

adopted by Order No. 572, requiring a case-in-chief if no protest is filed, cannot be characterized as a streamlining measure.

As discussed in Order No. 572, the Commission has fully complied with the mandate of the Act of 1992 by adopting the indexing methodology. The market-based ratemaking approach is not generally applicable and, in any event, as stated in Order No. 572, does streamline procedures as to those rates. Therefore, the Commission denies the AOPL's request for rehearing on the Commission's conclusion that it did not violate the Act of 1992.

#### *The Commission Orders*

The AOPL's request for rehearing of Order No. 572 is denied. By the Commission.

**Lois D. Cashell,**  
Secretary.

[FR Doc. 95-116 Filed 1-3-95; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Social Security Administration

#### 20 CFR Part 416

[Regulation No. 16]

RIN 0960-AC96

#### Supplemental Security Income for the Aged, Blind, and Disabled; Waiver of Parent-to-Child Deeming for Certain Disabled Children

**AGENCY:** Social Security Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements section 8010 of the Omnibus Budget Reconciliation Act of 1989 which provides that a disabled child under age 18 who lives with his or her parent(s) will not have parental income or resources deemed to him or her if the child previously received a reduced supplemental security income (SSI) benefit (personal needs allowance) while a resident of a medical facility for which Medicaid paid more than 50 percent of the cost of the individual's care; the child is eligible for medical assistance under a Medicaid State home care plan; and the child would otherwise be ineligible for a Federal SSI benefit because of the deeming of the parents' income or resources. The rule also provides that, although deeming is waived in these circumstances, the in-kind support and maintenance provided by the parents will not be counted.

Lastly, when such a child would not be ineligible because of the deeming of his parents' income but would receive a benefit of less than the amount payable under section 8010, the child's benefit will be \$30 a month plus any optional State supplementation. Any of the child's own countable income will then be deducted from that amount.

**EFFECTIVE DATE:** This rule is effective January 4, 1995.

**FOR FURTHER INFORMATION CONTACT:**

Sandy Bond, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1794.

**SUPPLEMENTARY INFORMATION:** Section 1614(f)(2) of the Social Security Act (the Act), requires that, for purposes of determining eligibility for and the amount of SSI benefits, the income and resources of a child under age 18 be deemed to include the income and resources of a parent (or spouse of a parent) who is living in the same household as the child, except to the extent determined by the Secretary to be inequitable under the circumstances. Regulations at § 416.1160 through § 416.1169 explain how we deem income and when it is inequitable to deem part or all of that income. Regulations at § 416.1202 through § 416.1204a explain how we deem resources.

Section 8010(a) of Pub. L. 101-239 amended section 1614(f)(2) of the Act to provide that parental income and resources shall not be deemed to any child under age 18 who is disabled, received SSI benefits under section 1611(e)(1)(B) while in an institution described in that section, is eligible for medical assistance under a State home care plan approved by the Secretary under the provisions of section 1915(c) of the Act or authorized under section 1902(e)(3), and, except for this waiver of deeming, would not be eligible for a Federal SSI benefit. Section 8010(b) amended section 1611(e)(1)(B) of the Act to include eligible children as described in section 1614(f)(2)(B) of the Act, among those eligible for the SSI personal needs allowance. These provisions became effective June 1, 1990.

The regulation provides that we do not deem parental income and resources to disabled children who:

- Previously received SSI personal needs allowance benefits while residents of a medical facility for which Medicaid paid more than fifty percent of the cost of the individuals' care;
- Are eligible for medical assistance under Medicaid State home care plans approved by the Secretary under the provisions of section 1915(c) of the Act

or authorized under section 1902(e)(3); and

- Would otherwise be ineligible for a Federal SSI benefit because of the deeming of their parents' income and/or resources.

The regulation also provides that children for whom the deeming rules are waived may be eligible to receive an SSI benefit up to the personal needs allowance (currently \$30 monthly), plus an optional State supplement in certain States. The optional State supplement payable to a child for whom the deeming rules are waived will be determined by the State and, if the supplement is administered by the Federal government, set out in Federal/State agreements.

Further, the regulation states that in-kind support and maintenance provided by a child's parent(s), which we do not count when deeming of parental income applies, also will not count when deeming of parental income is waived under section 1614(f)(2) of the Act. Otherwise, the counting of such in-kind support and maintenance could negate the beneficial effect of section 8010 of Pub. L. 101-239.

Finally, the regulation addresses the situation of children who do not meet the criteria for waiver of deeming only because parental income is not high enough to make them ineligible for SSI benefits but is high enough to result in an SSI payment that is less than the amount that would be payable under section 8010 of Pub. L. 101-239. Under the regulation, such children would receive an SSI benefit up to the personal needs allowance plus any optional State supplement. Any of the child's own countable income would then be deducted from that amount. This change is being made under the Secretary's discretionary deeming authority in section 1614(f)(2)(A) of the Act which allows the Secretary to determine the extent to which deeming of parental income and resources is inequitable under the circumstances. This change is necessary to prevent anomalies from being introduced into parent-to-child deeming.

We published this regulation as a notice of proposed rulemaking (NPRM) on September 22, 1993, (58 FR 49249). The 60-day comment period ended on November 22, 1993. We received no comments and are adopting the regulation as proposed.

#### **Regulatory Procedures**

*Executive Order No. 12866*

We have consulted with the Office of Management and Budget (OMB) and determined that this rule does not meet

the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review.

#### *Regulatory Flexibility Act*

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

#### *Paperwork Reduction Act of 1980*

This regulation imposes no additional 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)

#### **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: November 10, 1994.

**Shirley Chater,**

*Commissioner of Social Security.*

Approved: December 27, 1994.

**Donna E. Shalala,**

*Secretary of Health and Human Services.*

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

#### **PART 416—[AMENDED]**

1. The authority citation for Subpart D of Part 416 continues to read as follows.

**Authority:** Secs. 1102, 1611 (a), (b), (c), and (e), 1612, 1617, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382 (a), (b), (c), and (e), 1382a, 1382f, and 1383.

2. New § 416.415 is added to read as follows:

#### **§ 416.415 Amount of benefits; eligible individual is disabled child under age 18.**

(a) If you are a disabled child under age 18 and meet the conditions in § 416.1165(i) for waiver of deeming, your parents' income will not be deemed to you and your benefit rate will be \$30 a month.

(b) If you are a disabled child under age 18 and do not meet the conditions in § 416.1165(i) only because your parents' income is not high enough to make you ineligible for SSI but deeming of your parents' income would result in an SSI benefit less than the amount payable if you received benefits as a

child under § 416.1165(i), your benefit will be the amount payable if you received benefits as a child under § 416.1165(i).

3. The authority citation for Subpart K of Part 416 continues 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. Section 416.1148 is revised to read as follows:

#### **§ 416.1148 If you have both in-kind support and maintenance and income that is deemed to you.**

(a) *The one-third reduction and deeming of income.* If you live in the household of your spouse, parent, essential person, or sponsor whose income can be deemed to you, or the household of a parent whose income is not deemed to you because of the provisions of § 416.1165(i), the one-third reduction does not apply to you. The rules on deeming income are in §§ 416.1160 through 416.1169. However, if you live in another person's household as described in § 416.1131, and someone whose income can be deemed to you lives in the same household, we must apply both the one-third reduction and the deeming rules to you.

(b) *The presumed value rule and deeming of income.* (1) If you live in the same household with someone whose income can be deemed to you (§§ 416.1160 through 416.1169), or with a parent whose income is not deemed to you because of the provisions of § 416.1165(i), any food, clothing, or shelter that person provides is not income to you. However, if you receive any food, clothing, or shelter from another source, it is income and we value it under the presumed value rule (§ 416.1140). We also apply the deeming rules.

(2) If you are a child under age 18 who lives in the same household with an ineligible parent whose income may be deemed to you, and you are temporarily absent from the household to attend school (§ 416.1167(b)), any food, clothing, or shelter you receive at school is income to you unless your parent purchases it. Unless otherwise excluded, we value this income under the presumed value rule (§ 416.1140). We also apply the deeming rules to you (§ 416.1165).

5. In § 416.1165, the introductory text is revised and a new paragraph (i) is added to read as follows:

#### **§ 416.1165 How we deem income to you from your ineligible parents.**

If you are a child living with your parents, we apply the deeming rules to you through the month in which you reach age 18. We follow the rules in paragraphs (a) through (e) of this section to determine your eligibility. To determine your benefit amount, we follow the rules in paragraph (f) of this section. The rules in paragraph (g) of this section apply to changes in your family situation. Paragraph (i) of this section discusses the conditions under which we will not deem your ineligible parents' income to you if you are a disabled child living with your parents.

\* \* \* \* \*

#### *(i) Disabled child under age 18.*

If you are a disabled child under the age of 18 living with your parents, we will not deem your parents' income to you if—

(1) You previously received a reduced SSI benefit while a resident of a medical facility for which Medicaid paid more than 50 percent of the cost of your care;

(2) You are eligible for medical assistance under a Medicaid State home care plan approved by the Secretary under the provisions of section 1915(c) or authorized under section 1902(e)(3) of the Act; and

(3) You would otherwise be ineligible for a Federal SSI benefit because of the deeming of your parents' income or resources.

6. The authority citation of Subpart L of Part 416 continues 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.

7. In § 416.1202, paragraph (b) is revised to read as follows:

#### **§ 416.1202 Deeming of resources.**

\* \* \* \* \*

(b) *Child*—(1) *General.* In the case of a child (as defined in § 416.1856) who is under age 18, such child's resources shall be deemed to include any resources, not otherwise excluded under this subpart, of an ineligible parent of such child (or the ineligible spouse of a parent) who is living in the same household (as defined in § 416.1851) as such child, whether or not available to such child, to the extent that the resources of such parent (or such spouse of a parent) exceed the resource limits described in § 416.1205 except as provided in paragraph (b)(2) of this section. (If the child is living with only one parent, the resource limit for an individual applies. If the child is living with both parents (or one parent and his

or her spouse), the resource limit for an individual and spouse applies.) In addition to the exclusions listed in § 416.1210, pension funds which the ineligible parent or spouse of a parent may have are also excluded. "Pension funds" are defined in paragraph (a) of this section. As used in this section, the term "parent" means the natural or adoptive parent of a child and "spouse of a parent" means the spouse (as defined in § 416.1806) of such natural or adoptive parent.

(2) *Disabled child under age 18.* In the case of a disabled child under age 18 who is living in the same household with his or her parents, the deeming provisions of paragraph (b)(1) of this section shall not apply if such child—

(i) Previously received a reduced SSI benefit while a resident of a medical facility for which Medicaid paid more than 50 percent of the cost of the individual's care;

(ii) Is eligible for medical assistance under a Medicaid State home care plan approved by the Secretary under the provisions of section 1915(c) or authorized under section 1902(e)(3) of the Act; and

(iii) Would otherwise be ineligible because of the deeming of his or her parents' resources or income.

\* \* \* \* \*

[FR Doc. 95-115 Filed 1-3-95; 8:45 am]

BILLING CODE 4190-29-P

**Food and Drug Administration**

**21 CFR Part 520**

**Oral Dosage Form New Animal Drugs; Lufenuron Tablets**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Ciba Animal Health, Ciba-Geigy Corp. The NADA provides for oral administration of lufenuron tablets to dogs for the prevention and control of flea populations.

**EFFECTIVE DATE:** January 4, 1995.

**FOR FURTHER INFORMATION CONTACT:** Marcia K. Larkins, Center for Veterinary Medicine (HFV-112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-0614.

**SUPPLEMENTARY INFORMATION:** Ciba Animal Health, Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419-8300, filed NADA 141-035, which

provides for oral administration of Program® tablets containing 45, 90, 204.9, or 409.8 milligrams (mg) of lufenuron per ( / ) tablet. Once a month, Program® tablets are administered to dogs, 6 weeks of age and older, at a minimum dosage of 10 mg of lufenuron/kilogram (4.5 mg/pound) of body weight for the prevention and control of flea populations. The drug has no deleterious effect on adult fleas, but it prevents most flea eggs from maturing into adults. The NADA is approved as of November 23, 1994, and the regulations are amended in part 520 (21 CFR part 520) by adding new § 520.1288 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act provides a 5-year period of exclusivity to this original NADA beginning November 23, 1994, because no active ingredient (including any ester or salt of the active ingredient) has been approved in any other application under section 512(b)(1) of the act.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

**List of Subjects in 21 CFR Part 520**

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

**PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS**

1. The authority citation for 21 CFR part 520 continues to read as follows:

**Authority:** Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. New § 520.1288 is added to read as follows:

**§ 520.1288 Lufenuron tablets.**

(a) *Specifications.* Each tablet contains either 45, 90, 204.9, or 409.8 milligrams of lufenuron.

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

(c) *Conditions of use—(1) Amount.* 10 milligrams of lufenuron per kilogram (4.5 milligrams per pound) of body weight.

(2) *Indications for use.* For use in dogs, 6 weeks of age and older, for the prevention and control of flea populations.

(3) *Limitations.* Administer tablet(s) after or in conjunction with a full meal to ensure adequate absorption. Administer tablet(s) once a month, preferably on same date each time. All dogs in a household should be treated to achieve maximum efficacy. Because the drug has no effect on adult fleas, the concurrent use of insecticides that kill adults may be required depending on the severity of the infestation. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: December 23, 1994.

**Stephen F. Sundlof,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 95-164 Filed 1-3-95; 8:45 am]

BILLING CODE 4160-01-F

**21 CFR Part 522**

**Implantation or Injectable Dosage Form New Animal Drugs; Oxytetracycline Injection**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Boehringer Ingelheim Animal Health, Inc. The ANADA provides for the use of oxytetracycline injection in cattle and swine for the treatment of diseases caused by oxytetracycline susceptible organisms.

**EFFECTIVE DATE:** January 4, 1995.

**FOR FURTHER INFORMATION CONTACT:** Melanie R. Berson, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1643.

**SUPPLEMENTARY INFORMATION:** Boehringer Ingelheim Animal Health,