

U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

In order to better control the flow of critical United States technology and equipment from the U.S., on November 28, 1984, the Commissioner of Customs issued instructions to Regional Commissioners and District Directors of Customs, that effective January 7, 1985, vessels and aircraft carrying certain specified types of cargo will not be cleared under the navigation laws administered by Customs for any foreign port or place under pro forma clearance procedures until certain information on that cargo is submitted to Customs. Clearance procedures for vessels and aircraft are contained in §§ 4.60 through 4.75, Customs Regulations (19 CFR 4.60-4.75) and § 6.8, Customs Regulations (19 CFR 6.8). Pro forma clearance procedures are provided for in §§ 4.75 and 6.8, Customs Regulations (19 CFR 4.75 and 6.8).

The instructions issued on November 28 do not address the presentation of SED's for hand-carried shipments or exporters, carriers, and freight forwarders authorized monthly and electronic reporting.

The cargo designated as subject to this clearance requirement is cargo subject to a Department of Commerce validated export license (see Parts 372 and 373, Department of Commerce Regulations (15 CFR Parts 372 and 373)) or cargo subject to a Department of State export license (see Parts 121 and 123, Department of State Regulations (22 CFR Parts 121 and 123)). A carrier transporting some export cargo, some of which is subject to these license requirements, will be subject to the above procedures in so far as that part of the cargo is concerned.

Once the required documentations on the licensed export cargo is submitted to Customs, however, the carrier may use the pro forma clearance procedure with regard to the export cargo not subject to license requirements. This will not affect the existing requirement that a complete manifest and all required Shipper's Export Declarations (SED's) must be submitted for all export cargo in vessels and aircraft being cleared for certain specified foreign countries (see T.D. 52676, as amended by T.D. 55259, T.D. 55354 and T.D. 70-6).

To simplify the requirement that carriers submit certain information on the specified export cargo before clearance of the vessel or aircraft, Customs will accept the information as shown on SED's rather than establish new forms for the submission of the information at the time of clearance.

Under present requirements, both regular clearance procedures (§§ 4.63 and 6.8), and pro forma clearance procedures (19 CFR 4.75, 6.8), SED's must be submitted to Customs. Further, under § 30.12 of the Foreign Trade Statistics Regulations of the Bureau of Census (15 CFR 30.12), exporting carriers should now be receiving SED's from exporters or their agents prior to exportation of cargo. Under that regulation, exporters or their agents are subject to penalties for failure to deliver the SED's prior to exportation.

These instructions clarify and limit the present discretionary authority of District Directors of Customs to grant pro forma clearance that is provided for in 19 CFR 4.75 and 6.8. Amendment of the existing applicable provisions of the navigation law requirements of the Customs Regulations is not necessary.

Dated: December 6, 1984.

John P. Simpson,

Acting Assistant Commissioner (Commercial Operations).

[FR Doc. 84-32271 Filed 12-7-84; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404, 410, 416, and 422

Federal Old-Age, Survivors, and Disability Insurance Benefits, Black Lung Benefits, Supplemental Security Income for the Aged, Blind and Disabled, and Organization and Procedures; Reopening and Revising Determinations and Decisions Expedited Appeals Process

Correction

In FR Doc. 84-30865, beginning on page 46365, in the issue of Monday, November 26, 1984, make the following corrections:

§ 404.991a [Corrected]

1. On page 46369, second column, in § 404.991a, paragraph (a), fifth line, insert closed quotes ("") at the end of the last word.

2. On page 46370, first column, change No. 9, "§ 410.657a" should read "§ 410.675a".

§ 416.1491 [Corrected]

3. On the same page, same column, in § 416.1491(a), last line, "begin" should read "begin".

§ 422.210 [Corrected]

4. And on the same page, column three, change No. 14, last line, "416.1224" should read "416.1424".

BILLING CODE 1505-01-M

20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: Current regulations for the Supplemental Security Income (SSI) program define income as the receipt of anything in cash or in kind that can be used to meet an individual's needs for food, clothing, or shelter. Current regulations, codified at 20 CFR 416.1103, also provide a list of items which are not income (that is, within the definition of income) because these items cannot be used as food, clothing, or shelter. However, this list does not include certain other items which are not food, clothing, or shelter, even though such items, if retained into the month following the month of receipt, will be considered by us to be excluded nonliquid resources. (Excluded nonliquid resources are, for example, household goods and personal effects or an automobile subject to limitations described in Subpart L of these same regulations.)

This revision expands the list of items that are not income to include items (other than items of food, clothing, or shelter) which, if retained into the month following the month of receipt, will be excluded nonliquid resources. Thus, an individual who receives such an item will not suffer a reduction or loss of SSI benefits due to treatment of the item as income when received.

EFFECTIVE DATE: This regulation is effective January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7463.

SUPPLEMENTARY INFORMATION: Section 1611(a) of the Social Security Act (the Act) establishes income and resources limits for SSI eligibility. The Act also specifies the types and amounts of income and resources which are to be excluded in determining whether an individual has exceeded the statutory limits (sections 1612 and 1613). The Act

does not define the terms "income" and "resources." Therefore, the Secretary of Health and Human Services has defined those terms in regulations 20 CFR 416.1102 and 416.1201, respectively.

Current regulations also set forth a list of items which are not considered income because they cannot be used for food, clothing, or shelter (20 CFR 416.1103). That list does not include items which, if retained into the month following the month of receipt, would be considered by us as excluded nonliquid resources. Thus, even though the Act permits such items to be excluded in determining whether an individual has exceeded the resources limit, regulations require considering those items as income when received by the individual. The result of this is that items which would qualify as excluded nonliquid resources if retained (such as a van specially equipped for a handicapped individual), are income. This can cause either a substantial reduction in SSI benefits or make a person ineligible for benefits in the month of receipt. However, if considered only under the resources rules, then receipt of such items would have no effect on either eligibility or payment amount for the month of receipt, and the items would become excluded nonliquid resources the following month. Counting such items as income may cause an individual to dispose of the items in order to replace the food, clothing, or shelter which would otherwise have been provided through SSI benefits.

Under this policy change, the receipt of any item (other than an item of food, clothing, or shelter) which, if retained, would be an excluded nonliquid resource will be considered solely under the resources rules (Subpart L of 20 CFR Part 416). The receipt of these items will not be considered at all under the income rules. The change will provide more equitable treatment for those who receive such items and will resolve an apparent conflict stemming from the application of income rules to the receipt of items which would be excluded as nonliquid resources if retained beyond the month of receipt.

We considered including in the list of items that are not income, items of food, clothing, or shelter which would meet the definition of excluded nonliquid resources (for example, a home which is a person's principal place of residence). The rationale we proposed in the preamble to the NPRM for defining certain items as not being income is that the recipient cannot use them as food, clothing, or shelter. Since that is not true of items which actually are food, clothing, or shelter, we decided not to

include them in the list of items that are not income, even if they would become excluded nonliquid resources if retained into the month following the month of receipt. We have reworded examples 1 and 2 in § 416.1103(j) to make the policy rationale clearer.

Comments Received Following Publication of Notice of Proposed Rulemaking on October 20, 1983 (48 FR 46684)

We received comments from a law student and from five organizations concerned with the low-income elderly and handicapped. Two of the comments supported the proposed regulations as written. The other four generally approved the proposal but felt the change in policy should be broader. These comments are discussed below:

Comment: Three commenters suggested that the list of items that are not income should include all items which, if retained, would become excluded nonliquid resources, including items of food, clothing, and shelter (with special emphasis on shelter). Two of these same commenters also questioned the accuracy of the sentence contained in example 2 of the proposed regulation (20 CFR 416.1103(j)), that states that not considering a house as income would cause a duplication of that portion of the supplemental security income (SSI) benefit paid to provide for shelter needs.

Response: We agree with the commenters that the wording of example 2 was misleading and have, therefore, reworded that example (as well as example 1) for greater clarity. We have not, however, adopted the comment that all excluded nonliquid resources (including food, clothing, and shelter) be included in the list of items which are not income. Section 1612(a)(2) of the Act makes it clear that, for SSI purposes, the term "income" includes in-kind support and maintenance (ISM), which we have always defined in regulations as food, clothing, and shelter. Moreover, section 1612(b)(13) of the Act specifically provides that ISM when furnished as assistance by certain entities, is excluded from countable income. This specific exclusion provides further support for our conclusion that we are required by statute to count in-kind income in the form of food, clothing, and shelter unless it is specifically excluded by statute.

Comment: One commenter urged the removal of other "restrictive" rules on in-kind income which were characterized as causing undue hardship to aged and disabled people who receive small assistance from their families or communities since receipt of this assistance "often" causes loss of

Medicaid eligibility without adequately compensating for the loss.

Response: As discussed above, the law and legislative history point strongly to the definition of income as the receipt of anything in cash or in kind that meets one's need for food, clothing, or shelter. Congress clearly intended that items of in-kind (noncash) income be considered in determining SSI eligibility and payment amount unless those items are excluded from consideration as income by Federal law. Therefore, except for ISM excluded under section 1612(b) of the Act, we must count ISM as income. In addition, there is a regulatory ceiling on the value which we place on ISM. That ceiling, known as the presumed maximum value (PMV), is described in 20 CFR 416.1140 ff. and, as of January 1, 1984, is \$124.66 for an individual and \$177.33 for a couple. This amount of in-kind income by itself is not high enough to cause loss of SSI or Medicaid eligibility. Further, the connection between SSI eligibility and Medicaid eligibility is statutory, and any change in the relationship is beyond the scope of these regulations. Consequently, we have not adopted this suggestion.

Comment: With respect to example 2 in the proposed regulation that provided that we would count as income the value of an inherited residence, one commenter suggested that the proposed rule creates a fiction that an " * * * SSI recipient can live in two shelters at one time, and sometimes even twice within the same shelter at the same time." The commenter further stated that, if an individual living in one house inherits another house which will become his or her principal place of residence and so will qualify as an excluded nonliquid resource, under the proposed rule he or she will be required " * * * to sacrifice all of his or her income " * * *" in the month of inheritance. As a result, the commenter suggested that we should not treat receipt of a shelter as income in the month of receipt unless the individual liquidates his or her interest in the shelter during the month of receipt. The commenter also recommended that, if an individual already resides in the shelter or moves into the shelter in the month of receipt or in a subsequent month, it should be treated as an excluded resource at that time. The commenter also attributed to us the practice of charging as income to the individual the current market value (CMV) of a house even in situations where the house cannot be liquidated to provide food, clothing, or shelter because the individual's interest is not salable.

Response: As stated above, the wording of example 2 of proposed regulation 20 CFR 416.1103(j) has now been revised to demonstrate more clearly the application of the new rule and to express better its rationale. We hope that this revision will serve to dispel any misconceptions regarding the rule change caused by the previous wording.

As to the comment about an inherited house, it is true that inheritance of a house which is not the new owner's principal place of residence is in-kind income to the individual in the month of receipt and will become a countable resource the following month, unless the SSI recipient moves into it during the month of receipt. Because such an inherited house can be liquidated to meet one's needs for food, clothing, or shelter, it meets the definition of income discussed above. An inherited home which is the individual's principal place of residence is treated as shelter for the whole month because even though it may have been used for only a portion of the month, the home was available for shelter for the entire month. If the home was not used as shelter for any portion of the month, we count as income the in-kind value of the home in the month received since the home was available to be used as shelter even though the individual for whatever reason, did not use it for such.

As to the commenter's other points, they seem to reflect the belief that we charge the PMV for each shelter item an individual receives during a month. This is a misunderstanding of the PMV rule. The PMV is an absolute cap on the total of all items of ISM received during a month. The PMV remains the same regardless of the number of items of ISM a person receives or the number of sources by which it is provided.

Further, the commenter seems to indicate that we charge as income to the claimant the CMV of the claimant's interest in a house even if that interest is not salable. This also is not accurate. If the interest is not salable (e.g., because of legal restrictions), its CMV is zero and, thus, will have no effect on SSI payments.

In general, the changes suggested by the commenter, if adopted, would involve a substantial alteration to the concept of in-kind income and to existing policy regarding treatment of a home as an excluded resource. As such, these changes exceed the scope of this regulation.

Effective Date of Regulation

This regulation is effective on the first day of the month following publication in the Federal Register. This is because

the regulation establishes a new rule for determining SSI eligibility and benefit amount. Since the eligibility and benefit amount factors are generally determined on the first day of every month, the effective date of the new rule should coincide with the date determinations are made.

Executive Order 12291

This regulation has been reviewed under Executive Order 12291 and does not meet any of the criteria for a major regulation. Based on the best available information, costs will be negligible. We estimate program costs of less than \$1 million and administrative savings of less than \$1 million annually. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

This regulation imposes no additional reporting or recordkeeping requirements requiring Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities because these rules affect only individuals and States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental security income (SSI).

Dated: August 6, 1984.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: November 15, 1984.

Margaret M. Heckler,

Secretary of Health and Human Services.

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

PART 416—[AMENDED]

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

Authority: Secs. 1102, 1611, 1612, 1613, 1614, and 1631 of the Social Security Act, as amended; sec. 211 of Pub. L. 93-66; 49 Stat. 647, as amended, 86 Stat. 1468, 86 Stat. 1470, 86 Stat. 1471, 86 Stat. 1475, 87 Stat. 154 (42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c, and 1383.)

2. Section 416.1103 is amended by adding paragraph (j) to read as follows:

§ 416.1103 What is not income.

Some things you receive are not income because you cannot use them as food, clothing, or shelter, or use them to obtain food, clothing, or shelter. In addition, what you receive from the sale or exchange of your own property is not income; it remains a resource. The following are some items that are not income:

* * * * *

(j) *Receipt of certain noncash items.* Any item you receive (except shelter as defined in § 416.1130, food, or clothing) which would be an excluded nonliquid resource (as described in Subpart L of this Part) if you kept it, is not income.

Example 1: A community takes up a collection to buy you a specially equipped van which is your only vehicle. The value of this gift is not income because the van does not provide you with food, clothing, or shelter and will become an excluded nonliquid resource under § 416.1218 in the month following the month of receipt.

Example 2: You inherit a house which is your principal place of residence. The value of this inheritance is income because the house provides you with shelter and shelter is income. However, we value the house under the rule in § 416.1140.

[FR Doc. 84-32102 Filed 12-7-84; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs not Subject to Certification; Guaifenesin Sterile Powder

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by A. H. Robins Co., providing for safe and effective use of guaifenesin sterile powder as a muscle relaxant in horses.
EFFECTIVE DATE: December 10, 1984.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: A. H. Robins Co., P.O. Box 26609, Richmond, VA 23261, filed NADA 136-651 providing for the use of guaifenesin sterile powder to be reconstituted in

water and administered by intravenous injection in horses as a muscle relaxant. The NADA is approved and the regulations are amended to reflect the approval. The basis for approval of this NADA is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Center for Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 522 is amended by adding new § 522.1085 to read as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.1085 Guaifenesin sterile powder.

(a) *Specifications.* It is a sterile powder containing guaifenesin.

(b) *Sponsor.* See No. 000031 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) It is indicated for intravenous use as a muscle relaxant in horses.

(2) A solution is prepared by dissolving the drug in sterile water for injection to make a solution containing 50 milligrams of guaifenesin per milliliter of solution. It is administered by rapid intravenous infusion at a fixed dosage of 1 milliliter of prepared solution per pound of body weight.

(3) Not to be used in horses intended for food.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. December 10, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: November 30, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-32054 Filed 12-7-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

Correction

In FR Doc. 84-23291, appearing on page 34820 in the issue of Tuesday, September 4, 1984, make the following corrections:

1. The second line of the second column should have read, "CFR 558.625(f)(1) (i) through (vi). The".

2. Also in the second column, in § 558.625, the second line of paragraph (b)(83) should have read "paragraph (f)(1)(vi)(a) of this section; 40".

BILLING CODE 1505-01-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

Exchange-Visitor Programs

AGENCY: United States Information Agency.

ACTION: Interim rule; extension of comment period.

SUMMARY: By notice published at 49 FR 43638, October 31, 1984 the United States Information Agency requested comments regarding the interim rule which modified 22 CFR 514.11(a) and 514.15(a) in order to reflect the development of eight points used as standards in evaluating applications for Exchange Visitor Program designation. This notice extends the filing date from November 30, 1984 to December 31, 1984.

EFFECTIVE DATE: The interim rule was effective October 24, 1984 and shall remain in effect until publication of the final rule. Comments are due on or before December 31, 1984.

ADDRESS: Send comments to: Merry Lynn, Attorney-Advisor United States Information Agency, Office of the General Counsel, Room 700, 301 4th Street, SW, Washington D.C. 20547.

FOR FURTHER INFORMATION CONTACT: Merry Lynn, Attorney-Advisor United States Information Agency, Office of the General Counsel, Room 700, 301 4th Street, SW, Washington D.C. 20547, (202) 485-7976.

SUPPLEMENTARY INFORMATION: By notice published at 49 FR 43638, October 31, 1984, the United States Information Agency requested comments regarding the interim rule which modified 22 CFR 514.11(a) and 514.15(a) in order to reflect the development of eight points used as standards in evaluating applications for Exchange Visitor Program designation. In response to a request by the National Association for Foreign Student Affairs the Agency is extending the comment period for an additional thirty days. This notice extends the filing from November 30, 1984 to December 31, 1984.

Dated: December 4, 1984.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 84-32101 Filed 12-7-84; 8:45 am]

BILLING CODE 6230-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1610

Production or Disclosure Under 5 U.S.C. 552

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final regulation.

SUMMARY: The Equal Employment Opportunity Commission is revising its Freedom of Information Act (FOIA) regulations to reflect a delegation of authority from the Commission to the Legal Counsel to decide appeals under the Freedom of Information Act.

EFFECTIVE DATE: These regulations are effective December 10, 1984.

FOR FURTHER INFORMATION CONTACT: John Pagano, Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20507, (202) 634-6592.

SUPPLEMENTARY INFORMATION: The Commission's Freedom of Information Act regulation at 29 CFR 1610.11 has been revised to reflect a delegation of authority from the Commission to the Legal Counsel to decide FOIA appeals. Under the current procedures at 29 CFR 1610.11, FOIA appeals are submitted to the Chairman of EEOC and are voted upon by the Commission.

Under the new procedure, the authority to act on all FOIA appeals is delegated from the Commission to the Legal Counsel. The Legal Counsel will now perform the duties previously performed by the Commission and the Chairman under this section.