

EXCAL LOM, and within 4 miles east and 8 miles west of the Presque Isle 340° radial extending from the 11-mile radius to 16 miles northwest of the VORTAC, and within an 8.5-mile radius of Caribou Municipal Airport; excluding that airspace outside of the United States.

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Issued in Burlington, Massachusetts, on May 8, 1995.

John J. Boyce,

Acting Manager, Air Traffic Division, New England Region.

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SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

[Regulations No. 16]

RIN 0960-AD87

Supplemental Security Income for the Aged, Blind, and Disabled; Extension of Time Period for Not Counting as Resources, Funds Received for Repair or Replacement of Damaged or Destroyed Excluded Resources in the Supplemental Security Income Program

AGENCY: Social Security Administration.

ACTION: Proposed rule.

SUMMARY: In the past several years, portions of the United States have experienced natural disasters that have had unprecedented effects on supplemental security income (SSI) recipients. To provide us with the flexibility to deal with these and future occurrences, we propose to modify our current regulations regarding the period of time that cash and in-kind items received for the repair or replacement of certain destroyed or damaged excluded resources would not count toward the resource limit.

DATES: To be sure that your comments are considered, we must receive them no later than July 17, 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 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 a.m. and 4:30 p.m. on regular business days.

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explain how to download the file and the fee. This file is in WordPerfect and will remain on the FBB during the comment period.

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

SUPPLEMENTARY INFORMATION: The regulations at § 416.1205(c) provide that SSI recipients can have no more than \$2,000 in countable resources and SSI couples can have no more than \$3,000. The regulations at § 416.1237 provide that assistance received under the Disaster Relief and Emergency Assistance Act or other assistance provided under a Federal statute because of a catastrophe which is declared to be a major disaster by the President of the United States or comparable assistance received from a State or local government, or from a disaster assistance organization, is excluded permanently under the SSI program in determining countable resources.

The regulations at § 416.1232 complement the disaster assistance exclusion by providing that cash or in-kind items for the repair or replacement of lost, stolen, or damaged excluded resources are not treated as resources for 9 months. The regulations also provide for one extension for a reasonable period up to an additional 9 months for good cause if circumstances do not permit repair or replacement within the initial 9-month period and the individual intends to use the funds for repair or replacement.

Excluded resources generally include the individual's home, household goods and personal effects, and the automobile, as are described in §§ 416.1212, 416.1216 and 416.1218 respectively.

Private insurance payments do not qualify as disaster assistance and, therefore, cannot be permanently excluded from resources. For some SSI recipients affected by natural disasters, the maximum period of 18 months during which monies received to repair or replace excluded resources are not treated as resources will not be sufficient and some of these individuals will consequently lose SSI and Medicaid eligibility.

In the past several years, portions of the United States have experienced natural disasters that have had unprecedented effects on SSI recipients. In August 1992, Hurricane Andrew devastated south Florida causing damage estimated in excess of \$18

billion. Because of the extent of the devastation, SSI recipients in the area were unable to use insurance payments to repair or replace their damaged property within the maximum 18-month period provided by regulations during which those payments would not be treated as resources. With the expiration of this period, the payments would have counted as resources for SSI purposes. On March 17, 1994 (59 FR 12544), we published interim final regulations with a request for comments which provided victims of Hurricane Andrew with an additional 12-month time period in which to repair or replace their property.

History has shown that current regulations generally provide a sufficient time period for individuals to repair or replace their excluded resources destroyed or damaged by natural disasters. However, in the event disasters of the magnitude of Hurricane Andrew occur, we wish to have the flexibility in regulations to extend the period that payments or in-kind assistance for the repair or replacement of affected excluded resources will not count as resources.

We are proposing regulations which provide us with the flexibility to provide individuals with additional time to repair or replace destroyed or damaged excluded resources when such disasters occur and certain other criteria are met. These proposed regulations will extend the maximum 18-month period during which cash or in-kind replacement received from any source for purposes of repairing or replacing an excluded resource is not counted as a resource for up to an additional 12 months. This additional time period only applies in the case of presidentially declared major disasters as long as the individual intends to repair or replace the property and good cause still exists.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review.

Paperwork Reduction Act of 1980

These proposed regulations impose no new reporting or recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act

We certify that these proposed regulations will not have a significant economic impact on a substantial number of small entities because they

affect eligibility for or the amount of SSI payments of individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 93.807, Supplemental Security Income)

List of Subjects in 20 CFR Part 416:

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

Dated: May 3, 1995.

Shirley S. Chater,

Commissioner of Social Security.

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

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

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

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93-66, 87 Stat. 154.

2. Section 416.1232 is amended by revising paragraph (b), by redesignating paragraph (c) as paragraph (d) and by adding a new paragraph (c), to read as follows:

§ 416.1232 Replacement of lost, damaged, or stolen excluded resources.

* * * * *

(b) The initial 9-month time period will be extended for a reasonable period up to an additional 9 months where we find the individual had good cause for not replacing or repairing the resource. An individual will be found to have good cause when circumstances beyond his or her control prevented the repair or replacement of the resource. The 9-month extension can only be granted if the individual intends to use the cash or in-kind replacement items to repair or replace the lost, stolen, or damaged excluded resource in addition to having good cause for not having done so. If good cause is found for an individual, any unused cash (and interest) is counted as a resource beginning with the month after the good cause extension period expires.

Exception: For victims of Hurricane Andrew only, the extension period for good cause may be extended for up to an additional 12 months beyond the 9-

month extension when we find that the individual had good cause for not replacing or repairing an excluded resource within the 9-month extension.

(c) The time period described in paragraph (b) of this section (except the time period for individuals granted an additional extension under the Hurricane Andrew provision) may be extended for a reasonable period up to an additional 12 months in the case of a catastrophe which is declared to be a major disaster by the President of the United States if the excluded resource is geographically located within the disaster area as defined by the presidential order; the individual intends to repair or replace the excluded resource; and, the individual demonstrates good cause why he or she has not been able to repair or replace the excluded resource within the 18-month period.

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DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Part 452

RIN 1294-AA09

Eligibility Requirements for Candidacy for Union Office

AGENCY: Office of Labor-Management Standards, Labor.

ACTION: Proposed rule.

SUMMARY: The Office of Labor-Management Standards proposes to amend its interpretative regulations on labor organization officer elections. The proposed amendment will add a reference to a ruling by the Court of Appeals for the District of Columbia Circuit regarding the reasonableness of meeting attendance requirements set by labor organizations for eligibility for union office. This amendment will inform the public of a court decision that guides the Office in its enforcement actions.

DATES: Interested parties may submitted comments on or before July 17, 1995.

ADDRESSES: Written comments should be submitted to Edmundo A. Gonzales, Deputy Assistant Secretary for Labor-Management Standards, Office of the American Workplace, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-2203, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Kay H. Oshel, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Office of the American Workplace, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5605, Washington, DC 20210, (202) 219-7373. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background and Overview

Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA) sets forth standards and requirements for the election of labor organization officers. Section 401(e) of title IV, 29 U.S.C. § 481(e), provides in part that every member in good standing has the right to be a candidate subject "to reasonable qualifications uniformly imposed."

In connection with the Department's enforcement responsibilities under LMRDA title IV, interpretative regulations have been promulgated, 29 CFR part 452, in order to provide the public with information as to the Secretary's "construction of the law which will guide him in performing his [enforcement] duties." 29 CFR 452.1. Several provisions in the interpretative regulations discuss union-imposed qualifications on candidacy eligibility. One of these provisions, 29 CFR 452.38, deals specifically with meeting attendance requirements and lists several factors to consider in determining whether, under "all the circumstances," a particular meeting attendance requirement is reasonable.

On June 15, 1994, OLMS published an advance notice of proposed rulemaking (ANPRM) requesting comments from the public on the possible need to modify the interpretative regulations on meeting attendance requirements in order to incorporate a ruling of the United States Court of Appeals for the District of Columbia Circuit in *Doyle v. Brock*, 821 F.2d 778 (D.C. Cir. 1987). In *Doyle*, the Secretary's decision not to bring enforcement action under LMRDA title IV was reviewed by the courts pursuant to *Dunlop v. Bachowski*, 421 U.S. 560 (1975). (In *Bachowski*, the Supreme Court held that judicial review of the Secretary's decision not to bring litigation in LMRDA title IV cases is available under the Administrative Procedure Act.) The Secretary had decided not to bring civil action on a member's complaint about his union's meeting attendance requirement, even though the requirement disqualified 97% of the members. The Secretary's position, after reviewing the factors set forth in 29 CFR 452.38, was that since