

Federalism assessment under E.O. 13132.

### Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The requirement has been submitted to OMB for approval as a revision to a collection currently approved under OMB control number 0608-0004.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid OMB control number.

The survey, as proposed, is expected to result in the filing of about 13,500 foreign affiliate reports by an estimated 1,500 U.S. parent companies. A parent company must file one form per affiliate. BEA proposes to change the survey in two ways—first, to collect information on payments to and receipts from foreign affiliates for interest, royalties and license fees and other private services gross rather than, as in the past, net of any taxes withheld, and second, to remove the requirement for reporting certain affiliated insurance transactions that have been problematic to collect on the BE-577. (BEA plans to move the reporting requirement for these transactions to specialized services surveys that BEA conducts in the near future.) The respondent burden for this collection of information is estimated to vary from 0.5 hour to 4 hours per response, with an average of 1.25 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Because reports are filed 4 times per year, 54,000 responses annually are expected. Thus, the total annual respondent burden of the survey is estimated at 67,500 hours (13,500 respondents times 4 times 1.25 hours average burden). This estimate is the same as the burden hours currently carried for this collection in the OMB inventory.

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility,

and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Comments should be addressed to: Director, Bureau of Economic Analysis (BE-1), U.S. Department of Commerce, Washington, DC 20230, fax: 202-606-5311; and the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608-0004, Attention PRA Desk Officer for BEA, via the Internet at [pbugg@omb.eop.gov](mailto:pbugg@omb.eop.gov), or by fax at 202-395-7245.

### Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration (SBA), under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. Although the BE-577 survey does not itself collect data on the size of the U.S. companies that must respond, data collected on related BEA surveys indicate that about 100 of the estimated 1,500 U.S. parent companies that must respond to the BE-577 survey are small businesses according to the standards established by the Small Business Administration. The exemption level for the BE-577 survey is set in terms of the size of a U.S. company's foreign affiliates (foreign companies owned 10 percent or more by the U.S. company); if a foreign affiliate has assets, sales, or net income greater than the exemption level, it must be reported. Usually, the U.S. parent company that is required to file the report is many times larger than its largest foreign affiliate.

The 100 U.S. businesses that meet the SBA small business standards tend to have few foreign affiliates, and the foreign affiliates that they do own are small. With the proposed increase in the exemption level for the BE-577 survey from \$30 million to \$40 million (stated in terms of the foreign affiliate's assets, sales, and net income), small U.S. businesses will be required to file fewer reports for their foreign affiliates than would be required in the absence of this increase. The estimated annual cost to a U.S. business reporting for five or fewer foreign affiliates is estimated to be less than \$1,000.

### List of Subjects in 15 CFR Part 806

International transactions, Economic statistics, U.S. investment abroad,

Penalties, Reporting and recordkeeping requirements.

Dated: February 21, 2006.

**J. Steven Landefeld,**

*Director, Bureau of Economic Analysis.*

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR part 806 as follows:

### PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR part 806 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 22 U.S.C. 3101-3108; and E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12318 (3 CFR, 1981 Comp., p. 173) and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

#### § 806.14 [Amended]

2. Section 806.14 (e) is amended by deleting "\$30,000,000" and inserting "\$40,000,000" in its place.

[FR Doc. 06-1877 Filed 2-28-06; 8:45 am]

BILLING CODE 3510-06-P

## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Parts 404 and 416

[Regulation Nos. 4 and 16]

RIN 0960-AG05

### Optometrists as Acceptable Medical Sources to Establish a Medically Determinable Impairment

**AGENCY:** Social Security Administration.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** We propose to revise the Social Security and Supplemental Security Income (SSI) disability regulations regarding sources of evidence for establishing a medically determinable impairment under titles II and XVI of the Social Security Act (the Act). The revised regulations would expand the situations in which we consider licensed optometrists to be "acceptable medical sources".

**DATES:** To be sure that your comments are considered, we must receive them by May 1, 2006.

**ADDRESSES:** You may give us your comments by: using our Internet site facility (*i.e.*, Social Security Online) at <http://policy.ssa.gov/erm/rules.nsf/Rules+Open+To+Comment> or the Federal eRulemaking Portal at <http://www.regulations.gov>; e-mail to [regulations@ssa.gov](mailto:regulations@ssa.gov); telefax to (410) 966-2830; or letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235-7703. You may also deliver them to the Office of

Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on our Internet site, at <http://policy.ssa.gov/erm/rules.nsf/Rules+Open+To+Comment>, or you may inspect them on regular business days by making arrangements with the contact person shown in this preamble.

#### Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>. It is also available on the Internet site for SSA (i.e., Social Security Online) at <http://policy.ssa.gov/erm/rules.nsf/Rules+Open+To+Comment>.

#### FOR FURTHER INFORMATION CONTACT:

Rosemarie A. Greenwald, Social Insurance Specialist, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 966-7813 or TTY 410-966-5609. For information on eligibility or filing for benefits, call our national toll-free number 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet Web site, Social Security Online, at <http://www.socialsecurity.gov>.

#### SUPPLEMENTARY INFORMATION:

##### What is an "acceptable medical source"?

Our rules provide that you must show that you have a medically determinable impairment with evidence from an acceptable medical source. An acceptable medical source is an individual who has the training and expertise to provide us with the signs and laboratory findings based on medically acceptable clinical and laboratory diagnostic techniques that establish a medically determinable physical or mental impairment. Our regulations identify professionals whom we consider to be acceptable medical sources. (See §§ 404.1513(a) and 416.913(a).) They are:

- Licensed physicians (medical or osteopathic doctors);
- Licensed or certified psychologists. Included are school psychologists, or other licensed or certified individuals with other titles who perform the same function as a school psychologist in a school setting, for purposes of establishing mental retardation, learning disabilities, and borderline intellectual functioning only;
- Licensed optometrists, for the measurement of visual acuity and visual

fields (for claims under title II, we may need a report from a physician to determine other aspects of eye diseases);

- Licensed podiatrists, for purposes of establishing impairments of the foot, or foot and ankle only, depending on whether the State in which the podiatrist practices permits the practice of podiatry on the foot only, or the foot and ankle;

- Qualified speech-language pathologists, for purposes of establishing speech or language impairments only.

Our current rules in §§ 404.1513(d) and 416.913(d) provide that, once we have established that you have a medically determinable impairment, we consider all other relevant evidence from other medical and non-medical sources, including your own statements, to determine its severity and how it affects you.

##### Why are we proposing to change our rules?

As medical science changes, it is our duty to review our policies and make appropriate revisions. In the early 1990s, we discussed expanding the role of optometrists as acceptable medical sources with the American Optometric Association (AOA). However, because licensing regulations varied considerably among jurisdictions at that time, we found that it was not feasible for us to revise our policy.

Recently, we met with representatives of the AOA again and obtained information about the education, qualifications, and state scope-of-practice laws related to optometrists. Based on our review of accreditation requirements and practice guidelines, we have determined that, with the exception of the U.S. Virgin Islands, the licensing requirements, scope of treatment, and diagnostic protocols for licensed optometrists are sufficient to qualify virtually all licensed optometrists as acceptable medical sources for visual disorders. Therefore, we believe it is now appropriate to propose to revise our regulations to authorize licensed optometrists as acceptable medical sources for visual disorders in all jurisdictions but the U.S. Virgin Islands.<sup>1</sup>

<sup>1</sup> The U.S. Virgin Islands do not allow optometrists to administer or prescribe pharmaceuticals, including topical application of pharmaceuticals for diagnostic or treatment purposes. Because a complete evaluation of the eye includes the use of diagnostic pharmaceuticals, optometrists in the U.S. Virgin Islands are not qualified to perform a complete evaluation of the eye.

##### Why was this solution chosen?

The revised regulations would expand the situations in which we consider licensed optometrists to be "acceptable medical sources". We would be able to make more decisions based on medical evidence of record, rather than having to purchase time-consuming and expensive consultative examinations. Therefore, these regulations would help some individuals with visual disorders qualify for benefits more quickly.

##### What rules are we proposing to revise?

We propose to revise §§ 404.1513(a)(3) and 416.913(a)(3) to provide that, except in the U.S. Virgin Islands, licensed optometrists would be acceptable medical sources for purposes of establishing a medically determinable impairment for visual disorders only. However, we will maintain our current rules for licensed optometrists in the U.S. Virgin Islands, where they will continue to be acceptable medical sources for measurement of visual acuity and visual fields only.

##### What programs would these proposed regulations affect?

These proposed rules would affect disability and blindness determinations and decisions that we make under titles II and XVI of the Act. In addition, to the extent that Medicare entitlement and Medicaid eligibility are based on whether you qualify for disability benefits under title II or disability or blindness under title XVI, these proposed rules would also affect the Medicare and Medicaid programs.

##### Who can get disability benefits?

Under title II of the Act, we provide for the payment of disability benefits if you are disabled and belong to one of the following three groups:

- Workers insured under the Act,
- Children of insured workers, and
- Widows, widowers, and surviving divorced spouses (see § 404.336) of insured workers.

Under title II of the Act, you may qualify for a period of disability if you are insured for disability under Social Security and are under a disability as defined in section 216(i)(1) of the Act. That section defines disability to include statutory blindness, for purposes of establishing a period of disability under title II. If we find that you are blind and you meet the insured status requirement, we may establish a period of disability for you regardless of whether you can do substantial gainful activity (SGA). A period of disability protects your earnings record under Social Security so that the time you are disabled will not count against you in

determining whether you will have worked long enough to qualify for benefits and the amount of your benefits. See §§ 404.320, 404.1505, 404.1581, and 404.1582.

Under title XVI of the Act, we provide for Supplemental Security Income (SSI) payments on the basis of disability or blindness if you are disabled or blind and have limited income and resources.

#### How do we define blindness?

For both the title II and title XVI programs, the Act defines blindness as “central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered \* \* \* as having a central visual acuity of 20/200 or less.” (See sections 216(i)(1) and 1614(a)(2) of the Act.)

Title II of the Act does not provide a separate category of benefits based on blindness. However, you may be entitled to benefits based on disability under title II of the Act if you are blind.

By contrast, title XVI of the Act provides for a category of payments based on blindness as well as a category of payments based on disability. If you are blind and meet the SSI income and resources requirements, you may be eligible for SSI payments based on blindness. Your blindness does not have to meet a 12-month duration requirement for you to be eligible for these payments. Also, there is no requirement that you be unable to do any SGA. However, if you are working, we will consider your earnings to determine if you are eligible for SSI payments.

#### How do we decide whether you are disabled?

If you are applying for disability benefits under title II of the Act, section 404.1513(a) of our regulations provides that we need evidence from acceptable medical sources to establish whether you have a medically determinable impairment(s). Therefore, in general, to be entitled to disability benefits under title II, your blindness must result from a medically determinable impairment and meet the 12-month duration requirement. (See §§ 404.1508, 404.1513, and 404.1581.) Also, if you are under age 55, you must be unable to do any SGA. (See §§ 404.1582 and 404.1584(b).) Even though you are doing SGA, we may still find that you are entitled to title II disability benefits if—

- You are blind;
- You are age 55 or older; and

- You are unable to use the skills or abilities like the ones you used in any SGA which you did regularly and for a substantial period of time. However, we will not pay you any cash benefits for any month in which you are doing SGA. (See §§ 404.1583 and 404.1584(c).)

Section 416.913(a) of our regulations states that if you are claiming benefits under title XVI on the basis of disability, not blindness, your disability must result from a medically determinable impairment documented by acceptable medical sources. However, blindness is treated differently under title XVI of the Act. Under title XVI, blindness and disability are separate categories of SSI payments, and the requirements for eligibility based on blindness are different from the requirements for eligibility based on disability. Under title XVI, the only evidence we need to establish statutory blindness is evidence showing that your visual acuity or visual field, in the better eye, meets the criteria described in the section “How do we define blindness?” provided that those measurements are consistent with the other evidence in your case record. We do not need to determine the cause of your blindness for you to be eligible for SSI payments based on blindness. Also, there is no duration requirement for statutory blindness under title XVI (See §§ 416.981 and 416.983). Section 416.913(f) provides that if you are applying for benefits under title XVI on the basis of statutory blindness, we will require an examination by a physician skilled in diseases of the eye or by an optometrist, whichever you may select.

#### What is a “medically determinable impairment”?

We will not consider you to be disabled or blind unless you furnish medical and other evidence that we need to show that you are disabled or blind. (See sections 223(d)(5)(A) and 1614(a)(3)(H)(i) of the Act, and §§ 404.1512(a) and 416.912(a) of our regulations.) The Act requires that you show that your disability results from a medically determinable physical or mental impairment. A physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. (See sections 223(d)(3) and 1614(a)(3)(D) of the Act.) Our regulations provide that a physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings. (See §§ 404.1508 and 416.908.)

#### What is our authority to make rules and set procedures for determining whether a person is disabled under the statutory definition?

Section 205(a) of the Act and, by reference to section 205(a), section 1631(d)(1) provides that:

The Commissioner of Social Security shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

#### When will we start to use these rules?

We will not use these rules until we evaluate the public comments we receive on them, determine whether they should be issued as final rules, and issue final rules in the **Federal Register**. If we publish final rules, we will explain in the preamble how we will apply them, and summarize and respond to the public comments. Until the effective date of any final rules, we will continue to use our current rules.

#### Clarity of these proposed rules

Executive Order 12866, as amended by Executive Order 13258, requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make them easier to understand.

For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

#### Regulatory Procedures

##### Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the requirements for a significant regulatory action under Executive Order

12866, as amended by Executive Order 13258. Thus, they were subject to OMB review.

#### *Regulatory Flexibility Act*

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

#### *Paperwork Reduction Act*

These proposed rules do not impose any new reporting requirements on the public.

#### **List of References**

During development of these proposed rules, we reviewed the following information:

- Council on Optometric Education, *Accreditation Manual: Professional Optometric Degree Programs*, St. Louis, MO, 10/1998.
- American Optometric Association, *State/Territory Statutory Language the Practice of Optometry*, 3/2002.
- American Optometric Association, *Optometric Clinical Practice Guidelines*.
  1. *Comprehensive Adult Eye and Vision Examination*, St. Louis, MO, 5/1/1994.
  2. *Care of the Patient with Primary Angle Closure Glaucoma*, St. Louis, MO, 6/23/1994.
  3. *Care of the Patient with Anterior Uveitis*, St. Louis, MO, 6/23/1994.
  4. *Care of the Patient with Age-Related Macular Degeneration*, St. Louis, MO, 6/23/1994.
  5. *Care of the Patient with Amblyopia*, St. Louis, MO, 6/29/1994.
  6. *Care of the Patient with Open Angle Glaucoma*, St. Louis, MO, 3/23/1995.
  7. *Care of the Patient with Retinal Detachment and Related Peripheral Vitreoretinal Disease*, St. Louis, MO, 4/27/1995.
  8. *Care of the Patient with Strabismus: Esotropia and Exotropia*, St. Louis, MO, 6/28/1995.
  9. *Care of the Adult Patient with Cataract*, St. Louis, MO, 6/28/1995.
  10. *Care of the Patient with Diabetes Mellitus*, St. Louis, MO, 5/1/1998.
- National Board of Examiners in Optometry, "Topic outline of national test", <http://www.optometry.org>.

These references are included in the rulemaking record for these proposed rules and are available for inspection by interested individuals making arrangements with the contact person shown in this preamble.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—

Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income.)

#### **List of Subjects**

##### *20 CFR Part 404*

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

##### *20 CFR Part 416*

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

Dated: December 20, 2006.

**Jo Anne B. Barnhart,**

*Commissioner of Social Security.*

For the reasons set out in the preamble, we propose to amend subpart P of part 404 and subpart I of part 416 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

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

##### **Subpart P—[Amended]**

1. The authority citation for subpart P of part 404 continues to read as follows:

**Authority:** Secs. 202, 205(a), (b), and (d)—(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)—(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

2. Revise § 404.1513(a)(3) to read as follows:

##### **§ 404.1513 Medical and other evidence of your impairment(s).**

(a) \* \* \*

(3) Licensed optometrists, for purposes of establishing visual disorders only (except, in the U.S. Virgin Islands, licensed optometrists, for the measurement of visual acuity and visual fields only);

\* \* \* \* \*

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

##### **Subpart I—[Amended]**

3. The authority citation for subpart I of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1611, 1614, 1619, 1631(a), (c), and (d)(1), and (p), and 1633 of the Social Security Act (42 U.S.C.

902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), and (d)(1), and (p), and 1383b; secs. 4(c) and 5, 6(c)—(e), 14(a), and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

4. Revise § 416.913(a)(3) to read as follows:

##### **§ 416.913 Medical and other evidence of your impairment(s).**

(a) \* \* \*

(3) Licensed optometrists, for purposes of establishing visual disorders only (except, in the U.S. Virgin Islands, licensed optometrists, for the measurement of visual acuity and visual fields only). (See paragraph (f) of this section for the evidence needed for statutory blindness);

\* \* \* \* \*

[FR Doc. E6–2852 Filed 2–28–06; 8:45 am]

**BILLING CODE 4191–02–P**

#### **DEPARTMENT OF COMMERCE**

#### **National Oceanic and Atmospheric Administration**

##### **50 CFR Part 600**

[Docket No. 050520139–6034–03; I.D. 030305A]

**RIN 0648–AS46**

#### **Magnuson-Stevens Act Provisions; Fishing Capacity Reduction Program; Bering Sea/Aleutian Islands King and Tanner Crabs; Industry Fee System for Fishing Capacity Reduction Loan**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS publishes this proposed rule to exempt any crab landed under the Community Development Quota (CDQ) Program from the fee regulations for the Bering Sea/Aleutian Islands King and Tanner Crab Fishing Capacity Reduction Program, to provide that crab buyers disburse fee collections to NMFS not later than the 7th calendar day of each month, and to provide that the annual report from each crab buyer shall be submitted to NMFS by July 1 of each calendar year. The fee regulations otherwise remain unchanged. The intent of this proposed rule is to modify the fee rules so that they do not apply to any crab allocated pursuant to the CDQ Program, and to ease the fee collection burden for crab buyers.