe that the evidence that will already be in a person's file at that time will be enough to permit us to make a determination of when a person may reasonably be expected to recover. We see no reason to change our existing procedures which provide for scheduling reexaminations on the basis of the person's medical condition and the judgement of the physician member of the State agency disability determination team. We believe the expectation of recovery to which the conference report referred is that which is obtained from medical evidence submitted or solicited following a person's initial application for benefits, as well as that obtained through periodic reexaminations based on the person's medical condition.

*Comment:* One of the writers pointed out that some persons who are expected to recover medically do not, in fact, recover.

*Response:* We agree that some persons do not recover as expected. However, this provision applies only to those persons who do recover. It has no effect on those who do not recover. Their benefits would normally be continued because they are still disabled whether or not they participate in a VR program.

*Comment:* Both writers objected to the provision that payments will be stopped if a person stops participating in his or her VR program "for any reason". The writers point out that persons may stop their participation for reasons beyond their control. (Sections 404.316(c)(2)(ii), 404.337(c)(2)(ii), 404.352(c)(2)(ii), and 416.1338(b)(2).)

*Response:* We agree that this can occur. We base our rule on the unqualified requirement in the law that the person must be participating in order to be eligible for continued payments. We interpret "participation" as referring to the person's status as an active client of the State vocational rehabilitation agency. Our procedures require information about the person's client status. Unforeseen interruptions, such as lags in the appropriation of funds or unavoidable personal responsibilities, would not require termination of payments if the State agency certifies that the person is an active client and services are continuing. If the person is not an active client, however, we will not consider the reasons for the nonparticipation and will terminate payments under this provision. However, we did revise sections 404.316(c)(2), 404.337(c)(2), 404.352(c)(2), 404.1586(f)(2), and 416.1338(b) to clarify that nonparticipation will not be a basis for stopping benefits with a month earlier than the second month after the month a person's disability ends.

*Comment:* One of the writers objected to the provision in the proposed regulations permitting us to stop benefits with the month that *we* determine that participation in the program will no longer significantly increase the likelihood that the person will be permanently removed from the disability benefit rolls. The writer is concerned that the decision-maker will make arbitrary decisions without consultation with the claimant or the vocational rehabilitation counselor. (Sections 404.316(c)(2)(iii), 404.337(c)(2)(iii), 404.352(c)(2)(iii), and 416.1338(b)(3).)

*Response:* The decision we will make under this provision is identical to the decision we make when we determine that a person's completion or continuation in a VR program will significantly increase the likelihood that the person will not have to return to the disability benefit rolls. (Sections 404.316(c)(1)(vi), 404.337(c)(1)(vi), 404.352(c)(1)(vi), and 416.1338(a)(6).)

This is because, although there may be a change in the vocational rehabilitation program it must continue to meet the same criteria. Our procedures call for a review of the program's criteria if we learn from the vocational rehabilitation agency that there is a significant change in the program objective. All available information will be reviewed to determine whether or not the objective of increasing the likelihood that a person will not have to return to the disability benefit rolls is still being met.

**Additional Changes**

We added a new paragraph (f) to § 404.1586 to show that a statutorily blind person receiving title II disability benefits who no longer meets the definition of blindness may continue to receive those benefits if he or she is in an appropriate VR program. This change was inadvertently omitted from the proposed rules.

We deleted the proposed paragraph (a) of § 416.1331 (Termination of your disability or blindness payments), which would have stated that we will find that a person's disability ends with the month in which he or she no longer meets the requirements for disability or blindness. Upon our own further review of § 416.1331 we realized that the discussion in the proposed paragraph (a) is not necessary in this section (which discusses payments) since this is already covered in Subpart I.

We also added a phrase to §§ 404.1596(c)(4), 404.1597 and 416.1321(d) and to the heading of § 416.1338(a) to clearly indicate that the provision for continued payment of benefits applies only to disability cases in which payments would otherwise be stopped because of medical recovery.

Other changes that were also made by the Social Security Disability Amendments of 1980, i.e., the provision extending the length of time during which a disability beneficiary may test his or her ability to work, will affect some of the provisions changed by these regulations. Those changes will be published with notice of proposed rulemaking in the near future.

**Executive Order 12291**

The costs associated with individuals enrolled in vocational rehabilitation programs are minimal. Specifically, total costs in FY 1981 were less than $200,000. Therefore, these regulations do not meet the criteria specified in Executive Order 12291 for a major regulation and no regulatory impact analysis is required.

**Paperwork Reduction Act**

The additional data we need to determine a person's eligibility under the provisions of these regulations will normally have to be obtained from the State VR agency. The form which States will be asked to use to report this information, Form SSA–4290, Vocational Rehabilitation "301" Program Development, has been approved by OMB (OMB No. 0960–0282).

**Regulatory Flexibility Act**

We certify that these regulations will not have a significant economic impact on a substantial number of small entities

because these rules affect only individuals. Therefore, a regulatory flexibility analysis required under Pub. L. 96-354, the Regulatory Flexibility Act of 1980, is not necessary.

These amendments are hereby adopted as set forth below.

(Catalog of Federal Domestic Assistance Program No. 13.802, Disability Insurance; No. 13.807, Supplemental Security Income Program)

**List of Subjects**

*20 CFR Part 404*

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance, Social Security Administration.

*20 CFR Part 416*

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Social Security Administration, Supplemental Security Income (SSI).

Dated: May 19, 1982.

**John A. Svahn,**

*Commissioner of Social Security.*

Approved: July 6, 1982.

**Richard S. Schweiker,**

*Secretary of Health and Human Services.*

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

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

### Subpart D—Old-Age, Disability, Dependents' and Survivors' Insurance Benefits; Period of Disability

1. The authority citation for Subpart D of Part 404 is revised to read as follows:

**Authority:** Secs. 202, 205, 216, 223, 225, 228, 1102 of the Social Security Act, 49 Stat. 623, 53 Stat. 1368, 64 Stat. 492, 70 Stat. 815, 94 Stat. 449, 80 Stat. 67, 49 Stat. 647; Sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 631; 42 U.S.C. 402, 405, 416, 423, 425, 428, and 1302; and 5 U.S.C. Appendix.

2. Section 404.316 is amended by revising paragraph (b) and adding a new paragraph (c) to read as follows:

**§ 404.316 When entitlement to disability benefits begins and ends.**

* * * * *

(b) Your disability benefits end with the earliest of these months: (1) the month before the month of your death; (2) the month before the month you become 65 years old; or (3) the second month after the month your disability ends, unless continued subject to paragraph (c) of this section.

(c)(1) Your benefits, and those of your dependents, may be continued after your impairment is no longer disabling if—

(i) Your disability did not end before December 1980, the effective date of this provision of the law;

(ii) You are participating in an appropriate program of vocational rehabilitation, that is, one that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements outlined in 45 CFR 1361.39 for a rehabilitation program;

(iii) You began the program before your disability ended;

(iv) At the time you began participating in the program you were not expected to recover medically before the scheduled completion date of the program;

(v) You still have some residual functional limitation; and

(vi) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

*Example:* While under a disability from a severe orthopedic impairment, "A" is receiving State vocational rehabilitation services which include training as a bookkeeper. "A" is 45 years old, has a high school education and worked for 5 years as a clerk for a large retail auto parts business. When she began training, "A" had not been expected to recover, and no medical examination had been scheduled by the Social Security Administration. Before "A" completes the training, her disability status is reviewed by social security and a determination made that she is able to do light work. Considering her age, education, and work experience, "A" is no longer disabled. However, if "A" is able to work as a bookkeeper, she will be considered able to engage in substantial gainful activity even if she can do only sedentary work. Therefore, it is determined that "A's" completion of the vocational rehabilitation program will significantly increase the likelihood that she will be permanently removed from the disability rolls. "A" will continue to receive payments until she completes or stops her participation in the rehabilitation program.

(2) Your benefits generally will be stopped with the month—

(i) You complete the program;

(ii) You stop participating in the program for any reason; or

(iii) We determine that your continuing participation in the program will no longer significantly increase the likelihood that you will be permanently removed from the disability benefit rolls.

*Exception:* In no case will your benefits be stopped with a month earlier than the second month after the month your disability ends.

3. Section 404.337 is amended by revising paragraph (b)(3) and adding a new paragraph (c) to read as follows:

**§ 404.337 When widow's and widower's benefits begin and end.**

* * * * *

(b) * * *

(3) If your widow's or widower's benefit is based upon a disability, the second month after the month you recover from your disability, subject to the exception in paragraph (c) of this section. You may remain eligible for payment of benefits if you become 65 years old before you recovered from your disability and you met the other requirements for widow's or widower's benefits.

* * * * *

(c)(1) Your benefits may be continued after your impairment is no longer disabling if—

(i) Your disability did not end before December 1980, the effective date of this provision of the law;

(i) You are participating in an appropriate program of vocational rehabilitation as described in § 404.316(c)(1)(ii);

(iii) You began the program before your disability ended;

(iv) At the time you began participating in the program you were not expected to recover medically before the scheduled completion date of the program;

(v) You still have some residual functional limitation; and

(vi) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

(2) Your benefits generally will be stopped with the month—

(i) You complete the program;

(ii) You stop participating in the program for any reason; or

(iii) We determine that your continuing participation in the program will no longer significantly increase the likelihood that you will be permanently removed from the disability benefit rolls.

*Exception:* In no case will your benefits be stopped with a month earlier than the second month after the month your disability ends.

4. Section 404.352 is amended by revising paragraph (b)(1) and adding a new paragraph (c) to read as follows:

**§ 404.352 When child's benefits begin and end.**

* * * * *

(b) Your entitlement to benefits ends with the month before the month in which one of the following events first occurs:

(1) You become 18 years old, unless you are disabled or a full-time student. If you become 18 years old and you are disabled, your entitlement ends, subject to the exception in paragraph (c) of this section, with the second month following the month in which your disability ends. If you become 18 years old and you are a full-time student who is not disabled, your entitlement ends with the last month you are a full-time student or, if earlier, the month before the month you become age 22. If you become age 22 in a month in which you are a full-time student and you have not completed the requirements for, or received, a degree from a 4-year college or university, your entitlement will end with the month in which the quarter or semester in which you are enrolled ends. If the school you are attending does not have a quarter or semester system, your benefits will end with the month you complete the course, or if earlier, the first day of the third month following the month in which you become 22 years old.

* * * * *

(c)(1) Your benefits may be continued after your impairment is no longer disabling if—

(i) Your disability did not end before December 1980, the effective date of this provision of the law;

(ii) You are participating in an appropriate program of vocational rehabilitation as described in § 404.316(c)(1)(ii);

(iii) You began the program before your disability ended;

(iv) At the time you began participating in the program you were not expected to recover medically before the scheduled completion date of the program;

(v) You still have some residual functional limitation; and

(vi) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

(2) Your benefits generally will be stopped with the month—

(i) You complete the program;

(ii) You stop participating in the program for any reason; or

(iii) We determine that your continuing participation in the program will no longer significantly increase the likelihood that you will be permanently removed from the disability benefit rolls.

*Exception:* In no case will your benefits be stopped with a month earlier than the second month after the month your disability ends.

## Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

5. The authority citation for Subpart J of Part 404 reads as follows:

**Authority:** Secs. 205 and 1102 of the Social Security Act, sec. 5 of Reorganization Plan No. 1 of 1953, 53 Stat. 1368, 49 Stat. 647 (42 U.S.C. 405 and 1302).

6. Section 404.902 is amended by revising paragraphs (p) and (q) and by adding paragraph (r) to read as follows:

**§ 404.902 Administrative actions that are initial determinations.**

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions. In the old age, disability, and survivors' insurance programs, initial determinations include, but are not limited to, determinations about—

* * * * *

(p) Who will act as your payee if we determine that representative payment will be made;

(q) An offset of your benefits under § 404.408b because you previously received supplemental security income payments for the same period; and

(r) Whether your completion of or continuation for a specified period of time in an appropriate vocational rehabilitation program will significantly increase the likelihood that you will not have to return to the disability benefit rolls and thus, whether your benefits may be continued even though you are not disabled.

## Subpart P—Determining Disability and Blindness

7. The authority citation for Subpart P of Part 404 reads as follows:

**Authority:** Secs. 202, 205, 216, 221, 222, 223, 225, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1368, as amended, 68 Stat. 1080, as amended, 68 Stat. 1081, as amended, 68 Stat. 1082, as amended, 70 Stat. 815, as amended, 70 Stat. 817, as amended, 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 421, 422, 423, 425, and 1302.

8. Section 404.1586 is amended by adding a new paragraph (f) to read as follows:

**§ 404.1586 Why and when we will stop your cash benefits.**

* * * * *

(f) *If you are in an appropriate vocational rehabilitation program.* (1) Your benefits, and those of your dependents, may be continued for months after November 1980 after your impairment is no longer disabling if—

(i) Your disability did not end before December 1980;

(ii) You are participating in an appropriate program of vocational rehabilitation, that is, one that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements outlined in 45 CFR 1361.39 for a rehabilitation program;

(iii) You began the program before your disability ended;

(iv) At the time you began participating in the program, you were not expected to recover medically before the scheduled completion date of the program;

(v) You still have some residual functional limitation; and

(vi) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

(2) Your benefits generally will be stopped with the month—

(i) You complete the program;

(ii) You stop participating in the program for any reason; or

(iii) We determine that your continuing participation in the program will no longer significantly increase the likelihood that you will be permanently removed from the disability benefit rolls.

*Exception:* In no case will your benefits be stopped with a month earlier than the second month after your disability ends.

9. Section 404.1596 is amended by revising paragraph (c) to read as follows:

**§ 404.1596 Circumstances under which we may suspend your benefits before we make a determination.**

* * * * *

(c) *When we will not suspend your cash benefits.* We will not suspend your cash benefits if—

(1) The evidence in your file does not clearly show that you are not disabled;

(2) We have asked you to furnish additional information;

(3) You have become disabled by another impairment; or

(4) After November 1980, even though your impairment is no longer disabling, (i) you are participating in an appropriate vocational rehabilitation program (that is, one that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements outlined in 45 CFR 1361.39) which you began during your disability, (ii) your disability did not end before December 1, 1980, (iii) you have some residual functional limitation from the impairment, (iv) at the time you began the program you were not expected to recover before the scheduled completion date of your program and (v) we have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

10. Section 404.1597 is revised to read as follows:

**§ 404.1597 After we make a determination that your are not now disabled.**

If we determine that you do not meet the disability requirements of the law, your benefits generally will stop. We will send you a formal written notice telling you why we believe you are not disabled and when your benefits should stop. If your spouse and children are receiving benefits on your Social Security number, we will also stop their benefits and tell them why. The notices will explain your right to reconsideration if you disagree with our determination. However, your benefits may continue after November 1980 even though your impairment is no longer disabling, if your disability did not end before December 1980, and you are particpating in an appropriate vocational rehabilitation program as described in § 404.1596 which you began before your disability ended. For benefits to continue you must have some residual functional limitation from the impairment and, at the time you began the program, you must not have been expected to recover medically before the scheduled completion date of your program. In addition, we must have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls. You may still appeal our determination that you are not disabled even though your benefits are continuing because of your participation in an appropriate vocational rehabilitation program. You may also appeal a determination that your completion or of continuation for a specified period of time in an appropriate vocational rehabilitation program will not significantly increase the likelihood that you will not have to return to the disability benefit rolls and, therefore, you are not entitled to continue to receive benefits.

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

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

### Subpart M—Suspensions and Terminations

1. The authority citation for Subpart M of Part 416 reads as follows:

**Authority:** Secs. 1102, 1611–1615, and 1631 of the Social Security Act, as amended, 49 Stat. 647, as amended, 86 Stat. 1466–1477, (42 U.S.C. 1302, 1382–1382d, 1383), unless otherwise noted.

2. Section 416.1321 is amended by adding a new paragraph (d) to read as follows:

**§ 416.1321 Suspensions; general.**

* * * * *

(d) *Exception.* Even though conditions described in paragraph (a) of this section apply because your impairment is no longer disabling, we will not suspend your benefits if after November 1980; (1) You are participating in an appropriate vocational rehabilitation program (that is, one that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements outlined in 45 CFR 1361.39) which you began during your disability; (2) Your disability did not end before December 1, 1980; (3) You have some residual functional limitation from the impairment; (4) At the time you began the program you were not expected to recover before the scheduled completion date of your program; and (5) We have determined that your completion of the program, or your continuation in the program for a specific period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

3. Section 416.1331 is revised to read as follows:

**§ 416.1331 Termination of your disability or blindness payments.**

(a) *General.* If you have ceased to be disabled or blind (see Subpart I of this Part), you are not age 65 or older and you do not qualify for the special benefits explained in § 416.261, the last month for which we can pay you benefits is the second month after the month in which your disability or blindness ceased, provided that you are otherwise eligible for benefits through such second month. (See § 416.1338 for an exception to this rule if after November 1980 you are participating in an appropriate vocational rehabilitation program.)

(b) After we make a determination that you are not now disabled. If we determine that you do not meet the disability requirements of the law, we will send you an advance written notice telling you why we believe you are not disabled and when your benefits should stop. The notice will explain your right to appeal if you disagree with our determination. You may may still appeal our determination that you are not now disabled even though your payments are continuing because of your participation in an appropriate vocational rehabilitation program. You may also appeal a determination that your completion of or continuation for a specified period of time in an appropriate vocational rehabilitation program will not significantly increase the likelihood that you will not have to return to the disability benefit rolls and, therefore, you are not entitled to continue to receive benefits.

4. A new section 416.1338 is added to read as follows:

**§ 416.1338 If you are participating in a vocational rehabilitation program.**

(a) When your benefits based on disability may be continued. Your benefits may be continued after your impairment is no longer disabling if—

(1) Your disability did not end before December 1980, the effective date of this provision of the law;

(2) You are participating in a program of vocational rehabilitation that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements of 45 CFR 1361.39 for a rehabilitation program;

(3) You began the program before your disability ended;

(4) At the time you began participating in the program you were not expected to recover medically before the scheduled completion date of the program;

(5) You still have some residual functional limitations; and

(6) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that

you will not have to return to the disability benefit rolls.

**Example:** While disabled from a severe orthopedic impairment, "A" is receiving State vocational rehabilitation services which include training as a bookkeeper. "A" is 45 years old, has a high school education and worked for 5 years as a clerk for a large retail auto parts business. When she began training, "A" had not been expected to recover, and no medical examination had been scheduled by the Social Security Administration. Before "A" completes the training, her disability status is reviewed by social security and a determination made that she is able to do light work. Considering her age, education, and work experience, "A" is no longer disabled. However, if "A" is able to work as a bookkeeper, she will be considered able to engage in substantial gainful activity even if she can do only sedentary work. Therefore, it is determined that "A's" completion of the vocational rehabilitation program will significantly increase the likelihood that she will be permanently removed from the disability rolls. "A" will continue to receive payments until she completes or stops her participation in the rehabilitation program.

(b) *When your benefits will be stopped.* Your benefits generally will be stopped with the month—

(1) You complete the program;

(2) You stop participating in the program for any reason; or

(3) We determine that your continuing participation in the program will not significantly increase the likelihood that you may be permanently removed from the disability benefit rolls.

*Exception:* In no case will your benefits be stopped with a month earlier than the second month after the month your disability ends, provided that you are otherwise eligible for benefits through such month.

### Subpart N—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

5. The authority citation for Subpart N of Part 416 reads as follows:

**Authority:** Sections 1102, 1631(c), and 1633 of the Social Security Act, 49 Stat. 647, 86 Stat. 1475, 86 Stat. 1478 (42 U.S.C. 1302, 1383, 1383b).

6. Section 416.1402 is amended by revising paragraphs (h) and (i) and adding paragraphs (j) and (k), to read as follows:

**§ 416.1402. Administrative actions that are initial determinations.**

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions. Initial determinations regarding supplemental security income benefits include, but are not limited to, determinations about—

* * * * *

(h) Whether you are eligible for special SSI cash benefits under § 416.262;

(i) Whether you are eligible for special SSI eligibility status under § 416.265;

(j) Your disability; and

(k) Whether your completion of or continuation for a specified period of time in an appropriate vocational rehabilitation program will significantly increase the likelihood that you will not have to return to the disability benefit rolls and thus, whether your benefits may be continued even though you are not disabled.

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Assistant Secretary for Housing—Federal Housing Commissioner

### 24 CFR Part 891

**[Docket No. R-82-978]**

### Review of Applications for Housing Assistance and Allocation of Housing Assistance Funds

**AGENCY:** Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice of changed effective date.

**SUMMARY:** HUD is delaying, until October 1, 1982, the effective date of an interim rule amending the regulations governing allocation of housing assistance funds and review of applications for housing assistance by local governments and by HUD. This action is being taken for three reasons:

(1) To avoid possible confusion by HUD field offices and local governments as to which regulations apply;

(2) Because pending legislation is likely to make the interim rule unnecessary for the current fiscal year; and

(3) Because of the limited time remaining in the current fiscal year in which to make fund allocations under the new rules.

**EFFECTIVE DATE:** The effective date for the interim rule is changed from July 26, 1982 to October 1, 1982.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Coyle, Office of Policy and Budget, Room 9220, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, Telephone (202) 755-6454. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** On June 3, 1982, HUD published an interim rule in the **Federal Register** (FR Doc. 82-15001, published at 47 FR 24120), amending 24 CFR Part 891 to revise HUD's regulations governing allocation of housing assistance funds and local government and HUD review of applications for housing assistance. The interim rule provided for an effective date of July 26, 1982. Several factors have now made it necesary for HUD to delay the effective date until October 1, 1982:

1. Possible confusion on the part of HUD field offices and local governments as to which regulations are applicable to the review and approval of assisted housing applications during the period just before and after the July 26, effective date.

2. The expected approval of an Urgent Supplemental Appropriations Act during the current fiscal year, containing language which would permit assisted housing funds to be allocated without their being subject to the procedural requirements of Section 213(d) of the Housing and Community Development Act of 1974 and of Section 5(c)(3) of the United States Housing Act of 1937. (These statutory provisions were the basis for many of the revisions contained in the interim rule.)

3. The limited time remaining available before September 30, 1982, which imposes severe constraints on HUD's ability to allocate and reserve the remaining Fiscal Year 1982 housing assistance funds in strict accordance with all of the provisions of Subpart D of the Interim rule.

Accordingly, for these reasons, the effective date stated in the interim rule (FR Doc. 82-15001) is changed from July 26, 1982 to October 1, 1982.

(Sec. 7(d) Department of HUD Act; 42 U.S.C. 3535(d))

Dated: July 16, 1982.

**Philip Abrams,**

*General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.*

[FR Doc. 82-19644 Filed 7-20-82; 8:45 am]

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