

classification of jobs by various exertional levels (sedentary, light, medium, heavy, and very heavy) in terms of the strength demands for sitting, standing, walking, lifting, carrying, pushing, and pulling. Sections 220.132 and 220.134 of this part explain how the Board uses the classifications of jobs by exertional levels (strength demands) which are contained in the Dictionary of Occupational Titles published by the Department of Labor, to determine the exertional requirements of work which exists in the national economy. Limitations or restrictions which affect the claimant's ability to meet the demands of jobs other than the strength demands, that is, demands other than sitting, standing, walking, lifting, carrying, pushing or pulling, are considered nonexertional. Sections 220.100(b)(5) and 220.180(h) of this part explain that if the claimant can no longer do the claimant's past relevant work because of a severe medically determinable impairment(s), the Board must determine whether the claimant's impairment(s), when considered along with the claimant's age, education, and work experience, prevents the claimant from doing any other work which exists in the national economy in order to decide whether the claimant is disabled or continues to be disabled. Paragraphs (b), (c), and (d) of this section explain how the Board applies the medical-vocational guidelines in Appendix 2 of this part in making this determination, depending on whether the limitations or restrictions imposed by the claimant's impairment(s) and related symptoms, such as pain, are exertional, nonexertional, or a combination of both.

(b) *Exertional limitations.* When the limitations and restrictions imposed by the claimant's impairment(s) and related symptoms, such as pain, affect only the claimant's ability to meet the strength demands of jobs (sitting, standing, walking, lifting, carrying, pushing, and pulling), the Board considers that the claimant has only exertional limitations. When the claimant's impairment(s) and related symptoms only impose exertional limitations and the claimant's specific vocational profile is listed in a rule contained in Appendix 2 of this part, the Board will directly apply that rule to decide whether the claimant is disabled.

(c) *Nonexertional limitations.* (1) When the limitations and restrictions imposed by the claimant's impairment(s) and related symptoms, such as pain, affect only the claimant's ability to meet the demands of jobs other than strength demands, the Board considers that the claimant has only nonexertional limitations or restrictions.

Some examples of nonexertional limitations or restrictions include the following:

- (i) Difficulty functioning because of nervousness, anxiety, or depression;
- (ii) Difficulty maintaining attention or concentrating;
- (iii) Difficulty understanding or remembering detailed instructions;
- (iv) Difficulty in seeing or hearing;
- (v) Difficulty in tolerating some physical feature(s) of certain work settings, e.g., inability to tolerate dust or fumes; or
- (vi) Difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching.

(2) If the claimant's impairment(s) and related symptoms, such as pain, only affect the claimant's ability to perform the nonexertional aspects of work-related activities, the rules in Appendix 2 of this part do not direct factual conclusions of disabled or not disabled. The determination as to whether disability exists will be based on the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2 of this part.

(d) *Combined exertional and nonexertional limitations.* When the limitations and restrictions imposed by the claimant's impairment(s) and related symptoms, such as pain, affect the claimant's ability to meet both the strength demands and demands of jobs other than the strength demands, the Board considers that the claimant has a combination of exertional and nonexertional limitations or restrictions. If the claimant's impairment(s) and related symptoms, such as pain, affect the claimant's ability to meet both the strength demands and demands of jobs other than the strength demands the Board will not directly apply the rules in Appendix 2 of this part unless there is a rule that directs a conclusion that the claimant is disabled based upon the claimant's strength limitations; otherwise the rules provide a framework to guide the Board's decision.

Appendix 2 [Amended]

9. Appendix 2—Medical-Vocational Guidelines of part 220 is amended by revising paragraph (c) of section 200.00 to read as follows:

§ 200.00 Introduction. * * *

* * * * *

(c) In the application of the rules, the individual's residual functional capacity (i.e., the maximum degree to which the individual retains the capacity for sustained performance of the physical-mental requirements of jobs), age, education, and

work experience must first be determined. When assessing the person's residual functional capacity, the Board considers his or her symptoms (such as pain), signs, and laboratory findings together with other evidence the Board obtains.

* * * * *
Dated: August 29, 1995.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 95-22103 Filed 9-8-95; 8:45 am]

BILLING CODE 7905-01-P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

RIN 0960-AD39

Payment for Vocational Rehabilitation Services Furnished Individuals During Certain Months of Nonpayment of Supplemental Security Income Benefits

AGENCY: Social Security Administration (SSA).

ACTION: Proposed rules.

SUMMARY: We are proposing to amend our regulations relating to payment for vocational rehabilitation (VR) services provided to recipients of supplemental security income (SSI) benefit payments based on disability or blindness under title XVI of the Social Security Act (the Act). These regulations reflect section 5037 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990). Section 5037 of OBRA 1990 added section 1615(e) to the Act which authorizes the Commissioner of Social Security (the Commissioner) to pay a State VR agency for costs incurred in furnishing VR services to an individual during certain months for which the individual did not receive SSI payments based on disability or blindness as well as during months for which the individual did receive such payments. We also propose to amend our regulations on VR payments to clarify certain rules and remove some outdated rules.

DATES: Your comments will be considered if we receive them no later than November 13, 1995.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235; sent by telefax to (410) 966-2830; sent by E-mail to "regulations@ssa.gov;" or delivered to the Division of Regulations and Rulings, Social Security Administration, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD

21235 between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Legal Assistant, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235 (410) 965-8471.

SUPPLEMENTARY INFORMATION: We are proposing to amend our regulations on payment for VR services provided to individuals receiving SSI benefits based on disability or blindness. These amended regulations will reflect section 5037 of OBRA 1990, Public Law 101-508, which added paragraph (e) to section 1615 of the Act. Our existing regulations concerning payment for such services carry out the provisions of section 1615(d) of the Act.

In general, section 1615(d) of the Act authorizes the Commissioner to reimburse a State VR agency for the costs incurred in providing VR services to individuals receiving SSI benefits under title XVI of the Act based on disability or blindness in three categories of cases. Specifically, section 1615(d) permits payment for VR services furnished to such individuals only in cases where: (1) The furnishing of such services results in the individual's performance of substantial gainful activity (SGA) for a continuous period of nine months; (2) the individual is continuing to receive benefits, despite his or her medical recovery, under section 1631(a)(6) of the Act because of his or her participation in a VR program; or (3) the individual, without good cause, refuses to continue to accept VR services or fails to cooperate in such a manner as to preclude his or her successful rehabilitation. (In such a case of refusal to continue or cooperate in a VR program, payments are authorized only for the VR services provided prior to the cessation of VR participation. If the individual resumes participation, then payments are authorized for the VR services provided after participation is resumed only if all requirements for payment are met. These cases are described in sections 1615(d)(1), (2) and (3) of the Act, respectively, and in §§ 416.2211-416.2213 of our regulations.)

Under section 1615(d) of the Act, payment may be made for VR services furnished by a State VR agency, i.e., an agency administering a State plan for VR services approved under title I of the Rehabilitation Act of 1973, as amended. However, in the case of a State which is unwilling to participate or does not

have such a plan for VR services, our regulation at 20 CFR 416.2204 provides that we may arrange for VR services for an SSI recipient who is disabled or blind through an alternative VR service provider (alternate participant) and pay such provider for the costs of services under the same terms and conditions that apply to State VR agencies. This regulation is based in part on section 222(d)(2) of the Act, which provides for the use of alternate participants in the VR payment program under title II of the Act (relating to the rehabilitation of social security disability beneficiaries), and on the authority provided to the Commissioner under section 1633(a) of the Act to make such administrative and other arrangements as may be necessary or appropriate to carry out title XVI of the Act, including making arrangements under title XVI in the same manner as they are made under title II.

Prior to the enactment of OBRA 1990, SSA was authorized to pay a State VR agency under section 1615(d) of the Act only for VR services that were provided to an individual during months for which the individual received SSI benefits based on disability or blindness, including benefits payable under section 1611 or 1619(a) of the Act or, for cases under section 1615(d)(2), discussed above, continued payment of such benefits under section 1631(a)(6) of the Act. This is reflected in our existing regulations at §§ 416.2201, 416.2203 and 416.2215(a)(2).

Section 5037 of OBRA 1990 added section 1615(e) to the Act to provide us the authority to pay a State VR agency under section 1615(d) for the costs described in that section that are incurred in providing VR services to an individual during certain months for which the individual was not receiving SSI benefits based on disability or blindness as well as during months for which the individual was receiving such benefits. Under section 1615(e) of the Act, payment may be made for VR services in a case described in section 1615(d)(1), (2) or (3) of the Act which are provided to an individual in a month for which the individual receives, i.e., is eligible for—

- SSI cash benefits under section 1611 or special SSI cash benefits under section 1619(a) of the Act (this is the same as under prior law);
- A special status for medicaid under section 1619(b) of the Act; or
- A federally administered State supplementary payment under section 1616 of the Act or section 212(b) of Public Law 93-66.

In addition, section 1615(e) of the Act permits payment for VR services provided in a month for which an

individual was ineligible for the benefits or special status described above for a reason other than cessation of disability or blindness, if such month occurred prior to the 13th consecutive month of such ineligibility following a month for which the individual was eligible for such benefits or special status. This means that payment may be made for VR services furnished during a month for which an individual's benefit payment or special status for Medicaid under section 1619(b) was suspended.

Section 1615(e) of the Act became effective November 5, 1990, the date of the enactment of OBRA 1990, and applies to claims for reimbursement pending on or after that date. This amendment to the Act, which allows us to reimburse a State VR agency or alternate participant for VR services furnished during certain months for which an individual was not receiving SSI benefits, responds to a recommendation in the March 1988 Report of the Disability Advisory Council that the Congress amend the Act to permit SSA to pay for VR services provided in months when an individual is in suspension status.

Proposed Changes to the VR Payment Regulations

The proposed rules will amend the existing regulations concerning the SSI VR payment program under title XVI of the Act to take account of the provisions of section 1615(e) of the Act which permit payment for VR services furnished during certain months for which a disabled or blind individual does not receive SSI benefits. The proposed rules also will make some other changes in the existing VR payment regulations to clarify certain rules and delete some obsolete rules. These changes affect the regulations governing the social security VR payment program under title II of the Act as well as the regulations concerning the SSI VR payment program under title XVI. The existing social security VR payment regulations carry out section 222(d) of the Act which contains provisions that are similar to the provisions of section 1615(d) of the Act, except that they apply to payment for VR services provided to individuals entitled to social security benefits based on disability under title II.

Changes to the Regulations to Implement Section 1615(e) of the Act

We are proposing to amend § 416.2201 to explain that, in general, sections 1615(d) and (e) of the Act authorize payment for costs of VR services provided to certain disabled or

blind individuals who are eligible for SSI benefits, special SSI eligibility status, or federally administered State supplementary payments. In the proposed amendment to § 416.2201, we also explain that for the purpose of the SSI VR payment regulations, we refer to SSI benefits, special SSI eligibility status, or federally administered State supplementary payments as "disability or blindness benefits." Additionally, we also propose to add a corresponding definition of "disability or blindness benefits" for this purpose in § 416.2203, discussed below.

The proposed amendment to § 416.2201 further explains that, subject to the other requirements and conditions for payment prescribed in the regulations, payment may be made for VR services which are furnished during a month(s) for which an individual is eligible for disability or blindness benefits or continues to receive such benefits under section 1631(a)(6) of the Act, or which are furnished during a month(s) for which the individual's disability or blindness benefits are suspended. This rule also is reflected in proposed § 416.2215, discussed below.

In § 416.2203, "*Definitions*," we propose to delete the paragraph defining "eligible," which discusses eligibility for SSI benefits only, and add a new paragraph to explain the meaning of "disability or blindness benefits" when used in the SSI VR payment regulations. The proposed rules provide that "disability or blindness benefits," as defined for the SSI VR payment regulations only, refer to regular SSI benefits under section 1611 of the Act, special SSI cash benefits under section 1619(a) of the Act, special SSI eligibility status under section 1619(b) of the Act, and/or a federally administered State supplementary payment under section 1616 of the Act or section 212(b) of Public Law 93-66, for which an individual is eligible based on disability or blindness, as appropriate. Thus, in the proposed VR payment regulations, when we use the terms "disability or blindness benefits" with reference to the SSI program, we mean the benefits, status, or payments referred to in section 1615(e) of the Act. As used in this preamble, "disability or blindness benefits" has the same meaning as in the proposed rules. Further, in § 416.2203, we propose to define the phrase "special SSI eligibility status" to refer to the special status for Medicaid under section 1619(b) of the Act since this is the phrase we use to describe the special status in our other SSI regulations, e.g., §§ 416.260 and 416.264.

We also propose to amend several sections of the SSI VR payment regulations to replace phrases such as "disability or blindness payment" with the phrase "disability or blindness benefits," and to substitute the term "benefits" for "payment" or "payments," as the context requires. We are making these changes to §§ 416.2201(b), 416.2209(b) and (c), 416.2212, 416.2213(c), 416.2215(a) and (b), and 416.2216(c)(2).

Section 416.2215(a) of our existing regulations provides that in order for the State VR agency or alternate participant to be paid, the VR services must have been provided—(1) after September 30, 1981; (2) during months the individual is eligible for SSI disability or blindness payments; and (3) before completion of a continuous 9-month period of SGA. We propose to revise paragraph (a)(2) of § 416.2215 to provide that to be payable, the VR services must have been provided during a month or months for which—(i) the individual is eligible for disability or blindness benefits or continues to receive such benefits under section 1631(a)(6) of the Act; or (ii) the disability or blindness benefits of the individual are suspended due to his or her ineligibility for the benefits. We also propose to revise paragraph (a)(3) of § 416.2215 to provide that the VR services must have been provided prior to the completion of a continuous 9-month period of SGA or termination of disability or blindness benefits, whichever occurs first.

The proposed changes to § 416.2215 (a)(2) and (a)(3) provide cross-references to the regulations in Subpart M of 20 CFR Part 416 which contain our rules on suspension and termination of benefits under the SSI program. In general, these regulations provide that unless a termination of an individual's eligibility for benefits is required, an individual's benefits will be suspended for any month for which the individual no longer meets the requirements for eligibility for benefits under the SSI program. Termination of eligibility is required when benefits have been suspended for a period of 12 consecutive months, i.e., the individual remains ineligible for SSI benefits, special status for Medicaid, and/or federally administered State supplementary payments for a continuous 12-month period. Eligibility for SSI benefits based on disability or blindness also terminates if the individual's disability or blindness ceases, unless the individual is participating in an approved VR program and the other requirements for the continuation of benefits under section 1631(a)(6) of the Act are met.

The proposed changes we are making to § 416.2215 (a)(2) and (a)(3) are consistent with the provisions of sections 1615 (d) and (e) of the Act. They permit payment for VR services which are provided either during a month(s) for which an individual is eligible for disability or blindness benefits, including the continuation of such benefits under section 1631(a)(6) of the Act, or during a month(s) for which the individual is ineligible for disability or blindness benefits, for a reason other than cessation of disability or blindness, if such month(s) occurs prior to the 13th consecutive month of such ineligibility, i.e., a month(s) for which benefits are suspended but not terminated.

We also propose to amend the introductory paragraph of § 416.2217 to add a reference to section 1615(e) of the Act. In addition, we are proposing to make a change to the regulations governing the social security VR payment program under title II of the Act to reflect the expanded scope of the SSI VR payment program under title XVI resulting from section 1615(e) of the Act. We are proposing to amend § 404.2115(b) of the title II regulations to explain that if VR services are provided to an individual who is entitled to title II disability benefits and who also is or has been receiving disability or blindness benefits under the SSI program, the determination as to when VR services must have been provided may be made under either § 404.2115 or § 416.2215, whichever is advantageous to the State VR agency or alternate participant that is participating in both VR programs.

Other Changes to the VR Payment Regulations

In addition to the changes to the regulations discussed above, we are proposing to amend the social security and SSI VR payment regulations to clarify certain rules relating to payment for VR services provided to an individual in a case where the individual, without good cause, refuses to continue or cooperate in a VR program. We also propose to delete some obsolete rules relating to the time periods within which claims for payment for VR services must be filed. We are making a few other nonsubstantive changes to certain provisions of the regulations affected by the proposed changes described above.

We are proposing to amend §§ 404.2113(c) and 416.2213(c) to indicate that if deductions are imposed against an individual's social security disability benefits because of VR refusal, or if an individual's disability or blindness benefits under the SSI

program are suspended because of VR refusal, the services for which payment may be made in such a case are those VR services which were provided to the individual prior to his or her VR refusal. If the individual thereafter resumes participation in a VR program and again receives VR services, payment may be made for those services only if the criteria for payment in § 404.2113 or § 416.2213 are again met, or if the services qualify for payment under one of the other provisions of the regulations permitting payment, i.e., §§ 404.2111, 404.2112, 416.2211, or 416.2212.

We also are proposing to delete the parenthetical phrase "(suspension of benefits in cases described in § 404.2113)" in existing § 404.2115(a)(3). This change is appropriate since under section 222(b) of the Act and § 404.422 of the title II regulations, a determination by us that a social security disability beneficiary has refused, without good cause, to accept VR services available to the individual results in our imposing deductions against social security benefits, rather than suspending benefits. This is reflected in existing §§ 404.2109(c) and 404.2113(c). To be consistent with these sections, we are making a change to § 404.2116(c)(2) to clarify that a beneficiary's VR refusal results in deductions against social security disability benefits, rather than a suspension of benefits.

Existing §§ 404.2116 (b)(2) and (c)(2) and 416.2216 (b)(2) and (c)(2) contain provisions which provide for the filing of claims for payment for VR services in certain cases within 12 months after the month of the initial publication of these sections in the **Federal Register**, 55 FR 8449 (March 8, 1990). This 12-month period ended March 31, 1991, the close of the 12th month following the month of publication in the **Federal Register**. Since this time period for filing a claim is no longer in effect, we are proposing to delete these provisions from the regulations.

We also are proposing to amend §§ 404.2116(c)(2) and 416.2216(c)(2) to clarify that the other 12-month period described in these sections for filing a claim for payment in the case of an individual's VR refusal begins after the first month for which deductions are imposed against social security disability benefits, or after the first month for which disability or blindness benefits under the SSI program are suspended, because of such VR refusal.

Electronic Versions

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9 on the date of publication in

the **Federal Register**. To download the file, modem dial (202) 512-1387. The FBB instructions will explain how to download the file and the fee. This file is in Wordperfect and will remain on the FBB during the comment period.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to OMB review.

Regulatory Flexibility Act

We certify that these regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

These proposed regulations carry out section 1615(e) of the Act which allows payment for VR services under section 1615(d) of the Act provided during certain months for which an individual does not receive SSI benefits based on disability or blindness. They apply to States and certain alternate providers of VR services which are willing to provide services to disabled or blind SSI recipients, or social security disability beneficiaries, under our VR payment programs under the conditions specified in the regulations.

Paperwork Reduction Act

These proposed regulations impose no additional reporting or recordkeeping requirements subject to clearance by OMB.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

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

20 CFR Part 416

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

Dated: August 23, 1995.

Shirley Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend subpart V of part 404 and subpart V of part 416 of 20 CFR chapter III as follows:

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

Subpart V—[Amended]

1. The authority citation for Subpart V of Part 404 is revised to read as follows:

Authority: Secs. 205(a), 222, and 702(a)(5) of the Social Security Act; (42 U.S.C. 405(a), 422, and 902(a)(5)).

2. Section 404.2113 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 404.2113 Payment for VR services in a case of VR refusal.

* * * * *

(c) * * * A State VR agency or alternate participant may be paid, subject to the provisions of this subpart, for the costs of VR services provided to an individual prior to his or her VR refusal if deductions have been imposed against the individual's monthly disability benefits for a month(s) after October 1984 because of such VR refusal.

3. Section 404.2115 is amended by revising paragraphs (a)(3) and (b) to read as follows:

§ 404.2115 When services must have been provided.

(a) * * *

(3) Before completion of a continuous 9-month period of SGA or termination of entitlement to disability benefits, whichever occurs first.

(b) If an individual who is entitled to disability benefits under this part also is or has been receiving disability or blindness benefits under part 416 of this chapter, the determination as to when services must have been provided may be made under this section or § 416.2215 of this chapter, whichever is advantageous to the State VR agency or alternate participant that is participating in both VR programs.

4. Section 404.2116 is amended by revising paragraphs (b)(2) and (c)(2) to read as follows:

§ 404.2116 When claims for payment for VR services must be made (filing deadlines).

* * * * *

(b) * * *

(2) If no written notice was sent to the State VR agency or alternate participant,

a claim must be filed within 12 months after the month in which VR services end.

(c) * * *

(2) If no written notice was sent to the State VR agency or alternate participant, a claim must be filed within 12 months after the first month for which deductions are imposed against disability benefits because of such VR refusal.

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

Subpart V—[Amended]

1. The authority citation for subpart V of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1615, 1631(d)(1) and (e), and 1633(a) of the Social Security Act; (42 U.S.C. 902(a)(5), 1382d, 1383(d)(1) and (e), and 1383b(a)).

2. Section 416.2201 is amended by revising the introductory text of this section and revising paragraph (b) to read as follows:

§ 416.2201 General.

In general, sections 1615 (d) and (e) of the Social Security Act (the Act) authorize payment from the general fund for the reasonable and necessary costs of vocational rehabilitation (VR) services provided certain disabled or blind individuals who are eligible for supplemental security income (SSI) benefits, special SSI eligibility status, or federally administered State supplementary payments. In this subpart, such benefits, status, or payments are referred to as disability or blindness benefits (see § 416.2203). Subject to the provisions of this subpart, payment may be made for VR services provided an individual during a month(s) for which the individual is eligible for disability or blindness benefits, including the continuation of such benefits under section 1631(a)(6) of the Act, or for which the individual's disability or blindness benefits are suspended (see § 416.2215). Paragraphs (a), (b) and (c) of this section describe the cases in which the State VR agencies and alternate participants can be paid for the VR services provided such an individual under this subpart. The purpose of sections 1615 (d) and (e) of the Act is to make VR services more readily available to disabled or blind individuals, help State VR agencies and alternate participants to recover some of their costs in VR refusal situations, as described in § 416.2213, and ensure that savings accrue to the general fund. Payment will be made for VR services

provided on behalf of such an individual in cases where—

* * * * *

(b) The individual continues to receive disability or blindness benefits, even though his or her disability or blindness has ceased, under section 1631(a)(6) of the Act because of his or her continued participation in an approved VR program which we have determined will increase the likelihood that he or she will not return to the disability or blindness rolls (see § 416.2212); or

* * * * *

3. Section 416.2203 is amended by removing the definition of "Eligible" and adding 2 new definitions in alphabetical order to read as follows:

§ 416.2203 Definitions.

* * * * *

Disability or blindness benefits, as defined for this subpart only, refers to regular SSI benefits under section 1611 of the Act (see § 416.202), special SSI cash benefits under section 1619(a) of the Act (see § 416.261), special SSI eligibility status under section 1619(b) of the Act (see § 416.264), and/or a federally administered State supplementary payment under section 1616 of the Act or section 212(b) of Public Law 93-66 (see § 416.2001), for which an individual is eligible based on disability or blindness, as appropriate.

* * * * *

Special SSI eligibility status refers to the special status described in §§ 416.264 through 416.269 relating to eligibility for medicaid.

4. Section 416.2209 is amended in paragraph (b) by removing "payments" and adding "benefits" in its place and in paragraph (c) by removing "payment" and adding "benefits" in its place.

5. Section 416.2212 is amended by revising the section heading and revising the first and second sentences to read as follows:

§ 416.2212 Payment for VR services in a case where an individual continues to receive disability or blindness benefits based on participation in an approved VR program.

Section 1631(a)(6) of the Act contains the criteria we will use in determining if an individual whose disability or blindness has ceased should continue to receive disability or blindness benefits because of his or her continued participation in an approved VR program. A VR agency or alternate participant can be paid for the cost of VR services provided to an individual if the individual was receiving benefits based on this provision in a month(s) after October 1984 or, in the case of a

blindness recipient, in a month(s) after March 1988. * * *

6. Section 416.2213 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 416.2213 Payment for VR services in a case of VR refusal.

* * * * *

(c) * * * A State VR agency or alternate participant may be paid, subject to the provisions of this subpart, for the costs of VR services provided to an individual prior to his or her VR refusal if the individual's disability or blindness benefits have been suspended for a month(s) after October 1984 because of such VR refusal.

7. Section 416.2215 is revised to read as follows:

§ 416.2215 When services must have been provided.

(a) In order for the VR agency or alternate participant to be paid, the services must have been provided—

- (1) After September 30, 1981;
- (2) During a month(s) for which—

(i) The individual is eligible for disability or blindness benefits or continues to receive such benefits under section 1631(a)(6) of the Act (see § 416.2212); or

(ii) The disability or blindness benefits of the individual are suspended due to his or her ineligibility for the benefits (see subpart M of this part concerning suspension for ineligibility); and

(3) Before completion of a continuous 9-month period of SGA or termination of disability or blindness benefits, whichever occurs first (see subpart M of this part concerning termination of benefits).

(b) If an individual who is receiving disability or blindness benefits under this part, or whose benefits under this part are suspended, also is entitled to disability benefits under part 404 of this chapter, the determination as to when services must have been provided may be made under this section or § 404.2115, whichever is advantageous to the State VR agency or alternate participant that is participating in both VR programs.

8. Section 416.2216 is amended by revising paragraphs (b)(2) and (c)(2) to read as follows:

§ 416.2216 When claims for payment for VR services must be made (filing deadlines).

* * * * *

(b) * * *

(2) If no written notice was sent to the State VR agency or alternate participant, a claim must be filed within 12 months

after the month in which VR services end.

(c) * * *

(2) If no written notice was sent to the State VR agency or alternate participant, a claim must be filed within 12 months after the first month for which disability or blindness benefits are suspended because of such VR refusal.

9. Section 416.2217 is amended in the introductory text of the section by adding "and (e)" after "section 1615(d)."

[FR Doc. 95-22175 Filed 9-8-95; 8:45 am]

BILLING CODE 4190-29-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Ch. 1

Meeting of the Indian Self-Determination Negotiated Rulemaking Committee

AGENCY: Bureau of Indian Affairs, Interior, Indian Health Service, HHS.

ACTION: Notice of meeting.

SUMMARY: The Secretary of the Interior (DOI) and the Secretary of Health and Human Services (DHHS) have established an Indian Self-Determination Negotiated Rulemaking Committee (Committee) to negotiate and develop a proposed rule implementing the Indian Self-Determination and Education Assistance Act (ISDEAA), as amended.

The Department have determined that the establishment of this committee is in the public interest and will assist the agencies in developing regulations authorized under section 107 of the ISDEAA. The agenda planned for the week includes meetings of work groups as well as the full committee. Work groups will be finalizing draft regulatory language and recommending adoption by the full committee. The full committee will review and give approval of such language for publication in the **Federal Register**, as a Notice of Proposed Rulemaking (NPRM). This will be the final meeting of the committee prior to publication of the NPRM.

DATES: The committee and appropriate workgroups will meet on the following days, beginning at approximately 8:30 a.m. and ending at approximately 5 p.m. on each day: Tuesday, September 26; Wednesday, September 27; and Thursday, September 28, 1995.

ADDRESSES: All meetings September 26 through September 28, 1995, will be held at the Doubletree Inn (previously

Ramada Inn), 7801 Leesburg Pike, Falls Church, Virginia 22043, telephone (703) 893-1340.

Written statements may be submitted to Mr. James J. Thomas, Chief, Division of Self-Determination Services, Bureau of Indian Affairs, 1849 C Street, NW, MS: 4627-MIB, Washington, DC 20420, telephone (202) 208-3708.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Thomas, Chief, Division of Self-Determination Services, Bureau of Indian Affairs, 1849 C Street NW., MS: 4627-MIB, Washington, DC 20240, telephone (202) 208-3708.

Mrs. Merry Elrod, Acting Director, Division of Self-Determination, Indian Health Service, 5600 Fishers Lane, Parklawn Building, Room 6A-05, Rockville, MD, 20857, telephone (301) 443-1044.

SUPPLEMENTARY INFORMATION: The location and dates of future meetings will be published in the **Federal Register**. The meetings will be open to the public without advance registration.

Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent that time permits, and file written statements with the committee for its consideration. Written statements should be submitted to the addresses listed above. Summaries of committee meetings will be available for public inspection and copying ten days following each meeting at the same addresses. In addition, the materials received during the input sessions are available for inspection and copying at the same addresses.

Dated: September 5, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95-22552 Filed 9-8-95; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

U.S. Virgin Islands State Plan for Occupational Safety and Health

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: U.S. Virgin Islands state plan: Notice of reconsideration of 18(e) determination; proposed re-assumption of concurrent Federal enforcement authority; request for written comments; notice of opportunity to request informal public hearing.

SUMMARY: The U.S. Virgin Islands operates a state occupational safety and health program or "state plan" which is federally approved under section 18 of the Occupational Safety and Health Act. In 1984, the Occupational Safety and Health Administration made a "final approval" determination under section 18(e) of the Act which in effect gave exclusive regulatory authority over all safety and health issues covered by the state plan to the Virgin Islands Department of Labor. (The Virgin Islands State Plan is limited in coverage to safety issues, in the private sector.) The most recent Federal monitoring of the state plan indicates that state plan enforcement has ceased to be "at least as effective as" that provided under OSHA and that other 18(e) requirements are no longer being met. In response to that finding, the Virgin Islands Commissioner of Labor has agreed to voluntarily relinquish the State's final approval status, has requested the reassertion of concurrent Federal enforcement jurisdiction, and has pledged to accomplish the necessary corrective action. As a result, the affirmative 18(e) determination is under reconsideration by the Assistant Secretary of Labor for Occupational Safety and Health, (the "Assistant Secretary") pursuant to procedures set forth in 29 CFR 1902.47 *et seq.* Reconsideration and subsequent revocation/suspension of the 18(e) determination will result in reinstatement of concurrent enforcement authority by Federal OSHA over occupational safety issues in the U.S. Virgin Islands pending State corrective action. This notice affords an opportunity for the public to submit written information, views and comments on the proposed reconsideration. A similar notice will be published by the Virgin Islands within the next 10 days.

OSHA is soliciting written comment from interested persons in its reconsideration of the U.S. Virgin Islands State Plan's affirmative 18(e) determination to assure that all relevant information, views, data and arguments are available to the Assistant Secretary during this proceeding. Members of the public may also submit requests for an informal hearing; if the Assistant Secretary determines that substantial issues are presented which a hearing would likely resolve, an informal hearing will be scheduled in accordance with 29 CFR 1902.49(c).

DATES: Comments and requests for an informal hearing must be received by October 16, 1995.