

in the public interest to make this final rule effective on the date of publication.

#### *Executive Order 12866*

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as amended. Thus, OMB did not review it. We have also determined that this final rule meets the plain language requirement of Executive Order 12866, as amended.

#### *Regulatory Flexibility Act*

We certify that this final rule does not have a significant economic impact on a substantial number of small entities because it affects only individuals. Therefore, a regulatory flexibility analysis, as provided in the Regulatory Flexibility Act, as amended, is not required.

#### *Paperwork Reduction Act*

This final rule imposes no reporting/recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; 96.006, Supplemental Security Income)

#### **List of Subjects in 20 CFR Part 404**

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

Dated: January 22, 2009.

**Michael J. Astrue,**

*Commissioner of Social Security.*

■ For the reasons set forth in the preamble, we amend part 404, subpart P, chapter III of title 20 of the Code of Federal Regulations as set forth below.

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

##### **Subpart P—[Amended]**

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

**Authority:** Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. Amend appendix 1 to subpart P of part 404 by revising item 2 of the

introductory text before part A to read as follows:

#### **Appendix 1 to Subpart P of Part 404—Listing of Impairments**

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2. Musculoskeletal System (1.00 and 101.00): February 18, 2011.

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[FR Doc. E9–2109 Filed 1–30–09; 8:45 am]

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#### **AGENCY FOR INTERNATIONAL DEVELOPMENT**

##### **22 CFR Part 215**

**RIN 0412–AA61**

#### **Privacy Act of 1974, Implementation of Exemptions**

**AGENCY:** United States Agency for International Development.

**ACTION:** Final rule; delay of effective date and addition of comment period.

**SUMMARY:** This document delays the effective date by 60 days and provides a 30-day public comment period to run concurrently for the final rule exempting portions of the Partner Vetting System from one or more provisions of the Privacy Act, as published in the **Federal Register** on January 2, 2009.

**DATES:** The effective date for the final rule published on January 2, 2009 (74 FR 9), is delayed until April 3, 2009. Written comments must be received on or before March 4, 2009.

**ADDRESSES:** Written comments may be submitted electronically through the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the instructions on the website for submitting comments.

Written comments may also be submitted by mail to Rhonda Turnbow, Deputy Chief Privacy Officer, United States Agency for International Development, 1300 Pennsylvania Avenue, NW., Office 2.12–003, Washington, DC 20523–2120.

**FOR FURTHER INFORMATION CONTACT:** For general questions, please contact Jeff Denale, Chief, Counterterrorism and Information Security Division, Office of Security, United States Agency for International Development, Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Washington, DC 20523.

**SUPPLEMENTARY INFORMATION:** The United States Agency for International Development published a Final Rule in the **Federal Register** on January 2, 2009 (74 FR 9), FR Doc. E8–31131. Pursuant to a January 20, 2009 White House

Memorandum on regulatory review, agencies are requested to consider extending for 60 days the effective date of regulations that have been published in the **Federal Register** but not yet taken effect, for the purpose of reviewing questions of law and policy raised by those regulations. Where such an extension is made, agencies are requested to immediately reopen the notice-and-comment period for 30 days to allow interested parties to provide comments about issues of law and policy raised by those regulations. As a result, USAID has delayed the effective date of the final rule from February 2, 2009 to April 3, 2009. USAID has also opened a 30-day public comment period.

Dated: January 28, 2009.

**Randy T. Streufert,**

*Director, Office of Security.*

[FR Doc. E9–2220 Filed 1–30–09; 8:45 am]

**BILLING CODE 6116–02–P**

#### **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

##### **Centers for Medicare & Medicaid Services**

##### **42 CFR Part 440**

**[CMS–2232–IFC]**

**RIN 0938–A048**

#### **Medicaid Program; State Flexibility for Medicaid Benefit Packages: Delay of Effective Date**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Interim final rule with comment period; delay of effective date and reopening of the comment period.

**SUMMARY:** In accordance with the memorandum of January 20, 2009, from the Assistant to the President and Chief of Staff, entitled “Regulatory Review Plan,” this action temporarily delays for 60 days the effective date of the final rule entitled, Medicaid Program; State Flexibility for Medicaid Benefit Packages” published in the December 3, 2008 **Federal Register** (73 FR 73694). The temporary 60-day delay in effective date is necessary to give Department officials the opportunity for further review of the issues of law and policy raised by this rule. In addition, this action reopens the comment period on the policies set out in the December 3, 2008 final rule to allow interested parties to provide comments about issues of law and policy raised by the rule.

**DATES: Effective Date.** This action is effective January 30, 2009. The effective date of the rule amending 42 CFR part 440 published in the December 3, 2008 **Federal Register** (73 FR 73694) is delayed 60 days until April 3, 2009.

**Comment Period.** To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on March 4, 2009. Comments may address either December 3, 2008 final rule, or this action (the delay in the effective date, and the reopening of the comment period).

**ADDRESSES:** In commenting, please refer to file code CMS-2232-IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed)

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" and enter the filecode to find the document accepting comments.

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2232-IFC, P.O. Box 8016, Baltimore, MD 21244-8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2232-IFC, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-8016.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to either of the following addresses:

a. Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201;

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main

lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. 7500 Security Boulevard, Baltimore, MD 21244-1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786-7195 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

**FOR FURTHER INFORMATION CONTACT:** Christine Gerhardt, (410) 786-0693.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On December 3, 2008, we published a final rule in the **Federal Register** entitled "Medicaid Program; State Flexibility for Medicaid Benefit" (73 FR 73694). The December 2008 final rule implements provisions of section 6044 of the Deficit Reduction Act of 2005, which amends the Social Security Act by adding a new section 1937 related to the coverage of medical assistance under approved State plans. The final rule also provides States increased flexibility under an approved State plan to define the scope of covered medical assistance by offering coverage of benchmark or benchmark-equivalent benefit packages to certain Medicaid recipients. In addition, the final rule responds to public comments on the February 22, 2008, proposed rule that pertain to the State Medicaid benefit package provisions.

**II. Provisions of This Action**

This action delays the effective date of the December 3, 2008 final rule and reopens the comment period on the policies set out in the final rule. The effective date of the December 3 final rule, which would have been February 2, 2009, is now April 3, 2009. The 60-day delay in the effective date is necessary to give Department officials the opportunity for further review of the issues of law and policy raised by this rule, to give the public the opportunity to submit additional comments on issues of law and policy raised by the December 3, 2008 final rule, and to provide an opportunity for CMS to consider all additional comments. We also seek comments on this action (the delay in the effective date and the reopening of the comment period).

**III. Waiver of Proposed Rulemaking and Delay in Effective Date**

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule such as this take effect, in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). We also ordinarily provide a 30-day delay in the effective date of the provisions of a rule in accordance with section 553(d) of the APA (5 U.S.C. 553(d)). However, we can waive both the notice and comment procedure and the 30-day delay in the effective date if the Secretary finds, for good cause, that it is impracticable, unnecessary or contrary to the public interest to follow the notice and comment procedure or to comply with the 30-day delay in the effective date, and incorporates a statement of the finding and the reasons in the rule.

This action delays the effective date of the December 3, 2008 final rule that was promulgated through notice and comment rulemaking. A delay in effective date and reopening of the comment period is necessary to ensure that we have the opportunity to receive additional public comments to fully inform our decisions before the policies contained in the final rule become effective. Moreover, we believe it would be contrary to the public interest for the December 3, 2008 final rule to become effective until we are certain that all public comments, including any additional comments that are submitted in the reopened comment period, are considered. To do otherwise could potentially result in uncertainty and confusion as to the finality of the final rule. For the reasons stated above, we find that both notice and comment and the 30-day delay in effective date for this action are unnecessary and contrary to the public interest. Therefore, we find there is good cause to waive notice and comment procedures and the 30-day delay in effective date for this rule.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: January 28, 2009.

**Charlene Frizzera,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

Approved: January 28, 2009.

**Charles Johnson,**

*Acting Secretary.*

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