

which replaced and superseded the proposed rule change as originally filed.<sup>6</sup> On September 9, 2020, the Commission published notice of Amendment No. 1 and instituted proceedings under Section 19(b)(2)(B) of the Act<sup>7</sup> to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.<sup>8</sup> On November 17, 2020, the Exchange submitted Amendment No. 2 to the proposed rule change.<sup>9</sup>

Section 19(b)(2) of the Act<sup>10</sup> provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The date of publication of notice of filing of the proposed rule change was June 12, 2020. December 9, 2020 is 180 days from that date, and February 7, 2021 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> designates February 7, 2021, as the date by which the Commission shall either approve or disapprove the proposed rule change, as modified by Amendment Nos. 1 and 2 (File No. SR-NASDAQ-2020-026).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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<sup>6</sup> Amendment No. 1 is available at <https://www.sec.gov/comments/sr-nasdaq-2020-026/srnasdaq2020026.htm>.

<sup>7</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>8</sup> See Securities Exchange Act Release No. 89794, 85 FR 57260 (September 15, 2020).

<sup>9</sup> Amendment No. 2 is available at <https://www.sec.gov/comments/sr-nasdaq-2020-026/srnasdaq2020026.htm>.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> *Id.*

<sup>12</sup> 17 CFR 200.30-3(a)(57).

## SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2020-0023]

### Rescission of Acquiescence Ruling 15-1(4)

**AGENCY:** Social Security Administration.

**ACTION:** Notice of Rescission of Social Security Acquiescence Ruling (AR) 15-1(4)—*Radford v. Colvin*, 734 F.3d 288 (4th Cir. 2013)—Standard for Meeting the Listing for Disorders of the Spine with Evidence of Nerve Root Compression.

**SUMMARY:** In accordance with 20 CFR 402.35(b)(2), 404.985(e) and 416.1485(e), the Commissioner of Social Security gives notice of the rescission of Social Security Acquiescence Ruling 15-1(4).

**DATES:** We will apply this rescission notice on April 2, 2021.

**FOR FURTHER INFORMATION CONTACT:** Cheryl A. Williams, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-1020 or TTY 410-966-5609. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our internet site, Social Security Online, at <http://www.socialsecurity.gov>.

**SUPPLEMENTARY INFORMATION:** An AR explains how we will apply the holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

As provided by 20 CFR 404.985(e)(4) and 416.1485(e)(4), we may rescind an AR as obsolete and apply our interpretation of the Act or regulations if we subsequently clarify, modify or revoke the regulation or ruling that was the subject of a circuit court holding that we determined conflicts with our interpretation of the Act or regulations.

On September 23, 2015, we published AR 15-1(4) (80 FR 57418) to reflect the holding in *Radford v. Colvin*, 734 F.3d 288 (4th Cir. 2013). In *Radford*, the United States Court of Appeals for the Fourth Circuit held that listing 1.04A required a claimant to show only “that each of the symptoms are present, and that the claimant has suffered or can be expected to suffer from nerve root compression continuously for at least 12 months,” 734 F.3d at 294. Contrary to our policy that the requisite level of severity requires the simultaneous presence of all the medical criteria in

paragraph A, the Court of Appeals held that a claimant need not show that each criterion was present simultaneously or in particularly close proximity.

This rescission notice is the result of publication of the final rule, “Revised Medical Criteria for Evaluating Musculoskeletal Disorders,” published on December 3, 2020 at 85 FR 78164. The final rule clarified our longstanding policy that the requisite level of severity requires the simultaneous presence of all the medical criteria in the listing. Specifically, the final rule state in section 1.00C7 that, when the listing criteria are linked by the word “and,” the requirements must be present within a “close proximity of time.” We define “close proximity of time” as meaning that all of the relevant criteria must appear in the medical record within a consecutive 4 month period.

We incorporated the provisions of former Listing 1.04A, the subject of the court’s holding in *Radford*, into the final rule in Listing 1.15. Since Listing 1.15 links the symptoms, signs, findings, and impairment-related physical limitations found in A, B, C, and D of the listing with the word “AND,” these criteria, must appear in the medical record within a consecutive 4-month period. Further, the final rule also clarified that the requirement that all the medical criteria in the listing be present simultaneously or within a close proximity of time applies to other listings that use the word “and” to link the elements of the required criteria.

Accordingly, because the regulation that was the subject of the *Radford* AR has been revised, we are rescinding AR 15-1(4) concurrently with the effective date of the final rule. The final rule and this notice of rescission restore uniformity to our nationwide system of rules in accordance with our commitment to the goal of administering our programs through uniform national standards.

(Catalog of Federal Domestic Assistance, Program Nos. 96.001 Social Security—Disability Insurance; 6.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance; 96.006—Supplemental Security Income.)

The Commissioner of the Social Security Administration, Andrew Saul, having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for SSA, for

purposes of publication in the **Federal Register**.

**Faye I. Lipsky,**

*Federal Register Liaison, Office of Legislation and Congressional Affairs, Social Security Administration.*

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**SOCIAL SECURITY ADMINISTRATION**

**[Docket No: SSA-2020-0051]**

**Agency Information Collection Activities: Comment Request**

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and

recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers. (OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202-395-6974, Email address: [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) (SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410-966-2830, Email address: [OR.Reports.Clearance@ssa.gov](mailto:OR.Reports.Clearance@ssa.gov)

Or you may submit your comments online through [www.regulations.gov](http://www.regulations.gov), referencing Docket ID Number [SSA-2020-0051].

SSA submitted the information collections below to OMB for clearance. Your comments regarding these information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than January 7, 2021. Individuals can obtain copies of these OMB clearance packages by writing to [OR.Reports.Clearance@ssa.gov](mailto:OR.Reports.Clearance@ssa.gov).

1. *Disability Report-Appeal—20 CFR 404.1512, 416.912, 404.916(c), 416.1416(c), 422.140, 404.1713, 416.1513, 404.1740(b)(4), and 416.1540(b)(4)—0960-0144.* SSA requires disability applicants who wish to appeal an unfavorable determination

to complete Form SSA-3441-BK; the associated Electronic Disability Collect System (EDCS) interview; or the internet application, i3441. This allows claimants to disclose any changes to their disability, or resources, which might influence SSA's unfavorable determination. SSA may use the information to: (1) Reconsider and review an initial disability determination; (2) review a continuing disability; and (3) evaluate a request for a hearing. This information assists the State Disability Determination Services (DDS) and administrative law judges (ALJ) in preparing for the appeals and hearings, and in issuing a determination or decision on an individual's entitlement (initial or continuing) to disability benefits. In addition, the information we collect on the SSA-3441-BK, or related modalities, facilitates SSA's collection of medical information to support the applicant's request for reconsideration; request for benefits cessation appeal; and request for a hearing before an ALJ. Respondents are individuals who appeal denial, reduction, or cessation of Social Security disability benefits and Supplemental Security Income (SSI) payments; individuals who wish to request a hearing before an ALJ; or their representatives.

*Type of Request:* Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars)*	Average wait time in field office (minutes)**	Total annual opportunity cost (dollars)***
SSA-3441-BK (Paper Form) .....	22,556	1	45	16,917	* \$18.22	** 24	*** \$472,609
Electronic Disability Collect System (EDCS)—Individuals .....	208,831	1	45	156,623	* 10.73	** 24	*** 2,576,863
Electronic Disability Collect System (EDCS)—Representatives .....	71,652	1	45	53,739	* 25.72	.....	*** 1,382,167
i3441 (Internet Application)—Individuals .....	109,598	1	28	51,146	* 10.73	.....	*** 548,797
i3441 (Internet Application)—Representatives .....	656,424	1	28	306,331	* 25.72	.....	*** 7,878,833
Totals .....	1,069,061	.....	.....	584,756	.....	.....	*** 12,859,269

\*We based these figures on average DI hourly wages for single students based on SSA's current FY 2020 data (<https://www.ssa.gov/legislation/2020Fact%20Sheet.pdf>), and on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (<https://www.bls.gov/oes/current/oes231011.htm>), as well as a combination of those two figures (for the paper form, as we do not collect data on whether the paper forms are filled out by individuals or representatives or both).

\*\* We based this figure on the average FY 2020 wait times for field offices, based on SSA's current management information data.

\*\*\* This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. *Annual Earnings Test Direct Mail Follow-Up Program Notices—20 CFR 404.452-404.455—0960-0369.* SSA developed the Annual Earnings Test Direct Mail Follow-up Program to improve beneficiary reporting on work and earnings during the year and earnings information at the end of the year. SSA may reduce benefits payable under the Social Security Act (Act)

when an individual has wages or self-employment income exceeding the annual exempt amount. SSA identifies beneficiaries likely to receive more than the annual exempt amount, and requests more frequent estimates of earnings from them. When applicable, SSA also requests a future year estimate to reduce overpayments due to earnings. SSA sends letters (SSA-L9778, SSA-L9779,

SSA-L9781, SSA-L9784, SSA-L9785, and SSA-L9790) to beneficiaries requesting earnings information the month prior to their attainment of full retirement age. We send each beneficiary a tailored letter that includes relevant earnings data from SSA records. The Annual Earnings Test Direct Mail Follow-up Program helps to ensure Social Security payments are