to conduct a continuance referendum later than the May 1991 date specified in the order. Thus, there is no significant economic impact anticipated.

No comments were received on the temporary suspension during the comment period which ended on May 24, 1991.

Based on available information, the Administrator of the AMS has determined that the issuance of this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all available information, it is found that the second sentence in § 929.68(d), does not tend to effectuate the declared policy of the Act for the period specified herein and should be temporarily suspended for that period.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because this final rule is an adoption, without modification, of a temporary suspension of an order provision which was suspended from May 9 through May 31, 1991.

List of Subjects in 7 CFR Part 29

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 929 is amended as follows:

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

1. The authority citation for 7 CFR part 929 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended: 7 U.S.C. 601–674.

2. Accordingly, the temporary suspension of the order provision in § 929.68(d), from May 9, 1991 through May 31, 1991, which was published at 56 FR 21444 on May 9, 1991, is adopted as a final rule without change.

Dated: July 17, 1991.

JoAnn R. Smith,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 91–17566 Filed 7–29–91; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

RIN 0960–AC83

Full-Time Attendance by Elementary or Secondary School Student

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: We are amending our rule on full-time attendance by an elementary or secondary school student to provide that, in some situations, we may determine that scheduled attendance of fewer than 20 hours per week will be considered full-time attendance for purposes of entitlement to child's insurance benefits. We believe that this amendment will enable us to fulfill more equitably the intent of Congress in providing these benefits.

EFFECTIVE DATE: This rule is effective July 30, 1991.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Legal Assistant, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965–8471.

SUPPLEMENTARY INFORMATION: With several exceptions, child's insurance benefits under the Social Security Act (the Act) usually terminate when the child attains age 18. One exception allows benefits for persons under age 19 who are full-time elementary or secondary school students.

Section 202(d)(7)(A) of the Act, 42 U.S.C. 402(d)(7)(A) provides that a full-time elementary or secondary school student is an individual who is in full-time attendance as a student at an elementary or secondary school, as determined by the Secretary of Health and Human Services, in accordance with regulations prescribed by him, in the light of the standards and practices of the schools involved.

Our regulation requires that an elementary or secondary school student must be scheduled to attend school at least 20 hours per week to be considered a full-time student. Our experience has shown that this is generally a reasonable standard. However, we are aware that there are some unique situations in which students are enrolled for full-time attendance under the school's standards and practices but, because of special circumstances, the students are unable to schedule attendance of at least 20 hours per week.

For example, in the case of *Haberman* v. *Finch,* 418 F. 2d 664 (2d Cir. 1969), a claimant had been forced to discontinue her schooling at age 14 because of a serious illness. When she was able to resume school at age 17, she applied for admission to the public and private schools where she lived, and was told by school authorities that she was too old to enroll as a full-time high school day student. The only program available to her was an evening high school program at a fully accredited private school that enabled her to take 16½ hours of class per week: This scheduled attendance was considered to be the equivalent of full-time day instruction. The court held that where a child takes the maximum number of hours available in the only accredited school program available to the child and meets the other conditions for entitlement to child's benefits, there should be little question of the child's right to receive benefits under a limited exception to the 20-hour rule.

For the above reasons, we are amending § 404.367(b) to provide for exceptions to the 20-hour rule where the student is considered to be full-time for day students under the school's standards and practices and either the school does not schedule at least 20 hours per week for the child and attending that school is the student's only reasonable alternative, or the student's medical condition prevents him or her from scheduled attendance of at least 20 hours per week. We believe that this modification to our rules is consistent with the intent of Congress that child's insurance benefits be paid to full-time elementary or secondary school students under age 19 who have suffered a loss of parental support. Our experience has shown that 20 hours per week is a reasonable attendance standard for most students, but that there is a need to provide for exceptional situations, such as the one presented in Haberman, where students are prevented by reasons beyond their control from enrolling in a program that provides for attendance of at least 20 hours per week.

Discussion of Comments

On September 6, 1990, a proposed rule was published in the **Federal Register** at 55 FR 36656 with a 60-day comment period. We received comments from one individual. The commenter believes that the school's statement that a student is prevented from enrolling for at least 20 hours per week should be sufficient cause to grant an exception. Paragraph (b)(2) of this final regulation § 404.367 provides that we may request medical evidence or a statement from the school. In many cases, we may find that the statement from the school is sufficient evidence to support a determination that the exception has been met. In order to ensure that benefits under the Act are paid properly, however, we believe that we must reserve the right to seek additional evidence, and possibly to reject the statement from the school, when appropriate. Accordingly, we have not changed the final rule.

The commenter also suggests that we amend our regulation to provide that benefits may be paid to a high school student who is no older than 20 years old. However, the age at which child's insurance benefits payable to a full-time elementary or secondary school student must cease is prescribed by statute in sections 202(d)(1) and 202(d)(7)(D) of the Act, as reflected in § 404.352(b)(1) of our regulation. Although there are limited circumstances in which a student may continue to receive benefits for a few months after he or she attains age 19, the statute does not permit the extension suggested by the commenter. For the reasons stated above, we have not revised the proposed rule based on the comments.

We have, however, replaced the reference to an "illness" in § 404.367(b)(2) with a reference to a "medical condition" because we believe that this broader reference more clearly expresses our policy.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because the small number of cases involved will result in negligible program and administrative costs. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities since this rule affects only the entitlement of individuals to monthly benefits. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

This final rule imposes no additional reporting and recordkeeping requirements subject to Office of Management and Budget clearance.

(Catalog of Federal Domestic Assistance Program Nos. 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure; Death benefits; Disability benefits; Old-Age, Survivors, and Disability Insurance.

Dated: May 8, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: June 26, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, Subpart D of part 404 of 20 CFR chapter III is amended as follows:

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

1. The authority citation for subpart D continues to read as follows:

Authority: Secs. 202, 203 (a) and (b), 205(a), 216, 223, 228(a)-(e), and 1102 of the Social Security Act; 42 U.S.C. 402, 403 (a) and (b), 405(a), 416, 423, 428(a)-(e), and 1302.

2. Section 404.367 is amended by revising the introductory text and paragraph (b) to read as follows:

§ 404.367 When you are a "full-time elementary or secondary school student."

Beginning August 1982, you may be eligible for child's benefits if you are a full-time elementary or secondary school student. For the purposes of determining whether the conditions of entitlement are met throughout the first month as stated in § 404.352(a)(2)(i), if you are entitled as a student on the basis of attendance at an elementary or secondary school, you will be considered to be in full-time attendance for a month during any part of which you are in full-time attendance. You are a full-time elementary or secondary school student if you meet all the following conditions:

* * * * *

(b) You are in full-time attendance in a day or evening noncorrespondence course of at least 13 weeks duration and are carrying a subject load which is considered full-time for day students under the institution's standards and practices. Additionally, your scheduled attendance must be at the rate of at least 20 hours per week unless we find that:

(1) The school attended does not schedule at least 20 hours per week and going to that particular school is your only reasonable alternative; or

(2) Your medical condition prevents you from having scheduled attendance of at least 20 hours per week. To prove that your medical condition prevents you from scheduling 20 hours per week, we may request that you provide appropriate medical evidence or a statement from the school.

* * * * *

[FR Doc. 91-17963 Filed 7-29-91; 8:45 am]

BILLING CODE 4190-29-M

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20 CFR Part 416

[Regulations No. 16]

RIN 0960-AC52

Supplemental Security Income for the Aged, Blind, and Disabled; Death Benefits Spent on Last Illness and Burial

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: The regulations are being amended to include the provisions of section 9120 of Public Law 100-203 (the Omnibus Budget Reconciliation Act of 1987) enacted December 22, 1987. Section 9120, which became effective April 1, 1988, amended section 1612(a)(2)(D) and (E) of the Social Security Act (the Act) to provide that payments to an individual (including gifts and inheritances) occasioned by the death of another person will not be considered income for supplemental security income (SSI) purposes to the individual receiving them to the extent that they are used to pay for the deceased person's last illness and burial. In addition, the final rule provides that death benefits to be spent on a last illness and burial, if not yet spent by the first of the month following the month of receipt, will not be considered as resources of the individual receiving them for 1 calendar month after the month of receipt. The purpose of this change in the regulations is to allow a reasonable time for the death benefits to be used for payment of debts accruing from the deceased person's last illness and burial before those death benefits affect the SSI eligibility of the individual who received them.

EFFECTIVE DATE: July 30, 1991.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Legal Assistant, 3-B-1 Operations Building, 6401 Security Blvd., Baltimore, MD 21235, (301) 965-8470.

SUPPLEMENTARY INFORMATION: Under the law prior to the enactment of Public Law 100-203 (the Omnibus Budget Reconciliation Act of 1987), when an individual received payments as a beneficiary of a life insurance policy, the payments were counted as income for SSI purposes except for any amount up to $1,500 that the individual spent for the insured's last illness and burial expenses. Illness and burial expenses include related hospital and medical expenses, funeral, burial plot and interment expenses, and other related costs.

Section 9120 of Public Law 100–203 removed the $1,500 limit on the amount of the proceeds of a life insurance policy that would not be treated as income if spent on the last illness and burial of the deceased and also removed from consideration as income for SSI purposes other payments occasioned by the death of a person, including gifts and inheritances, which are spent on the deceased person's last illness and burial. Sections 416.1121 (e) and (g) of the regulations are revised to reflect these statutory changes. Section 9120, however, made no change regarding the treatment of these funds as resources for SSI purposes. Under current policy and regulations, death benefits retained until the month following the month of receipt are considered countable resources.

Recognizing that the recipient of death benefits who uses all or part of those benefits to pay the expenses of the deceased person's last illness and burial may not always be able to do so in the same month in which he or she receives them, the final rule at § 416.1201(a)(4) also would make a change in current policy regarding treatment of these funds as resources. In order to allow a reasonable time for payment of the expenses of the deceased person's last illness and burial before the death benefits affect the SSI eligibility of the recipient, these final regulations provide that death benefits to be spent on outstanding debts resulting from the last illness and burial will not be considered resources of the individual receiving them for the calendar month after the month of receipt.

We believe that such a change in the resources rule is consistent with, and will help effectuate, the legislative intent underlying section 9120 of Public Law 100–203. That intent was to prevent a reduction or cessation of SSI benefits on account of receipt of death benefits not intended to assist the recipient in meeting needs of food, clothing, or shelter where these benefits are used to pay the expenses of the deceased's last illness and burial. The 1-month grace period will enable the recipient to use these benefits to meet burial expenses without suffering the loss of SSI benefits and thus will effectuate this intent. We are promulgating this change based on the Secretary's general rulemaking authority conferred by sections 1102 and 1631(d)(1) of the Act.

Public comment

A notice of proposed rulemaking (NPRM) was published on April 30, 1990, at 55 FR 17999. A 60-day comment period was provided. The comment period ended June 29, 1990. We received one comment. The comment was from an individual who generally supported the NPRM. We have summarized and responded to the individual's comment below.

Comment

The commenter suggested that since many vendors, such as medical, funeral, and burial service providers, are slow in billing, the regulations should provide, in the case of an estate, that SSA will wait until the time for the filing of creditor's claims against the estate has expired, as determined under the State law, before counting for SSI purposes any portion of the death benefits.

Response

We understand that there may be cases where the billing for services is slow. However, this does not preclude the individual from requesting a bill from the service provider. In the event the funeral service provider is unknown, this information may be obtained from the family members of the decedent, the person administering the decedent's estate, or from the obituaries in the local newspaper. The attending physician can provide information as to the hospitals involved and the medical services that he or she authorized.

As indicated elsewhere in this preamble, we have provided a reasonable amount of time, not less than 28 days or more than 61 days depending on when the benefits were received, for payment of these expenses before we count the benefits received which were occasioned by the death of another person as a resource. We believe that this time period is sufficient for payment of these expenses without creating hardship on the part of the SSI recipient and, at the same time, is administratively efficient. Therefore, we are rejecting the change suggested.

We are adopting these regulations as proposed.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291, because the program and administrative costs will be insignificant and savings are estimated at less than $1 million a year. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these final regulations will not have a significant impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act of 1980

These final regulations impose no reporting and recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program No. 93.807, 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.

Dated: May 8, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: June 12, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, part 416 of title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for subpart K of part 416 is revised to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154; sec. 2639 of Pub. L. 98–369; 98 Stat. 1144.

2. In § 416.1121, paragraphs (e) and (g) are revised to read as follows:

§ 416.1121 Types of unearned income.

* * * * *

(e) *Death benefits.* We count payments you get which were occasioned by the death of another person except for the amount of such payments that you spend on the deceased person's last illness and burial expenses. Last illness and burial expenses include related hospital and medical expenses, funeral, burial plot and interment expenses, and other related costs.

Example: If you receive $2,000 from your uncle's life insurance policy and you spend $900 on his last illness and burial expenses, the balance, $1,100, is unearned income. If you spend the entire $2,000 for the last illness and burial, there is no unearned income.

* * * * *

(g) *Gifts and inheritances.* A gift is something you receive which is not repayment to you for goods or services you provided and which is not given to you because of a legal obligation on the giver's part. An inheritance is something that comes to you as a result of someone's death. It can be in cash or in kind, including any right in real or personal property. Gifts and inheritances occasioned by the death of another person, to the extent that they are used to pay the expenses of the deceased's last illness and burial, as defined in paragraph (e) of this section, are not considered income.

* * * * *

3. The authority citation for subpart L of part 416 is revised to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66; 87 Stat. 154.

4. In § 416.1201(a), paragraph (a)(4) is added to read as follows:

§ 416.1201 Resources; general.

(a) *Resources; defined.* * * *

* * * * *

(4) Death benefits, including gifts and inheritances, received by an individual, to the extent that they are not income in accordance with paragraphs (e) and (g) of § 416.1121 because they are to be spent on costs resulting from the last illness and burial of the deceased, are not resources for the calendar month following the month of receipt. However, such death benefits retained until the first moment of the second calendar month following their receipt are resources at that time.

* * * * *

[FR Doc. 91–17964 Filed 7–29–91; 8:45 am]

BILLING CODE 4190–29–M

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Office of the Commissioner

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to general redelegations of authority from the Commissioner of Food and Drugs to other officers of the Food and Drug Administration to redelegate to the Deputy Commissioner for Policy the authority to approve notices and regulations. This action is being taken to reflect an organizational change in the Office of the Commissioner. This action is an interim measure that may be supplemented in the future by additional or revised delegations. This action does not affect previous delegations to FDA's center directors or other officials to issue specific types of regulations or notices.

EFFECTIVE DATE: July 30, 1991.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management Systems and Policy (HFA–300), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: FDA is amending the delegations of authority under § 5.20 *General redelegations of authority from the Commissioner to other officers of the Food and Drug Administration* (21 CFR 5.20) to redelegate to the Deputy Commissioner for Policy the authority to approve notices and regulations. This redelegation reflects an organizational change in the Office of the Commissioner.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–393); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354–360F, 361, 362, 1701–1706, 2101 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 2421, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300u–5, 300aa–1); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591.

2. Section 5.20 is amended by redesignating paragraph (e) as paragraph (f) and by adding a new paragraph (e) to read as follows:

§ 5.20 General redelegations of authority from the Commissioner to other officers of the Food and Drug Administration.

* * * * *

(e)(1) The Deputy Commissioner for Policy is authorized to perform any of the functions of the Commissioner of Food and Drugs with respect to the issuance of Federal Register notices and proposed and final regulations of the Food and Drug Administration.

(2) The Deputy Commissioner for Policy is authorized to issue responses to the following matters under part 10 of this chapter as follows:

(i) Requests for waiver, suspension, or modification of procedural requirements under § 10.19;

(ii) Citizen petitions under § 10.30;

(iii) Petitions for reconsideration under § 10.33;

(iv) Petitions for stay under § 10.35; or

(v) Requests for advisory opinions under § 10.85.

(3) With respect to any matter delegated to the Deputy Commissioner for Policy under this paragraph, the Deputy Commissioner for Policy is authorized to perform the functions of the Commissioner under §§ 10.40, 10.45, 10.50, 10.55, 10.60, 10.65, 10.80, 10.90, and 10.95 and of the Deputy Commissioner under § 10.206 (g) and (h) of this chapter.

* * * * *

Dated: July 25, 1991.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 91–18141 Filed 7–29–91; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 880 and 881

[Docket No. R–91–1544; FR–2950–F–01]

RIN 2502–AF31

Section 8 Housing Assistance Payments Program for New Construction and Substantial Rehabilitation—Fair Market Rents, Redelegation of Authority to Regional Administrators

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

ACTION: Final rule.