

obtain information relevant to local implementation. Pennsylvania officials described a comprehensive program, mandated by Pennsylvania law, for licensed day care facilities that substantially enhances the existing emergency preparedness posture that was previously found by DHS to provide reasonable assurance that adequate protective measures will be taken for the public, including children in day care facilities.

The NRC staff provided the Commission the results of this assessment and other related initiatives in a Commission paper dated May 4, 2006 (SECY-06-0101; ML060760586). The staff found no sufficient basis to question the adequacy of DHS findings regarding reasonable assurance. The staff believes the DHS findings are consistent with the planning standards of 10 CFR 50.47(b) and the existing memorandum of understanding between NRC and DHS. The staff also included a recommendation to republish the December 19, 2005, **Federal Register** Notice with revisions to correct factual errors and clarify NRC's regulatory positions and bases in the petition denial. This recommendation afforded the Commission an opportunity to reconsider its earlier denial of the petition. The Commission found no basis for changing its earlier denial, and in an SRM dated June 21, 2006 (ML061720324), the Commission directed the staff to publish the amended **Federal Register** Notice. The amended notice was published on August 7, 2006 (71 FR 44593).

#### Reasons for Denial

The Commission is denying the petition for the following reasons. The petition does not provide significant new information or arguments that were not previously considered by the Commission in denying PRM-50-79. As stated above, the petition relies upon a DPO, which focused on the adequacy of preplanned evacuation resources and preplanned relocation centers for day care centers and nursery schools within the Commonwealth, and on whether the Commonwealth and DHS/FEMA complied with DHS/FEMA guidance. The proposed remedy of the petitioner is for the NRC to grant the petition for rulemaking (PRM-50-79), commence a rulemaking to incorporate the criteria in GM EV-2 into the NRC's emergency planning regulations, and to implement the 120-day clock provisions of 10 CFR 50.54(s)(2) while the rulemaking is in progress. However, the nature of the issues raised in the DPO would not provide a basis for the petitioner's remedy. The DPO raised issues about

local implementation of the requirements and guidance, and DHS/FEMA evaluation of local implementation, neither of which could be resolved by the petitioner's proposal that the GM EV-2 criteria be incorporated into NRC regulations.<sup>3</sup> GM EV-2 is a guidance document developed by FEMA and utilized by the DHS, which has primary responsibility for assessing the adequacy of offsite emergency preparedness<sup>4</sup>. NRC bases its own findings in part on a review of DHS's findings and determinations as to whether State and local emergency plans are adequate and whether there is reasonable assurance that they can be implemented.

Dated at Rockville, Maryland, this 26th day of February 2007.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

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## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Parts 404 and 416

[Docket No. SSA-2006-0096]

RIN 0960-AG40

#### Methods for Conducting Personal Conferences When Waiver of Recovery of a Title II or Title XVI Overpayment Cannot Be Approved

**AGENCY:** Social Security Administration.

**ACTION:** Proposed rules.

**SUMMARY:** We propose to revise our title II regulations and add title XVI regulations on personal conferences when waiver of recovery of an overpayment cannot be approved. These proposed rules would allow for the conferences to be conducted face-to-face, by telephone, or by video teleconference in these circumstances.

**DATES:** To be sure that we consider your comments, we must receive them by May 4, 2007.

**ADDRESSES:** You may give us your comments: by Internet through the

<sup>3</sup> The Commission has, in the October 26, 2005 SRM on SECY-05-0045, directed the staff to develop guidance and expectations for the NRC review of FEMA's assessment and findings of offsite emergency preparedness. This activity should address the petitioner's and the DPO's issues with respect to the adequacy of FEMA/DHS evaluation of local implementation of offsite emergency preparedness.

<sup>4</sup> The Security and Accountability for Every Port Act of 2006, Public Law 109-347, provides that the DHS radiological emergency preparedness program will be transferred back to FEMA as of April 1, 2007.

Federal eRulemaking Portal at <http://www.regulations.gov>; by e-mail to [regulations@ssa.gov](mailto:regulations@ssa.gov); by telefax to (410) 966-2830; or by letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235-7703. You may also deliver them to the Office of Regulations, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on the Federal eRulemaking Portal. You may also inspect the comments on regular business days by making arrangements with the contact person shown in this preamble.

#### FOR FURTHER INFORMATION CONTACT:

Robin Strauss, Social Insurance Specialist, Office of Income Security Programs, Social Security Administration, 252 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-7944 or TTY (410) 966-5609, for information about this notice. 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 site, Social Security Online, at <http://www.socialsecurity.gov>.

#### SUPPLEMENTARY INFORMATION:

##### 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>.

##### Background

Our existing regulations at § 404.506 state that we will waive recovery of an overpayment if the individual was without fault in causing the overpayment and if recovery would defeat the purpose of the Social Security Act or be against equity and good conscience. Section 404.506 further states that, if we cannot approve waiver after reviewing the information the individual has given to support his or her contention that the recovery of the overpayment should be waived, we will offer the individual a personal conference. The personal conference policy was established so that the decisionmaker would have the opportunity to assess an individual's contention through personal, versus written, contact. Our existing regulations at § 416.550 state that we will waive recovery of an overpayment if the individual was without fault in causing the overpayment and if recovery would either defeat the purpose of title XVI, or be against equity and good conscience, or impede the efficient

administration of title XVI. There is currently no title XVI regulation regarding personal conferences.

Section 404.506(e)(1) states that the individual is given the opportunity to "appear personally" at the personal conference. Current regulations do not further specify the method in which this appearance may be made. Our longstanding policy contained in Social Security Ruling (SSR) 94-4p which implemented the decisions in *Buffington, et. al. v. Schweiker* and *Califano v. Yamasaki*, provides that a face-to-face pre-recoupment hearing will be conducted prior to the denial of waiver of recovery of an overpayment. However, a face-to-face appearance at the field office is not always convenient for the beneficiary. Often, if an individual is not able to come to the face-to-face conference, field office personnel will go to the person to hold the conference. Offering additional appearance options for the conference would improve service to the beneficiaries and reduce costly home visits by field personnel.

In order to fulfill our stewardship responsibilities to the Social Security trust fund, we must employ methods that will simplify our personal conference procedures and use our resources most efficiently. We should be using all available technology when we conduct personal conferences. Therefore, we propose to revise the regulations to allow for personal conferences to be conducted face-to-face at a place we designate (usually in the field office), by telephone, or by video teleconference. We will give the choice to the individual; the individual will still be provided the opportunity to appear face-to-face by choosing to come to us for the personal conference, or may choose to participate by telephone or video teleconference. If the individual elects to conduct the personal conference by video teleconference, the individual will designate the location for his or her end of the video teleconference. We will designate the location for our end of the video teleconference, if video teleconferencing is feasible, e.g., the field office has reasonable access to video teleconferencing. Because we are offering claimants two new and convenient ways to participate in a personal conference—in addition to the face-to-face conferences at our field offices we currently offer—we believe the need for our personnel to make costly home visits will significantly decrease. Therefore, we will consider conducting face-to-face conferences at locations other than SSA field offices only on a case-by-case basis, and only

in those limited circumstances where: (a) A claimant has exhausted all other means of obtaining a personal conference, and (b) conducting a personal conference by any other means would be so inadequate, owing to a claimant's physical or mental condition, as to infringe upon the person's right to a hearing. An example of such a circumstance would be a claimant who is bedridden and deaf, and therefore, will have considerable difficulty traveling to a field office and participating in a conference by phone.

These proposed rules will not affect the individual's right to review the claims file, have a representative present for the proceedings, cross-examine witnesses, or submit documentary evidence. Those provisions will not change. For example, claimants who choose to conduct the personal conference via telephone or video teleconference will be given an opportunity to submit documentary evidence by mail or fax prior to the scheduled conference. If necessary, the conference could be rescheduled to allow claimants time to do this. In conducting the personal conference face-to-face at a place we designate, or by telephone, or by video teleconference, we will be fulfilling our stewardship responsibilities while offering an additional convenience to the individual and continuing to protect the individual's right to present his or her contention that he or she meets the requirements for waiver of recovery of an overpayment. The decisionmaker will still be able to properly assess the person's contentions regarding fault under these new procedures.

We already successfully conduct some hearings by telephone and by video teleconference. For example, the administrative review of an initial determination for Medicare Part D subsidies is conducted either by a telephone hearing or a case review. See § 418.3625. Additionally, some administrative hearings to review claims under title II (including administrative law judge review of denial of waiver based on a personal conference), and other claims under title XVI are now conducted via video teleconferencing. See §§ 404.936 and 416.1436. Our experience in these contexts has demonstrated that these procedures adequately protect a claimant's due process rights.

#### Explanation of Proposed Changes

We propose to change the regulations in 20 CFR parts 404 and 416 to reflect the methods for conducting personal conferences when waiver of recovery of

an overpayment cannot be approved as follows:

- We propose to change the regulations at § 404.506 to reflect the various methods we can use to conduct the personal conference. These methods are: face-to-face in a location we designate (usually in the field office), via telephone, or via video teleconference.

- Currently, part 416 has no reference to personal conferences when waiver of recovery of the overpayment cannot be approved. We are proposing to add a new section that is similar to the regulations at § 404.506. New § 416.557 would include the various methods we can use to conduct the personal conference and describe the individual's rights and responsibilities regarding the personal conference.

Since SSR 94-4p only provides for a pre-recoupment hearing that is conducted face-to-face before waiver of recovery of an overpayment can be denied, the proposed changes in §§ 404.506 and 416.557 would expand that policy. Therefore, if we proceed to publish final rules, we will also publish a notice rescinding SSR 94-4p concurrently with the effective date of the final 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 these proposed rules 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 criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order

13258. Thus, they were reviewed by OMB.

#### *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 affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

#### *Paperwork Reduction Act*

We are proposing to revise our rules on conducting personal conferences

when waiver of recovery of a title II or title XVI overpayment cannot be approved. These proposed revisions would allow for the conferences to be conducted face-to-face, by telephone, or by video teleconference. Currently, we only conduct these conferences face-to-face. Although these proposed rules only contain information collection burdens in §§ 416.557(c)(3) and 416.557(d)(8), we are also including the associated information collection burdens for §§ 404.506(e)(3) and 404.506(f)(8) since those sections deal with personal conferences. As outlined

in the table below, in §§ 404.506(e)(3), 404.506(f)(8), 416.557(c)(3) and 416.557(d)(8), respondents may provide additional evidence for consideration at the personal conference. The collection of evidence is a public paperwork burden that requires clearance under the Paperwork Reduction Act of 1995. Respondents to these collections are individual and the individual's representative that request a waiver conference of their overpayment and submit additional evidence.

Title/section & collection description	Annual number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
Personal Conference 404.506(e)(3) Submittal of additional documents for consideration at personal conferences .....	150,000	1	30	75,000
Personal Conference 404.506(f)(8) Submittal of additional mitigating financial information and verifications for consideration at personal conferences .....	75,000	1	30	37,500
Personal Conference 416.557(c)(3) Submittal of additional documents for consideration at personal conferences .....	100,000	1	30	50,000
Personal Conference 416.557(d)(8) Submittal of additional mitigating financial information and verifications for consideration at personal conferences .....	50,000	1	30	25,000
Total .....	375,000	.....	.....	187,500

An Information Collection Request has been submitted to OMB for clearance. We are soliciting comments on the burden estimate; the need for the information; its practical utility; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Comments should be sent to OMB by fax or by e-mail to: Office of Management and Budget, Attn: Desk Officer for SSA, Fax Number: 202-395-6974, E-mail address:

*OIRA\_Submission@omb.eop.gov.*

Comments on the paperwork burdens associated with this rule can be received for up to 60 days after publication of this notice and will be most useful if received within 30 days of publication. This does not affect the deadline for the public to comment to SSA on the proposed regulations. These information collection requirements will not become effective until approved by OMB. When OMB has approved these information collection requirements, SSA will publish a notice in the **Federal Register**.

To receive a copy of the OMB clearance package, your staff may call the SSA Reports Clearance Officer on 410-965-0454.

(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; and 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: November 27, 2006.

**Jo Anne B. Barnhart,**

*Commissioner of Social Security.*

For the reasons set out in the preamble, we propose to amend subpart F of part 404 and subpart E of part 416 of chapter III of title 20 of the Code of Federal Regulations as follows:

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

### **Subpart F—[Amended]**

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

**Authority:** Secs. 204, 205(a), 702(a)(5), and 1147 of the Social Security Act (42 U.S.C. 404, 405(a), 902(a)(5), and 1320b-17); 31 U.S.C. 3720A.

2. Section 404.506 is amended by adding a sentence at the end of paragraph (c) to read as follows:

#### **§ 404.506 When waiver may be applied and how to process the request.**

\* \* \* \* \*

(c) \* \* \* We will offer to the individual the option of conducting the personal conference face-to-face at a place we designate, by telephone, or by video teleconference. The notice will advise the individual of the date and time of the personal conference.

\* \* \* \* \*

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

### **Subpart E—[Amended]**

1. The authority citation for subpart E of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1147, 1601, 1602, 1611(c) and (e), and 1631(a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1320b–17, 1381, 1381a, 1382(c) and (e), and 1383(a)–(d) and (g)); 31 U.S.C. 3720A.

2. Section 416.557 is added to read as follows:

**§ 416.557 Personal conference.**

(a) If waiver cannot be approved (i.e., the requirements in § 416.550 (a) and (b) are not met), the individual is notified in writing and given the dates, times and place of the file review and personal conference; the procedure for reviewing the claims file prior to the personal conference; the procedure for seeking a change in the scheduled dates, times and/or place; and all other information necessary to fully inform the individual about the personal conference. The file review is always scheduled at least 5 days before the personal conference. We will offer to the individual the option of conducting the personal conference face-to-face at a place we designate, by telephone, or by video teleconference. The notice will advise the individual of the date and time of the personal conference.

(b) At the file review, the individual and the individual's representative have the right to review the claims file and applicable law and regulations with the decisionmaker or another of our representatives who is prepared to answer questions. We will provide copies of material related to the overpayment and/or waiver from the claims file or pertinent sections of the law or regulations that are requested by the individual or the individual's representative.

(c) At the personal conference, the individual is given the opportunity to:

(1) Appear personally, testify, cross-examine any witnesses, and make arguments;

(2) Be represented by an attorney or other representative (see § 416.1500), although the individual must be present at the conference; and

(3) Submit documents for consideration by the decisionmaker.

(d) At the personal conference, the decisionmaker:

(1) Tells the individual that the decisionmaker was not previously involved in the issue under review, that the waiver decision is solely the decisionmaker's, and that the waiver decision is based only on the evidence or information presented or reviewed at the conference;

(2) Ascertains the role and identity of everyone present;

(3) Indicates whether or not the individual reviewed the claims file;

(4) Explains the provisions of law and regulations applicable to the issue;

(5) Briefly summarizes the evidence already in file which will be considered;

(6) Ascertains from the individual whether the information presented is correct and whether he/she fully understands it;

(7) Allows the individual and the individual's representative, if any, to present the individual's case;

(8) Secures updated financial information and verification, if necessary;

(9) Allows each witness to present information and allows the individual and the individual's representative to question each witness;

(10) Ascertains whether there is any further evidence to be presented;

(11) Reminds the individual of any evidence promised by the individual which has not been presented;

(12) Lets the individual and the individual's representative, if any, present any proposed summary or closing statement;

(13) Explains that a decision will be made and the individual will be notified in writing; and

(14) Explains repayment options and further appeal rights in the event the decision is adverse to the individual.

(e) SSA issues a written decision to the individual (and his or her representative, if any) specifying the finding of fact and conclusions in support of the decision to approve or deny waiver and advising of the individual's right to appeal the decision. If waiver is denied, adjustment or recovery of the overpayment begins even if the individual appeals.

(f) If it appears that the waiver cannot be approved, and the individual declines a personal conference or fails to appear for a second scheduled personal conference, a decision regarding the waiver will be made based on the written evidence of record. Reconsideration is then the next step in the appeals process.

[FR Doc. E7–3782 Filed 3–2–07; 8:45 am]

BILLING CODE 4191–02–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[REG–100841–97]

RIN 1545–AU97

#### Agreements for Payment of Tax Liabilities in Installments

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Withdrawal of notice of proposed rulemaking and notice of proposed rulemaking.

**SUMMARY:** This document withdraws the notice of proposed rulemaking published in the **Federal Register** on December 31, 1997 (62 FR 68241) and contains proposed regulations relating to the payment of tax liabilities in installments. The proposed regulations reflect changes to the law made by the Taxpayer Bill of Rights II, the Internal Revenue Service Restructuring and Reform Act of 1998, and the American Jobs Creation Act of 2004.

**DATES:** Written or electronic comments and requests for a public hearing must be received by June 4, 2007.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG–100841–97), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–100841–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically directly to the IRS Internet site at <http://www.irs.gov/regs> or via the Federal eRulemaking Portal at <http://www.regulations.gov> (indicate IRS and REG–100841–97).

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, G. William Beard, (202) 622–3620; concerning submissions of comments or requests for a hearing, Kelly Banks, (202) 622–7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 31, 1997, a notice of proposed rulemaking (REG–100841–97; 62 FR 68241) reflecting changes made to section 6159 of the Internal Revenue Code (Code) by section 202 of the Taxpayer Bill of Rights II, Pub. L. 104–168 (110 Stat. 1452, 1457) was published in the **Federal Register**. That proposed rule was not acted upon prior to the enactment of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 1998), Pub. L. 105–206, section 3462 (112 Stat. 685, 764), which made further amendments to section 6159. Section 843 of the American Jobs Creation Act of 2004 (AJCA), Pub. L. 108–357 (118 Stat. 1418, 1600), also made changes to section 6159. This document amends the prior notice of proposed rulemaking. It contains proposed amendments to the Procedure and Administration Regulations (26 CFR part 301) under section 6159 reflecting