

compliance with this AD, if any, may be obtained from the Standardization Branch.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The modification shall be done in accordance with British Aerospace Service Bulletin 33-45-25A027A&B, dated December 23, 1991. This incorporation by reference was previously approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, as of September 28, 1992 (57 FR 38262, August 24, 1992). Copies may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment is effective September 28, 1992.

Issued in Renton, Washington, on November 5, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-27439 Filed 11-12-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 92-ASO-16]

Alteration of VOR Federal Airway V-329; FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the description of VOR Federal Airway V-329. V-329 was recently amended in Airspace Docket No. 90-ASO-19, but the most recent flight inspection data revealed that this route can be navigated with more precision by a minor realignment of V-329 over the Andalusia, AL, Very High Frequency Omnidirectional Range (VOR). Therefore, this action supersedes Airspace Docket No. 90-ASO-19. This altered route provides a better feeder airway for operations in and out of the Eglin Air Force Base (AFB) terminal complex due to the precise VOR fix.

DATES: Effective date—0901 u.t.c., December 10, 1992. Comments must be received on or before December 30, 1992.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO-500, Docket No. 92-ASO-16, Federal Aviation

Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves altering the description of V-329 located in the vicinity of Elgin AFB, FL, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) is to alter the description of V-329 located in the vicinity of Eglin AFB, FL. Flight inspection data has revealed that the current alignment of V-329 from ANDAL, FL, Intersection to the Montgomery, AL, VOR, is difficult to fly for many general aviation pilots due to navigation equipment limitations. The rule adopted realigns a point almost at the center of an 88-mile segment of V-329 less than 5 miles to the east. Therefore, this action supersedes Airspace Docket No. 90-ASO-19. The new airway alignment from CORKY, FL,

Intersection via the Andalusia, AL, VOR, and to the Montgomery, AL, VOR, will aid all types of air operations and increase safety.

Because this rule makes only a minor modification to recently proposed and adopted amendment on which no objecting comments were received, this rule is not one in which the public would be particularly interested. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary. Domestic VOR Federal airways are published in Section 71.123 of FAA Order 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. The Domestic VOR Federal airway listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Domestic VOR Federal airways, Incorporation by reference.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.123. Domestic VOR Federal Airways

V-329 [Revised]

From INT Crestview, FL, 091° and Andalusia, AL, 192° radials; Andalusia; to Montgomery, AL.

Issued in Washington, DC, on November 4, 1992.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 92-27585 Filed 11-12-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

RIN 0960-AC94

Supplemental Security Income for the Aged, Blind, and Disabled; Technical Changes

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: We are amending the supplemental security income (SSI) regulations to make technical changes to update the regulations and improve referencing. The revisions incorporate a statutory change to the title of a public law, a statutory repeal of certain time limits, and a statutory change redesignating the "Veterans' Administration" as the "Department of Veterans Affairs." In addition, the changes add a reference heading, update the appendix at the end of Subpart K which lists exclusions from income in statutes other than the Social Security Act (the Act), and update our lists of such statutory exclusions from resources contained in Subpart L.

EFFECTIVE DATE: November 13, 1992.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Legal Assistant, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-8470.

SUPPLEMENTARY INFORMATION: In these final regulations we are making technical revisions to conform to a statutory change to the title of a public law, a statutory repeal of certain time limits, and a statutory change which redesignates the "Veterans' Administration" as the "Department of Veterans Affairs." We are further adding a reference heading, updating the appendix at the end of subpart K which

lists exclusions from income in statutes other than the Act, and updating lists of such statutory exclusions from resources contained in subpart L.

a. Section 109(p) of Public Law (Pub. L.) 100-707, enacted November 23, 1988, amended sections 1612(a)(2)(A) and (b)(11) of the Act by changing the reference from the "Disaster Relief Act of 1974" to the "Disaster Relief and Emergency Assistance Act." We are replacing references to the "Disaster Relief Act of 1974" in our regulations with the "Disaster Relief and Emergency Assistance Act." We are replacing the references in § 416.1124, the first sentence in (c)(5); § 416.1142, in paragraph (a)(4); § 416.1150, the first sentence in paragraph (a), (b)(2), and (c); and § 416.1237, the first sentence in paragraph (a).

Also, as a result of section 312(d) of Public Law 100-707, the time limitations imposed by the statutory provisions of sections 1612(a)(2)(A)(iii), (b)(12), and 1613(a)(6) of the Act, as they relate to disaster assistance received from a Federal, State, or local government source, or from a disaster assistance organization, were repealed. Section 312(d) provides that such disaster assistance shall not be considered as income or resources when determining eligibility for or benefit levels under Federally-funded income assistance or resource-tested benefit programs. We are revising §§ 416.1150 and 416.1237 to remove the SSI income and resource exclusion time limitations imposed on disaster assistance received from these sources.

b. Section 2 of Public Law 100-527 enacted October 25, 1988, redesignated the "Veterans' Administration" as the "Department of Veterans Affairs." We are replacing the reference to "Veterans Administration" in §§ 416.1103(b)(1) and 416.1142(a)(7) with the "Department of Veterans Affairs."

c. Sections 416.1170 and 416.1171 contain alternative income counting rules we apply in the cases of certain blind individuals. We believe a heading prefacing these rules would assist referencing. We are adding a heading prior to § 416.1170 as follows:

Alternative Income Counting Rules for Certain Blind Individuals

d. At the end of part 416, subpart K, we maintain an appendix which lists types of income excluded under the SSI program as provided by Federal laws other than the Act. We update this list periodically. However, we apply the law in effect under Federal statutes to reflect that new law or change whether or not this list has been amended. We are

updating the appendix to subpart K as follows:

1. Under the heading II. Housing and Utilities, paragraph (b), the Home Energy Assistance Act of 1980 was repealed and replaced by the Low-Income Home Energy Assistance Act of 1981 pursuant to title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35, enacted August 13, 1981). We are revising paragraph (b) to exclude from income any home energy assistance payments or allowances under this law, as amended (42 U.S.C. 8624(f)). Following paragraph (b), we include a "Note—" that this exclusion applies to a sponsor's income only if the alien is living in the housing unit for which the sponsor receives the home energy assistance payments or allowances.

In addition, we are adding a new § 416.1236(a)(14). Exclusions from resources; provided by other statutes, to reflect the exclusion of any home energy assistance payments or allowances from resources mandated by the Low-Income Home Energy Assistance Act of 1981.

2. Under the heading III. Education and Employment, we are adding a new paragraph (c) to reflect the exclusion from income mandated by section 14(27) of Public Law 100-50, the Higher Education Technical Amendments Act of 1987 (20 U.S.C. 1087uu). This section excludes student financial assistance for attendance costs received from a program funded in whole or in part under title IV of the Higher Education Act of 1965, as amended, or under Bureau of Indian Affairs student assistance programs. Attendance costs are tuition and fees normally assessed a student carrying the same academic workload, as determined by the institution, including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study and an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

In addition, we are adding a new § 416.1236(a)(15). Exclusions from resources; provided by other statutes, to reflect the exclusion from resources of student financial assistance for attendance costs received from a program funded in whole or in part under title IV of the Higher Education Act of 1985, as amended, or under Bureau of Indian Affairs student assistance programs.

3. Under the heading IV. Native Americans, we are adding a new paragraph (e) to reflect the exclusion

from income of funds, assets, or income from the trust fund under section 6(b) of the Puyallup Tribe of Indians Settlement Act of 1989, Public Law 101-41 (25 U.S.C. 1773h(c)). Following paragraph (e), we include a "Note—" that the exclusion does not apply in deeming income from sponsors to aliens.

In addition, we are adding similar text, without the "Note—," to new § 416.1236(a)(16), Exclusions from resources; provided by other statutes. Under Public Law 101-41, funds, assets, or income from the trust fund must be excluded from resources under the SSI program.

4. Under the heading V. Other, we are adding a new paragraph (c) to reflect the exclusion from income of amounts paid as restitution to certain individuals of Japanese ancestry and Aleuts for losses suffered as a result of evacuation, relocation, and internment during World War II, under the Civil Liberties Act of 1988 and the Aleutian and Pribilof Islands Restitution Act, sections 105(f) and 206(d), respectively, of Public Law 100-383 (50 U.S.C. App. 1989b and c).

In addition, we are adding a new § 416.1236(a)(17), Exclusions from resources; provided by other statutes to reflect the exclusion from resources of amounts paid as restitution under the Civil Liberties Act of 1988 and the Aleutian and Pribilof Islands Restitution Act (50 U.S.C. App. 1989b and c).

We are also adding a new paragraph (d) to reflect section 10405 of Public Law 101-239, the Omnibus Budget Reconciliation Act of 1989, enacted December 19, 1989, and Public Law 101-201, enacted December 6, 1989, which exclude from income payments made on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).

In addition, we are adding similar text to exclude such payments from resources in a new § 416.1236(a)(18). Section 10405 of Public Law 101-239 and Public Law 101-201 also provide that payments made on or after January 1, 1989 from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.) are excluded from resources.

Regulatory Procedures

The Department generally follows the notice of proposed rulemaking and public comment procedures specified in the Administrative Procedures Act, 5 U.S.C. 553, in the development of its regulations. That Act provides

exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for waiver of proposed rulemaking and public comment procedures. These rules [other than the disaster relief time limit provision] amend our regulations to reflect a technical change and statutory changes which are self-executing and do not involve the setting of policy. Therefore, the use of notice and comment rulemaking is unnecessary.

With respect to the income and resource exclusion time limitations imposed on disaster assistance, we have determined that the time limits conflict with the new law and have been repealed. Accordingly, a regulatory change is needed. However, we have determined that it would be contrary to the public interest to use notice and comment rulemaking in this instance. Failure to promptly publish regulations advising the public of the repeal of the time limits on the exclusion of disaster assistance from SSI income and resources may disadvantage some survivors of two disasters—Hurricane Hugo and the San Francisco earthquake. Further, since we have determined that the time limits on the income and resource exclusions for disaster assistance have been repealed by law, the use of notice and comment rulemaking is also unnecessary in this instance. For all of the above reasons, therefore, these regulations are being issued as final rules.

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 since the program and administrative costs of these regulations will be insignificant and the threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

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

Paperwork Reduction Act

These final regulations impose no additional reporting and recordkeeping requirements subject to Office of Management and Budget clearance.

Catalog of Federal Domestic Assistance Program No. 93.807—Supplemental Security Income.

List of Subjects in 20 CFR Part 416

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

Dated May 5, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: June 3, 1992.

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.

§ 416.1103 [Amended]

2. Section 416.1103 is amended by removing the words "Veterans Administration" and adding in their place the words "Department of Veterans Affairs" in the example at the end of paragraph (b)(1).

§ 416.1124 [Amended]

3. Section 416.1124 is amended by removing the words "Act of 1974" and adding in their place the words "and Emergency Assistance Act" in the first sentence in (c)(5).

4. Section 416.1142 is amended by revising paragraphs (a)(4) and (a)(7) as follows:

§ 416.1142 If you live in a public assistance household.

(a) Definition. * * *

(4) The Disaster Relief and Emergency Assistance Act;

* * *

(7) U.S. Department of Veterans Affairs programs (those payments based on need).

* * *

5. Section 416.1150 is revised to read as follows:

Disasters

§ 416.1150 How we treat income received because of a major disaster.

(a) General. The Disaster Relief and Emergency Assistance Act and other Federal statutes provide assistance to victims of major disasters. In this section we describe when we do not

count certain kinds of assistance you receive under these statutes.

(b) *Support and maintenance.* (1) We do not count the value of support and maintenance (in cash or in kind) received from a Federal, State, or local government source, or from a disaster assistance organization, and the one-third reduction rule does not apply if—

(i) You live in a household which you or you and another person maintain as your home when a catastrophe occurs in the area;

(ii) The President of the United States declares the catastrophe to be a major disaster for purposes of the Disaster Relief and Emergency Assistance Act;

(iii) You stop living in the home because of the catastrophe and within 30 days after the catastrophe you begin to receive support and maintenance; and

(iv) You receive the support and maintenance while living in a residential facility maintained by another person.

(2) We do not count the value of support and maintenance (in cash or in kind) received from any other source, such as from a private household, and the one-third reduction rule does not apply for up to 18 months after you begin to receive it if—

(i) You live in a household which you or you and another person maintain as your home when a catastrophe occurs in the area;

(ii) The President of the United States declares the catastrophe to be a major disaster for purposes of the Disaster Relief and Emergency Assistance Act;

(iii) You stop living in the home because of the catastrophe and within 30 days after the catastrophe you begin to receive support and maintenance; and

(iv) You receive the support and maintenance while living in a residential facility (including a private household) maintained by another person.

(c) *Other assistance you receive.* We do not consider other assistance to be income if you receive it under the Disaster Relief and Emergency Assistance Act or under another Federal statute because of a catastrophe which the President declares to be a major disaster or if you receive it from a State or local government or from a disaster assistance organization. For example, you may receive payments to repair or replace your home or other property.

(d) *Interest payments.* We do not count any interest earned on the assistance payments described in paragraph (c) of this section.

§ 416.1170 [Amended]

6. Section 416.1170 is amended by adding an undesignated centerhead prior to the section as follows:

Alternative Income Counting Rules for Certain Blind Individuals

7. The Appendix to part 416, subpart K is amended as follows: Under the heading II. Housing and Utilities, paragraph (b) is revised; under the heading III. Education and Employment, a new paragraph (c) is added; under the heading IV. Native Americans, a new paragraph (e) is added; and under the heading V. Other, new paragraphs (c) and (d) are added to read as follows:

Appendix to Subpart K of Part 416—List of Types of Income Excluded Under the SSI Program as Provided by Federal Laws Other Than the Social Security Act

II. Housing and Utilities

(b) Home energy assistance payments or allowances under title XXVI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, as amended (42 U.S.C. 8624(f)).

Note.—This exclusion applies to a sponsor's income only if the alien is living in the housing unit for which the sponsor receives the home energy assistance payments or allowances.

III. Education and Employment

(c) Student financial assistance for attendance costs received from a program funded in whole or in part under title IV of the Higher Education Act of 1965, as amended, or under Bureau of Indian Affairs student assistance programs if it is made available for tuition and fees normally assessed a student carrying the same academic workload, as determined by the institution, including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study and an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution, under section 14(27) of Public Law 100-50, the Higher Education Technical Amendments Act of 1987 (20 U.S.C. 1087uu).

IV. Native Americans

(e) Funds, assets, or income under section 6(b) of the Puyallup Tribe of Indians Settlement Act of 1989, Public Law 101-41 (25 U.S.C. 1773h(c)).

Note.—This exclusion does not apply in deeming income from sponsors to aliens.

V. Other

(c) Amounts paid as restitution to certain individuals of Japanese ancestry and Aleuts for losses suffered as a result of evacuation, relocation, and internment during World War II, under the Civil Liberties Act of 1988 and the Aleutian and Pribilof Islands Restitution Act, sections 105(f) and 206(d) of Public Law 100-383 (50 U.S.C. App. 1989 b and c).

(d) Payments made on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.) under Public Law 101-201 (103 Stat. 1795) and section 10405 of Public Law 101-239 (103 Stat. 2489).

8. 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.

9. Section 416.1236 is amended by adding new paragraphs (a)(14) through (a)(18) to read as follows:

§ 416.1236 Exclusions from resources; provided by other statutes.

(a) * * *

(14) Home energy assistance payments or allowances under the Low-Income Home Energy Assistance Act of 1981, as added by title XXVI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35 (42 U.S.C. 8624(f)).

(15) Student financial assistance for attendance costs received from a program funded in whole or in part under title IV of the Higher Education Act of 1965, as amended, or under Bureau of Indian Affairs student assistance programs if it is made available for tuition and fees normally assessed a student carrying the same academic workload, as determined by the institution, including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution, under section 14(27) of Public Law 100-50, the Higher Education Technical Amendments Act of 1987 (20 U.S.C. 1087uu), or under Bureau of Indian Affairs student assistance programs.

(16) Funds, assets, or income under section 6(b) of the Puyallup Tribe of Indians Settlement Act of 1989, Public Law 101-41 (25 U.S.C. 1773h(c)).

(17) Amounts paid as restitution to certain individuals of Japanese ancestry and Aleuts under the Civil Liberties Act of 1988 and the Aleutian and Pribilof Islands Restitution Act, sections 105(f) and 206(d) of Public Law 100-383 (50 U.S.C. App. 1989 b and c).

(18) Payments made on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.) under Public Law 101-201 (103 Stat. 1795) and section 10405 of Public Law 101-239 (103 Stat. 2489).

10. Section 416.1237 is revised to read as follows:

§ 416.1237 Assistance received on account of major disaster.

(a) Assistance received under the Disaster Relief and Emergency Assistance Act or other assistance provided under a Federal statute because of a catastrophe which is declared to be a major disaster by the President of the United States or comparable assistance received from a State or local government, or from a disaster assistance organization, is excluded in determining countable resources under § 416.1210.

(b) Interest earned on the assistance is excluded from resources.

[FR Doc. 92-27436 Filed 11-12-92; 8:45 am]
BILLING CODE 4190-29-M

20 CFR Part 416

[Regulation No. 16]

RIN 0960-AD40

Supplemental Security Income for the Aged, Blind, and Disabled; Presumptive Disability and Presumptive Blindness; When Payments May Begin and End

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: Section 5038 of Public Law 101-508 extends from 3 to 6 months the period for which supplemental security income benefits may be paid on the basis of presumptive disability or presumptive blindness. This final rule revises the regulations to bring them into accord with the law.

EFFECTIVE DATE: November 13, 1992.

FOR FURTHER INFORMATION CONTACT:

Harry J. Short, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1753.

SUPPLEMENTARY INFORMATION: Under section 1631(a)(4)(B) of the Social Security Act (the Act) and implementing regulations, we may pay a person supplemental security income benefits on the basis of presumptive disability or presumptive blindness before making a formal determination of whether the individual is disabled or blind. Findings of presumptive disability or presumptive blindness may be made when the available evidence reflects a high degree of probability that the individual will be found disabled or blind when complete evidence is obtained, and he or she meets the nonmedical eligibility requirements. As a result, section 1631(a)(4)(B) provides a means to make payments to some individuals who file for supplemental security income benefits while their claims are being adjudicated.

In the case of readily observable severe impairments (e.g., amputation of extremities), we make presumptive disability and presumptive blindness findings without obtaining medical evidence. Social Security's field office employees, while not trained disability adjudicators, are authorized to make such findings for those readily observable impairments which are listed in 20 CFR 416.934.

Prior to enactment of Public Law 101-508 on November 5, 1990, section 1631(a)(4)(B) provided for payment of benefits based on presumptive disability or presumptive blindness for a period of not more than 3 months. Section 5038 of Public Law 101-508 revised section 1631(a)(4)(B) to extend from 3 to 6 months the maximum number of months for which benefits may be paid based on a finding of presumptive disability or presumptive blindness. This change was effective with respect to payments for months beginning on or after May 1, 1991. This final regulation reflects the statutory change by revising §§ 416.931 and 416.932 to provide for payment of benefits based on presumptive disability or blindness for a period of not more than 6 months.

Justification for Final Rules

The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act (APA) notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides

exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that under 5 U.S.C. 553(b)(B), good cause exists for waiver of notice of proposed rulemaking and public comment procedures on this regulation, because opportunity for public comment is unnecessary in this case. This rule merely revises the regulations to reflect section 5038 of Public Law 101-508 by changing the maximum number of months for which benefits can be paid for presumptive disability and presumptive blindness from 3 to 6. There is no discretion in the statute for any policy choices to be made.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because the program and administrative costs of these changes will not exceed \$100 million and the threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

This regulation imposes no additional reporting/recordkeeping requirements necessitating clearance by the Office of Management and Budget.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only individuals and States.

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 (SSI), Reporting and recordkeeping requirements.

Dated: April 9, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: May 21, 1992.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 416 of chapter III of title 20 of the Code of Federal Regulations is amended to read as follows: