

enters into a binding contract with a holder of the issuer's debt obligation to exchange that security at a future date for specified amount may be subject to conflicting literature. The staff intends to request that the Emerging Issues Task Force address that issue.

[FR Doc. 95-9981 Filed 4-21-95; 8:45 am]

BILLING CODE 8010-01-M

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

RIN 0960-AD63

Testing Modifications to the Disability Determination Procedures

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: We are adding new rules which provide authority to test procedures that modify the disability determination process we currently follow under titles II and XVI of the Social Security Act (the Act). We intend to test up to four model procedures either singly or in combination. These tests will provide us with information so we can determine the effectiveness of the models in improving the disability process. The intended result is to enable us to make recommendations for national implementation of improvements identified by the tests. These final rules only refer to the changes to the disability procedures we may test. Unless specified, all other regulations related to the disability determination process remain unchanged. Videoconferencing may be used with any of the models.

EFFECTIVE DATE: These rules are effective April 24, 1995.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 965-1762.

SUPPLEMENTARY INFORMATION:

Background

We published a notice of proposed rulemaking (NPRM) in the **Federal Register** on October 22, 1993, (58 FR 54532) proposing to establish the authority to test model projects designed to improve the disability determination process. The initial public comment period was 30 days. A 30-day extension of the public comment period was published in the **Federal Register** on December 6, 1993, (58 FR 64207) and the comment period ended

on January 5, 1994. The comments we received on the NPRM and the changes we have made in the final rules are discussed below.

On April 15, 1994, the Social Security Administration (SSA) published a notice in the **Federal Register** (59 FR 18188) setting out a proposal to redesign the initial and administrative appeals system for determining an individual's entitlement to Social Security and Supplementary Security Income (SSI) disability payments. Comments on this comprehensive and far reaching proposal developed by SSA's Disability Process Reengineering Team (the Team) were requested, and during the comment period that began on April 1, 1994, and ended on June 14, 1994, SSA received over 6,000 written responses. They came from a broad spectrum of respondents including: Professional associations, claimant representatives, claimant advocacy groups, Federal and State agencies, State governments, employee unions, Federal and State employees, and other members of the public. Comments also were received by members of the Team who conducted briefings and spoke with more than 3,000 individuals about their reaction to the proposal. The commenters expressed their belief that improvements were needed to provide better service and to manage the claims process more effectively. While some concerns were expressed, the commenters praised SSA and the Team for taking on the task of redesigning the disability claim process.

The Team made revisions to the redesign proposal and submitted them to the Commissioner of Social Security on June 30, 1994. The Commissioner accepted the recommendations of the Team on September 7, 1994, with the full understanding that certain aspects of the redesign proposal recommended by the Team would require extensive research and testing to determine whether they can be implemented. The plan approved by the Commissioner was published in the **Federal Register** on September 19, 1994 (59 FR 47887). The proposed changes to the disability determination process contained in the plan approved by the Commissioner that are the same as or similar to changes we proposed to test in the NPRM include:

- Making the process more personalized by assigning a disability claim manager who is knowledgeable about the case to be the claimant's principal contact with SSA;
- Providing the claimant with an opportunity for a predecision interview with the decisionmaker(s) when the decisionmaker finds that the evidence

in the claim file is insufficient to make a fully favorable determination or requires an initial determination denying the claim;

- Eliminating the reconsideration step of the administrative review process and providing a claimant who is dissatisfied with his or her initial determination with the opportunity to request a hearing before an administrative law judge (ALJ).

These final rules were developed based on the NPRM, the comments we received on it which are discussed below, and the Commissioner's acceptance on September 7, 1994, of the Team's recommendations to redesign the disability process. Under the final rules we plan to test one or more modifications to the current disability determination process to determine whether the modifications should become permanent. The modifications we plan to test pursuant to these final rules that were not contained in the NPRM, are based on, and are an outgrowth of, the NPRM.

Some modifications of procedures that were in the NPRM, such as having a single decisionmaker in the proposed claims intake and determination model, the face-to-face predecision interview model and the face-to-face Federal reconsideration models, are now found in these final rules in the single decisionmaker model. Also, a modification similar to, though less formal than, the predecision interview concept that was part of the face-to-face predecision interview model is now found in the predecision interview model.

Other modifications contained within the models described in the NPRM and the redesign proposal are now combined in models in these final rules. For example, the NPRM described a disability specialist as a claims representative who would be given special disability program training similar to the training that State agency disability examiners receive. The disability specialist would be able to review the claim before forwarding it to the State agency, request and evaluate existing medical evidence and, if appropriate, arrange for a consultative examination. With respect to applications for SSI payments based on disability, the disability specialist would, where appropriate, make presumptive disability findings. The second model in the NPRM, the claims intake and determination model, described a process whereby the applicant would be interviewed by a decisionmaker when a claim for disability benefits or SSI payments based on disability was filed.

Whereas the NPRM described a disability specialist and a decisionmaker at claims intake who could perform these functions, the final rules now have a disability claim manager model and a single decisionmaker model. The disability claim manager will assume primary responsibility for the processing of any initial disability claim, and he or she will act as the focal point for the claimant's contacts with us throughout the claims intake process and until an initial determination is issued. The disability claim manager will perform many of the functions associated with a disability specialist, but will also perform other functions. A disability claim manager will provide the claimant with an explanation of the disability programs, including the definition of disability and how we determine whether or not the claimant meets the other requirements for entitlement to disability benefits. The disability claim manager will also explain what the claimant will be asked to do throughout the initial claims process and provide information that will assist the claimant in pursuing his or her claim. When tested in combination with the single decisionmaker model, the disability claim manager will also be the decisionmaker, similar to the decisionmaker in the claims intake and determination model described in the NPRM.

The disability claim manager may work in a team environment with medical consultants who provide assistance for case adjudication, as well as with technical and other clerical personnel who may handle other aspects of case development and payment effectuation. Each team member will have a familiarity with all the steps in the process and an understanding of how he or she assists another's efforts. Team members will be able to draw upon each other's expertise on complex issues. We expect that this team environment, combined with the proper training, program tools and technological support, will eventually enable one individual to handle the responsibilities of the disability claim manager. This individual may be either a Federal employee or a State agency employee. An individual employee serving as the disability claim manager is basic to our objective of providing a single point of contact for the claimant during the initial disability process.

In the near term, it may be necessary to have the duties of a disability claim manager carried out by more than one individual and, therefore, to expand the "disability team" described above to include additional employees. The final

rules will allow us to test the disability claim manager function performed by one individual or a team of individuals. If the disability claim manager model is being tested in combination with the single decisionmaker model (i.e., the disability claim manager would be the single decisionmaker for both the medical and nonmedical aspects of the claim), and a State agency employee is performing the duties of the disability claim manager, the ultimate determination of whether or not the claimant is entitled to benefits will be made by a team that includes a Federal employee. This procedure is in accordance with current provisions of the Act which authorize State agency employees only to make determinations of disability and not determinations of entitlement to benefits based on disability.

The disability models proposed in the NPRM were designed only to modify those aspects of the disability determination process based upon the medical factors of entitlement. That is why, for example, the face-to-face predecisional interview model proposed in the NPRM only provided for direct appeal of disability issues to the ALJ. Since then, we have decided to test ways to improve both the disability and nondisability aspects of the disability determination process. The face-to-face predecisional interview model with limited direct appeal rights to the ALJ has been changed in the final rules to a less formal predecision interview model. As some commenters suggested, the predecision interview model does not place conditions on a claimant's appeal rights. It still provides, however, the claimant with the opportunity for an interview with the decisionmaker(s) before an initial determination denying the claim is made or when the evidence is insufficient to make a fully favorable determination. The decisionmaker(s) who will conduct the interview has the discretion to determine which method of interview (face-to-face, videoconferencing, or telephone) is most appropriate for each claimant's special needs. The reconsideration elimination model has also been modified to allow appeal to an administrative law judge if the claimant is dissatisfied with the initial determination made in his or her claim, based upon either disability or nondisability factors.

Finally, we decided not to test the face-to-face Federal reconsideration model described in the NPRM because its primary benefit, namely, an earlier opportunity to appear before a Federal decisionmaker is now contained within the single decisionmaker model.

These regulations provide the authority to test major elements of our Disability Redesign Plan. However, there are elements of the Redesign not referenced in these final regulations. There are two principal reasons why elements are omitted. First, we do not need regulatory authority to test or implement many aspects of the Redesign (e.g., improved public information materials or more efficient ways of working with applicants to obtain medical evidence). Second, some elements of the Redesign were not referenced in the NPRM, since the Redesign was developed subsequent to issuance of the NPRM. Therefore, separate regulations will be needed for those elements which are beyond the scope of the original rulemaking.

For example, separate regulations are required to establish the position of an adjudication officer who is authorized to issue some disability decisions. Current implementation planning for the Disability Redesign includes the development of regulations to test the adjudication officer element in the Redesign. We plan to test the adjudication officer in combination with one or more of the models included in these regulations as well as other aspects of the Redesign in some test sites. This will provide us with a body of information about each individual part of the Redesign as well as the combined effect on individuals and on program expenditures of the overall Redesign.

Public Comments

We received comments on the NPRM from twenty-one commenters. The commenters included attorneys, medical professionals, advocates, State agency employees and Federal employees, and representatives of numerous organizations that represent the disabled. We received no comments from persons receiving benefits based on disability. Many commenters supported and applauded us for undertaking tests of models that modify the disability determination process. These commenters included the ARC (formerly known as the Association for Retarded Citizens of the United States); the American Academy of Pediatrics; the American Foundation for the Blind; the United Cerebral Palsy Associations; the Administrative Conference of the United States; the Council for Exceptional Children; and the National Council on Disability. Some of the comments we received were outside the scope of the proposed rules, and therefore, have not been addressed. The substantive comments made by the

commenters and our responses are summarized below.

Comment: Many commenters raised concerns regarding the adequacy of the training that would be provided to interviewers and decisionmakers (particularly single decisionmakers).

Response: We will ensure that the interviewers and decisionmakers who participate in our tests will be highly trained individuals who are well versed in both the disability and nondisability aspects of the disability programs and are individuals who have the necessary knowledge, skills, and abilities to conduct personal interviews, develop evidentiary records, and fully adjudicate disability claims, as appropriate. These individuals will also be able to call on other SSA resources, including medical and technical support personnel, to provide advice and assistance in the claims process.

Comment: Several commenters raised concerns regarding the apparent lack of involvement of the medical consultant in making disability determinations because the medical consultant would not be required to sign the disability determination forms used to certify the determination of disability to us.

Response: The fact that we intend to test a model or combinations of models where the determination of disability is made by a single decisionmaker does not mean that the medical consultant is being removed from the decisionmaking process. The decisionmaker will consult with the medical consultant whenever appropriate. This means that the decisionmaker will make reasonable efforts to ensure that a qualified pediatrician or other appropriate specialist evaluates the claim whenever a determination of disability is required in claims filed on behalf of children under age 18 claiming SSI payments based on disability. Similarly, before making a determination that an individual is not under a disability in any case which indicates the existence of a mental impairment, the decisionmaker will make every reasonable effort to ensure that a qualified psychiatrist or psychologist completes the medical portion of the case review and any applicable residual functional assessment. In addition, the decisionmaker will consult with the medical consultant in all other situations where the decisionmaker finds that a consultation is appropriate. However, the single decisionmaker concept is based on the premise that the decisionmaker is fully competent to make an initial determination when an individual files an application for benefits based on disability. It also gives the decisionmaker flexibility to make

such determinations without having to wait for the medical consultant to take part formally in the determination.

Comment: Several commenters wanted us to include quality assessments of accuracy in our evaluation of all possible approaches to improved disability determinations. The commenters' concerns stem partially from the use of a single decisionmaker in some of the proposed models and from the fact that medical consultants will not be required to sign the disability determination forms used to certify the determination of disability to us.

Response: Our evaluation of the models we test will include quality assurance procedures to ensure a thorough assessment of the accuracy of the disability determinations made under the test procedures. As previously noted, decisionmakers will comply with the statutory requirements regarding the use of medical consultants in SSI childhood disability claims, and in all denials of claims based upon mental impairments. In addition, such consultation will take place with respect to any other claim in which the decisionmaker finds it is appropriate to consult with the medical consultant.

Comment: One commenter was concerned with how we would evaluate the success and impact of the model procedures.

Response: We will have a study design and evaluation plan in place to assure a valid and accurate assessment of the degree to which the modifications to the disability determination process we test attain the goals we wish to achieve before any national implementation of the modifications begins.

Comment: Several commenters expressed concerns that the proposed models did not appear to make any provisions for applicants requiring special assistance—e.g., individuals with mental impairments, older persons, the homeless, etc.

Response: The modifications to the disability determination process we test will not compromise any provisions that we currently have to provide accommodations for those individuals who require special assistance. As we stated in the summary sections of the NPRM and final rules, all other regulations related to the disability determination procedures remain unchanged unless specified. This would include provisions for claimants who may require special assistance. In fact, the disability claim manager model we now intend to test provides even more flexibility and opportunity to assist claimants who may require special

assistance. The disability claim manager, acting as the focal point for the claimant's contacts with us throughout the initial disability process, will explain the disability programs to the claimant, including the definition of disability and how SSA determines if a claimant meets the disability requirements of the Act. The disability claim manager will also tell the claimant what he or she will be asked to do throughout the process, what the claimant may expect from SSA during the process, and how the claimant can interact with the disability claim manager to obtain more information or assistance. The disability claim manager will also advise the claimant regarding the right to representation and provide the appropriate referral sources for representation.

Comment: Several commenters were concerned regarding the use of videoconferencing as a substitute for personal face-to-face interviews, because videoconferencing may not carry the same weight as a face-to-face interview and the lack of personal contact could make the applicant feel depersonalized. In addition, some commenters expressed concerns that videoconferencing may not be an option for those claimants with special needs such as those with visual or hearing-related disabilities, or for those individuals who could not provide their own videoconferencing equipment.

Response: The testing of videoconferencing as an alternative to a personal face-to-face interview was proposed and is included in these final rules because it has the potential of becoming a viable and more convenient alternative for many claimants who would find it a hardship or impossibility to travel for an interview, but who still wanted to take advantage of the opportunity of an interview with the decisionmaker prior to the determination of disability. An interview conducted via video or via the telephone will carry the same weight as an interview conducted face-to-face. In these final rules the decisionmaker(s) who will conduct the interview has the discretion to determine which method of interview (face-to-face, videoconferencing, or telephone) is most appropriate for each claimant's special needs. If we decide to conduct a claimant's interview via videoconferencing, we will provide the necessary videoconferencing services for the claimant. We are exploring and testing the option of videoconferencing at all levels of the claims process, both within and outside the projects to be done under these regulations.

Regulatory authority to offer it as a service option is not needed.

Comment: We received several comments regarding claimant due process rights and the possibility that they could be compromised by some of the models.

Response: None of the models we intend to test will compromise or diminish the claimant's due process rights. In fact, the disability claim manager model we now intend to test provides a process that is committed to keeping the claimant more informed regarding his or her rights and allows the claimant to obtain information and assistance more easily. Also, in the context of ensuring a fair and correct initial determination of disability, the predecision interview model provides the claimant an opportunity to have an interview with the decisionmaker(s) and to submit additional evidence before an initial determination denying the claim is made or when the evidence in file is insufficient to make a fully favorable determination.

Comment: Several commenters were interested in having us test the models that involved face-to-face contact with the decisionmaker(s) prior to the initial disability determination in combination with the reconsideration elimination model.

Response: These final rules provide us with the flexibility to test models individually or in combination with other models. Therefore, we may test model(s) involving the opportunity for face-to-face contact between the claimant and the decisionmaker(s) with the reconsideration elimination model.

Comment: Several commenters were concerned with the fact that the face-to-face predecision interview model only provided direct appeal of disability issues involved in the initial determination to the ALJ.

Response: These final rules have been revised to allow appeal of both disability and nondisability factors to the ALJ whenever any of the first three models are tested in combination with the reconsideration elimination model. As stated earlier, the face-to-face predecision interview model with limited direct appeal rights to the administrative law judge has been changed in the final rule to a less formal predecision interview model. The predecision interview model does not place conditions on a claimant's appeal rights, but still provides the claimant with the opportunity for a face-to-face interview with the decisionmaker(s) when the decisionmaker finds that the evidence in the file is insufficient to make a fully favorable determination or requires an initial determination

denying the claim. The reconsideration elimination model has also been modified to allow appeal to the ALJ if the claimant is dissatisfied with the initial determination made on his or her claim, based upon either medical or nonmedical factors.

Comment: Several commenters were concerned that there was no specific indication as to whether children's claims would be included in the tests.

Response: As stated previously, the summary section of the NPRM and these final rules state that all other regulations related to the disability determination procedures remain unchanged unless specified. That includes the rules for determinations of disability in children. We have no plans to exclude claims filed by or behalf of children from the tests. As stated previously, the decisionmaker will make reasonable efforts to ensure that a qualified pediatrician or other appropriate specialist evaluates the claim whenever a determination of disability is required in claims filed by or on behalf of children under age 18 claiming SSI benefits based on disability. We have no intention of compromising any of the safeguards currently in place to protect the rights of children in the disability determination process.

Comment: Several commenters were concerned that the models would generate increased workload demands (particularly the elimination of the reconsideration model and its predicted effect of increasing ALJ workloads) and some felt that some of the models would be too costly.

Response: These types of concerns are one of the reasons why we proposed testing, rather than implementing changes to our current rules. If the model process or combination of processes we test proves to be prohibitively costly or to create unmanageable workloads or both, we will either drop the model from consideration or revise the model process to address the problem.

Regulatory Procedures

Executive Order 12866

The Office of Management and Budget (OMB) has reviewed these final rules and determined they do not meet the criteria for a significant regulatory action under E.O. 12866.

Paperwork Reduction Act

Data collection involved in the evaluation of any of the models may necessitate new reporting or recordkeeping requirements which may need clearance by OMB. These requirements are still being developed.

When specifics have been determined, any necessary request for clearance will be forwarded to OMB as required by the Paperwork Reduction Act.

Regulatory Flexibility Act

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

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security-Disability Insurance; 93.807, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Reporting and recordkeeping requirements, Survivors and Disability insurance.

20 CFR Part 416

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

Dated: February 15, 1995.

Shirley Chater,

Commissioner of Social Security.

Approved: March 30, 1995.

Donna E. Shalala,

Secretary of Health and Human Services.

For the reasons set out in the preamble, parts 404 and 416 of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below.

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

Subpart J is amended as follows:

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

Authority: Secs. 201(j), 205 (a), (b), (d)-(h), and (j), 221(d), and 1102 of the Social Security Act; 31 U.S.C. 3720A; 42 U.S.C. 401(j), 405(a), (b), (d)-(h), and (j), 421(d), and 1302, sec. 5 of Pub. L. 97-455, 96 Stat. 2500; sec. 6 of Pub. L. 98-460, 98 Stat. 1802.

2. Section 404.906 is revised to read as follows:

§ 404.906 Testing modifications to the disability determination procedures.

(a) *Applicability and scope.* Notwithstanding any other provision in this part or part 422 of this chapter, we are establishing the procedures set out

in this section to test modifications to our disability determination process. These modifications will enable us to test, either individually or in one or more combinations, the effect of: having disability claim managers assume primary responsibility for processing an application for disability benefits; providing persons who have applied for benefits based on disability with the opportunity for an interview with a decisionmaker when the decisionmaker finds that the evidence in the file is insufficient to make a fully favorable determination or requires an initial determination denying the claim; having a single decisionmaker make the initial determination with assistance from medical consultants, where appropriate; and eliminating the reconsideration step in the administrative review process and having a claimant who is dissatisfied with the initial determination request a hearing before an administrative law judge. The model procedures we test will be designed to provide us with information regarding the effect of these procedural modifications and enable us to decide whether and to what degree the disability determination process would be improved if they were implemented on a national level.

(b) *Procedures for cases included in the tests.* Prior to commencing each test or group of tests in selected site(s), we will publish a notice in the **Federal Register**. The notice will describe which model or combinations of models we intend to test, where the specific test site(s) will be, and the duration of the test(s). The individuals who participate in the test(s) will be randomly assigned to a test group in each site where the tests are conducted. Paragraphs (b) (1) through (4) of this section lists descriptions of each model.

(1) In the disability claim manager model, when you file an application for benefits based on disability, a disability claim manager will assume primary responsibility for the processing of your claim. The disability claim manager will be the focal point for your contacts with us during the claims intake process and until an initial determination on your claim is made. The disability claim manager will explain the disability programs to you, including the definition of disability and how we determine whether you meet all the requirements for benefits based on disability. The disability claim manager will explain what you will be asked to do throughout the claims process and how you can obtain information or assistance through him or her. The disability claim manager will also provide you with information regarding

your right to representation, and he or she will provide you with appropriate referral sources for representation. The disability claim manager may be either a State agency employee or a Federal employee. In some instances, the disability claim manager may be assisted by other individuals.

(2) In the single decisionmaker model, the decisionmaker will make the disability determination and may also determine whether the other conditions for entitlement to benefits based on disability are met. The decisionmaker will make the disability determination after any appropriate consultation with a medical or psychological consultant. The medical or psychological consultant will not be required to sign the disability determination forms we use to have the State agency certify the determination of disability to us (see § 404.1615). However, before an initial determination is made that a claimant is not disabled in any case where there is evidence which indicates the existence of a mental impairment, the decisionmaker will make every reasonable effort to ensure that a qualified psychiatrist or psychologist has completed the medical portion of the case review and any applicable residual functional capacity assessment pursuant to our existing procedures (see § 404.1617). In some instances the decisionmaker may be the disability claim manager described in paragraph (b)(1) of this section. When the decisionmaker is a State agency employee, a team of individuals that includes a Federal employee will determine whether the other conditions for entitlement to benefits are met.

(3) In the predecision interview model, if the decisionmaker(s) finds that the evidence in your file is insufficient to make a fully favorable determination or requires an initial determination denying your claim, a predecision notice will be mailed to you. The notice will tell you that, before the decisionmaker(s) makes an initial determination about whether you are disabled, you may request a predecision interview with the decisionmaker(s). The notice will also tell you that you may submit additional evidence. You must request a predecision interview within 10 days after the date you receive the predecision notice. You must also submit any additional evidence within 10 days after you receive the predecision notice. If you request a predecision interview, the decisionmaker(s) will conduct the predecision interview in person, by videoconference, or by telephone as the decisionmaker(s) determines is appropriate under the circumstances. If

you make a late request for a predecision interview, or submit additional evidence late, but show in writing that you had good cause under the standards in § 404.911 for missing the deadline, the decisionmaker(s) will extend the deadline. If you do not request the predecision interview, or if you do not appear for a scheduled predecision interview and do not submit additional evidence, or if you do not respond to our attempts to communicate with you, the decisionmaker(s) will make an initial determination based upon the evidence in your file. If you identify additional evidence during the predecision interview, which was previously not available, the decisionmaker(s) will advise you to submit the evidence. If you are unable to do so, the decisionmaker(s) may assist you in obtaining it. The decisionmaker(s) also will advise you of the specific timeframes you have for submitting any additional evidence identified during the predecision interview. If you have no treating source(s) (see § 404.1502), or your treating source(s) is unable or unwilling to provide the necessary evidence, or there is a conflict in the evidence that cannot be resolved through evidence from your treating source(s), the decisionmaker(s) may arrange a consultative examination or resolve conflicts according to existing procedures (see § 404.1519a). If you attend the predecision interview, or do not attend the predecision interview but you submit additional evidence, the decisionmaker(s) will make an initial determination based on the evidence in your file, including the additional evidence you submit or the evidence obtained as a result of the predecision notice or interview, or both.

(4) In the reconsideration elimination model, we will modify the disability determination process by eliminating the reconsideration step of the administrative review process. If you receive an initial determination on your claim for benefits based on disability, and you are dissatisfied with the determination, we will notify you that you may request a hearing before an administrative law judge. If you request a hearing before an administrative law judge, we will apply our usual procedures contained in subpart J of this part.

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

Subpart N is amended as follows:

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

Authority: Secs. 1102, 1631, and 1633 of the Social Security Act; 42 U.S.C. 1302, 1383, and 1383b.

2. Section 416.1406 is revised to read as follows:

§ 416.1406 Testing modifications to the disability determination procedures.

(a) *Applicability and scope.*

Notwithstanding any other provision in this part or part 422 of this chapter, we are establishing the procedures set out in this section to test modifications to our disability determination process. These modifications will enable us to test, either individually or in one or more combinations, the effect of: having disability claim managers assume primary responsibility for processing an application for SSI payments based on disability; providing persons who have applied for benefits based on disability with the opportunity for an interview with a decisionmaker when the decisionmaker finds that the evidence in the file is insufficient to make a fully favorable determination or requires an initial determination denying the claim; having a single decisionmaker make the initial determination with assistance from medical consultants, where appropriate; and eliminating the reconsideration step in the administrative review process and having a claimant who is dissatisfied with the initial determination request a hearing before an administrative law judge. The model procedures we test will be designed to provide us with information regarding the effect of these procedural modifications and enable us to decide whether and to what degree the disability determination process would be improved if they were implemented on a national level.

(b) *Procedures for cases included in the tests.* Prior to commencing each test or group of tests in selected site(s), we will publish a notice in the **Federal Register**. The notice will describe which model or combinations of models we intend to test, where the specific test site(s) will be, and the duration of the test(s). The individuals who participate in the test(s) will be randomly assigned to a test group in each site where the tests are conducted. Paragraph (b) (1) through (4) of this section lists descriptions of each model.

(1) In the disability claim manager model, when you file an application for SSI payments based on disability, a disability claim manager will assume primary responsibility for the processing of your claim. The disability claim manager will be the focal point for your contacts with us during the claims intake process and until an initial determination on your claim is made.

The disability claim manager will explain the SSI disability program to you, including the definition of disability and how we determine whether you meet all the requirements for SSI payments based on disability. The disability claim manager will explain what you will be asked to do throughout the claims process and how you can obtain information or assistance through him or her. The disability claim manager will also provide you with information regarding your right to representation, and he or she will provide you with appropriate referral sources for representation. The disability claim manager may be either a State agency employee or a Federal employee. In some instances, the disability claim manager may be assisted by other individuals.

(2) In the single decisionmaker model, the decisionmaker will make the disability determination and may also determine whether the other conditions of eligibility for SSI payments based on disability are met. The decisionmaker will make the disability determination after any appropriate consultation with a medical or psychological consultant. The medical or psychological consultant will not be required to sign the disability determination forms we use to have the State agency certify the determination of disability to us (see § 416.1015). However, before an initial determination is made that a claimant is not disabled in any case where there is evidence which indicates the existence of a mental impairment, the decisionmaker will make every reasonable effort to ensure that a qualified psychiatrist or psychologist has completed the medical portion of the case review and any applicable residual functional capacity assessment pursuant to our existing procedures (see § 416.1017). Similarly, in making an initial determination with respect to the disability of a child under age 18 claiming SSI payments based on disability, the decisionmaker will make reasonable efforts to ensure that a qualified pediatrician, or other individual who specializes in a field of medicine appropriate to the child's impairment(s), evaluates the claim of such child (see § 416.903(f)). In some instances the decisionmaker may be the disability claim manager described in paragraph (b)(1) of this section. When the decisionmaker is a State agency employee, a team of individuals that includes a Federal employee will determine whether the other conditions of eligibility for SSI payments are met.

(3) In the predecision interview model, if the decisionmaker(s) finds that the evidence in your file is insufficient

to make a fully favorable determination or requires an initial determination denying your claim, a predecision notice will be mailed to you. The notice will tell you that, before the decisionmaker(s) makes an initial determination about whether you are disabled, you may request a predecision interview with the decisionmaker(s). The notice will also tell you that you may also submit additional evidence. You must request a predecision interview within 10 days after the date you receive the predecision notice. You must also submit any additional evidence within 10 days after the date you receive the predecision notice. If you request a predecision interview, the decisionmaker(s) will conduct the predecision interview in person, by videoconference, or by telephone as the decisionmaker(s) determines is appropriate under the circumstances. If you make a late request for a predecision interview, or submit additional evidence late, but show in writing that you had good cause under the standards in § 416.1411 for missing the deadline, the decisionmaker(s) will extend the deadline. If you do not request the predecision interview or if you do not appear for a scheduled predecision interview and do not submit additional evidence, or if you do not respond to our attempts to communicate with you, the decisionmaker(s) will make an initial determination based upon the evidence in your file. If you identify additional evidence during the predecision interview, which was previously not available, the decisionmaker(s) will advise you to submit the evidence. If you are unable to do so, the decisionmaker(s) may assist you in obtaining it. The decisionmaker(s) also will advise you of the specific timeframes you have for submitting any additional evidence identified during the predecision interview. If you have no treating source(s) (see § 416.902), or your treating source(s) is unable or unwilling to provide the necessary evidence, or there is a conflict in the evidence that cannot be resolved through evidence from your treating source(s), the decisionmaker(s) may arrange a consultative examination or resolve conflicts according to existing procedures (see § 416.919a). If you attend the predecision interview, or do not attend the predecision interview but you submit additional evidence, the decisionmaker(s) will make an initial determination based on the evidence in your file, including the additional evidence you submit or the evidence

obtained as a result of the predecision notice or interview, or both.

(4) In the reconsideration elimination model, we will modify the disability determination process by eliminating the reconsideration step of the administrative review process. If you receive an initial determination on your claim for SSI payments based on disability, and you are dissatisfied with the determination, we will notify you that you may request a hearing before an administrative law judge. If you request a hearing before an administrative law judge, we will apply our usual procedures contained in subpart N of this part.

[FR Doc. 95-9897 Filed 4-21-95; 8:45 am]
BILLING CODE 4190-29-P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 83 and 84

[DoD Directive 5500.7 and DoD 5500.7-R; 0790-AG12, and 0790-AF83]

Standards of Conduct and Joint Ethics Regulation

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule and request for comments.

SUMMARY: The changes to these parts, concerning standards of conduct and joint ethics, correct typographical errors and update the regulations in accordance with changes to related statutes. The changes are intended to keep these parts current.

DATES: These changes are effective November 2, 1994. Comments must be received no later than June 23, 1995.

ADDRESSES: Forward comments to DoD Standards of Conduct Office, Office of General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600.

FOR FURTHER INFORMATION CONTACT: Randi Elizabeth DuFresne, DoD Standards of Conduct Office, (703) 697-5305, FAX (703) 697-1640.

SUPPLEMENTARY INFORMATION: On March 21, 1994, the Department of Defense published a final rule and request for comments on Standards of Conduct and Joint Ethics Regulation. See 59 FR 13212 and 13213. Two public comments were received. Both expressed appreciation of the regulation and required no further action.

Executive Order 12866

It has been determined that these are not significant changes as defined under

section 3(f)(1) through 3(f)(4) of Executive Order 12866.

Regulatory Flexibility Act

It has been certified that these changes are not subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6) because they do not have a significant economic impact on a substantial number of small entities. The changes affects only DoD employees and are to update existing regulations in keeping with changes to related statutes.

Paperwork Reduction Act

It has been certified that these changes impose no reporting or record keeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3502).

List of Subjects in 32 CFR Parts 83 and 84

Conflicts of interest, Government procurement.

Accordingly, 32 CFR parts 83 and 84 are amended as follows:

PART 83—[AMENDED]

1. The authority citation for part 83 continues to read as follows:

Authority: 5 U.S.C., 301, 7301, 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215 as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR part 2635.

§ 83.1 [Amended]

2. Section 83.1(c) is amended by removing "August 1989."

PART 84—[AMENDED]

1. The authority citation for part 84 continues to read as follows:

Authority: 5 U.S.C., 301, 7301, 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215 as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR part 2635.

§ 84.4 [Amended]

2. Section 84.4 is amended in paragraphs (a)(1) and (a)(4) after the acronyms "DAEO" by adding "or designee".

3. Section 84.7 is amended in paragraph (c)(1) by removing "735.208" and adding in its place "735.201", in paragraph (c)(3) by removing "406" adding in its place "40b"; and by revising paragraph (c)(1)(ii), by removing the period at the end of paragraph (c)(1)(iii) and adding ";or" and by adding paragraph (c)(1)(iv) to read as follows:

§ 84.7 DoD guidance.

* * * * *

(c) * * *
(1) * * *

(ii) Activities by organizations composed primarily of DoD employees or their dependents for the benefit of welfare funds for their own members or for the benefit of other DoD employees or their dependents, subject to the limitations of local law and of § 84.9(k) and (l), when approved by the Head of the DoD Component or designee;

* * * * *

(iv) Purchases of lottery tickets authorized by any State from blind vendors licensed to operate vending facilities in accordance with 20 U.S.C. 107a(5).

* * * * *

4. Section 84.9 is amended in paragraph (b) after the word "entities" by removing the word "where" and adding in its place "when appointed by the head of the DoD Component command or organization who determines"; in paragraph (k)(1)(vi) after the word "composed" by adding "primarily"; in paragraph (k)(2) by revising "paragraph (d)" to read "paragraph (f)"; in paragraph (l)(1) introductory text by revising "DoD equipment" to read "DoD facilities and equipment"; in paragraph (l)(1)(ii) after the word "event" by adding "(OPM generally has no objection to support of events that do not specifically target Federal employees for fundraising)"; and by revising paragraphs (l)(1)(vi), (l)(1)(vii) and (m) introductory text to read as follows:

§ 84.9 Official participation in non-Federal entities.

* * * * *

(l) * * *
(1) * * *

(vi) The DoD Component command or organization is able and willing to provide the same support to comparable events that meet the criteria of this subsection and are sponsored by other similar non-Federal entities;

* * * * *

(vii) Except for a charitable fundraising event that meets all other criteria for DoD participation, no admission fee (beyond what will cover the reasonable costs of sponsoring the event) is charged for the event, no admission fee (beyond what will cover the reasonable costs of sponsoring the event) is charged for the portion of the event supported by the DoD, or DoD support to the event is incidental to the entire event in accordance with public affairs guidance.

* * * * *