6. *Conflict of interest.* SBA recognizes that lenders that participate in any of the three guaranteed disaster loan programs may be more likely to use the program(s) to lend to their existing depositors and borrowers. This could be the result of the lender's greater familiarity and experience with the depositor or borrower, which would be particularly useful if business or personal records have been destroyed in the disaster. SBA 7(a) lenders and IDAP lenders are subject to the requirements of 13 CFR 120.140 (What ethical requirements apply to participants?). SBA invites comments on whether there are any additional relationships or transactions that should be restricted in the guaranteed disaster loan programs due to the potential for a conflict of interest on the part of the lender that might put the SBA-guaranteed disaster loan at greater risk than would otherwise be the case.

*IDAP Specific Issues*

7. *Term of loan.* IDAP loans are designed to be interim loans that will be repaid with the proceeds of a direct disaster loan from SBA. If SBA does not approve an IDAP borrower for a direct disaster loan in the amount of the IDAP loan, the remaining balance of the IDAP loan, by statute, must have a term of at least ten years from the date of final disbursement. Lenders have indicated concern that a ten year repayment period is too long. What is the appropriate repayment term for an IDAP loan if a direct disaster loan sufficient to repay the IDAP loan is not approved by SBA?

8. *Servicing and Liquidation.* Unlike servicing and liquidation for regular 7(a) loans, SBA regulations require an IDAP lender to service and liquidate IDAP loans in accordance with the existing practices and procedures that the IDAP lender uses for its non-SBA guaranteed commercial loans. *See* 13 CFR 123.706(d) and (e). What concerns, if any, do lenders have regarding these requirements?

*EDAP Specific Issues*

9. *Guaranty percentage.* Unlike for IDAP and PDAP, the statute did not set a guaranty percentage for EDAP. What guaranty percentage would lenders require in order to make EDAP loans?

10. *Refinancing option.* Even though the term of an EDAP loan is limited to 180 days (with extensions on a case-by-case basis), the statute gives SBA the authority to refinance EDAP loans with the proceeds of direct disaster loans. Would a refinancing option make EDAP a more attractive loan product?

11. *Use of proceeds.* The statute requires SBA to specify whether EDAP proceeds may be used for the following purposes: Paying employees; paying bills and other financial obligations; making repairs; purchasing inventory; restarting or operating a small business concern in the community in which it was conducting operations prior to the applicable major disaster, or to a neighboring area, county, or parish in the disaster area; or covering additional costs until the small business concern is able to obtain funding through insurance claims, Federal assistance programs, or other sources. SBA seeks input on which uses of proceeds, included those listed above or others recommended by commenters, would be appropriate for EDAP loans.

*PDAP Specific Issues*

12. *Term of loan.* The term of an SBA direct disaster loan is determined based on the borrower's ability to repay. The maximum term is 30 years, and the average loan term is 18.5 years. PDAP loans may have maturities of up to 30 years. Would lenders be willing to make a PDAP loan of up to 30 years? If not, what is the maximum loan term that lenders would consider suitable in the PDAP program.

13. *Amount of loan.* The amount of direct disaster loans to homeowners and renters are capped by regulation. Generally, the regulations allow up to $40,000 for personal property, $200,000 for repair or replacement of a primary residence, and $200,000 for refinancing. *See* 13 CFR 123.105. Are lenders willing to make guaranteed disaster loans to homeowners and renters in these amounts? If not, what is the range of loan amounts that lenders would prefer?

14. *Collateral.* SBA does not require collateral for direct disaster loans made in response to major disasters if the loan is $25,000 or less. *See* 13 CFR 123.11. Are lenders willing to make guaranteed disaster loans of up to $25,000 with no collateral? Additionally, SBA permits liens on direct disaster loans to be in a subordinate position. Are lenders willing to make guaranteed disaster loans if the loan will be secured by a lien in a subordinate position?

15. *Consumer lending.* Only PLP lenders are eligible to make PDAP loans to homeowners and renters. PLP lenders are authorized by SBA to make commercial loans, and are not screened in any way for capacity to make and service loans to individuals for residential mortgages or improvements. Do PLP lenders have the expertise to make non-commercial guaranteed disaster loans, or should they be made by other lender units organized to make consumer loans? What training would be required for a PLP or other lender, and what are the concerns about the costs associated with developing the requisite skills? In addition, guaranteed loans to homeowners and renters may require compliance with consumer lending requirements. Do lenders have any concerns about the costs associated with compliance with such requirements? Should SBA's guarantee be conditioned upon a lender's compliance with these consumer lending requirements?

16. *Delegated authority lending.* PLP lenders are authorized to make PDAP loans to homeowners and renters, as well as small businesses. Will PLP lenders want all PDAP loans to be made under delegated authority? Other lenders are authorized to make loans to small businesses. Do other lenders want PDAP loans to small businesses to be made under delegated authority? If SBA determines that a PLP lender participating in PDAP knowingly fails to comply with the underwriting standards for PDAP loans, the statute requires SBA to exclude the PLP lender from participating in PDAP or exclude the PLP lender from the 7(a) PLP program for up to five years. Are PLP lenders less likely to participate in PDAP given these compliance requirements?

17. *Sale of the Guarantee.* SBA permits the sale of the guarantee on loans made in its other business loan programs. Would the sale of guarantees be a key factor in determining lender participation in PDAP?

**Maria Contreras-Sweet,**

*Administrator.*

[FR Doc. 2015–26532 Filed 10–20–15; 8:45 am]

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## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Parts 404 and 416

**[Docket No. SSA–2013–0061]**

**RIN 0960–AH64**

## Returning Evidence at the Appeals Council Level

**AGENCY:** Social Security Administration.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to amend our regulations by revising our rules regarding the return of evidence at the Appeals Council (AC) level. Our current rules state that the AC will return to the claimant additional evidence it receives when the AC finds the evidence does not relate to the period on or before the

date of the administrative law judge's (ALJ) hearing decision. We are proposing these revisions to give the AC discretion in returning additional evidence that it receives when the AC determines the additional evidence does not relate to the period on or before the date of the ALJ decision.

**DATES:** To ensure that we consider your comments, we must receive them by no later than November 20, 2015.

**ADDRESSES:** You may submit comments by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2013–0061 so that we may associate your comments with the correct regulation.

*Caution:* You should be careful to include in your comments only information you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend this method for submitting your comments. Visit the Federal eRulemaking portal at *http://www.regulations.gov.* Use the Web page's *Search* function to find docket number SSA–2013–0061. Once you submit your comment, the system will issue you a tracking number to confirm your submission. You will not be able to view your comment immediately because we post each comment manually. It may take up to a week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966–2830.

3. *Mail:* Address your comments to the Office of Regulations and Reports Clearance, Social Security Administration, 3100 West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at *http://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

**FOR FURTHER INFORMATION CONTACT:** Maren Weight, Office of Appellate Operations, Social Security Administration, 5107 Leesburg Pike, Falls Church, VA 22041, (703) 605–7100. 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:**

**Background**

The AC will consider new and material evidence submitted with a request for review when the evidence relates to the period on or before the date of the ALJ hearing decision.[1] When the AC does not find that the additional evidence relates to the period on or before the date of the ALJ hearing decision, our current rules state that the AC will return the additional evidence to the claimant.[2]

When we published it in 1987 (52 FR 4004, February 9, 1987), the rule requiring the AC to return the additional evidence to the claimant made sense because cases pending at the AC level involved paper claim(s) files. Returning evidence provided a public service because claimants often submitted original documentation to the AC. Our primary purpose in returning the original documentation was to allow the claimant to use the information if he or she filed a new application. Because the AC worked with paper claim(s) files, it was more administratively efficient and cost effective to return the evidence by mail directly to the claimant.

We now use many electronic services that make the practice of returning evidence unnecessary. For example, we now scan most of the medical evidence into the electronic claim(s) file or appointed representatives submit it through our Electronic Records Express system. This technology immediately uploads records into a claimant's electronic folder, making the records available for review in real time. It is neither administratively efficient nor cost effective for us to print out documents that have been submitted to us electronically by a claimant or appointed representative in order to return them to the claimant. Additionally, in the electronic folder, we are able to identify and retain the additional information in a part of the claim(s) file that is not part of the record associated with the current application. This means that all of the evidence submitted on a prior application is immediately available for review if the claimant files a subsequent application.

Most claimants have representation at and above the hearing level. In approximately 85% of the claims pending with an appointed representative at the hearing level, the representatives have online access to the electronic folder. This means that most representatives can determine in real time whether we received and associated evidence with the claim(s) file. It is impractical and unnecessary to return evidence in these claims because the appointed representative has immediate access to the additional evidence while the claim is pending before the AC.

The administrative burden of processing and returning evidence also has increased significantly over the last few years. As the number of appeals filed with the AC continues to increase, we have experienced a corresponding increase in the number of claims that involve the submission of additional evidence. Each year, the AC receives additional evidence submissions in approximately one-third of its pending cases, most of which are multi-page submissions.

In addition to the increased costs associated with printing a significant amount of electronically submitted documents, there are many other administrative and processing time costs to returning evidence. When the AC returns evidence, employees must separate the evidence returned from the other evidence in the electronic claim(s) file, remove the notice of action from the automated printing and mailing process, and manually print, package, and mail the evidence to the claimant. This process is time-consuming, uses our scarce administrative resources with little benefit either to the public or to us, requires action by multiple employees, and delays release of the AC action document. This delay is burdensome and unnecessary in most instances because the claimant already has copies of or access to the information.

We recognize that there may be some instances in which it would remain appropriate for the AC to return evidence to the claimant, such as when the submitted evidence is an original or a certified copy of a marriage or birth certificate. In evaluating whether returning the evidence is necessary, the AC considers who submitted the information and by what means, whether the claimant is represented, and whether the claimant otherwise has access to the information. Our sub-regulatory instructions will incorporate procedures that explain when the AC will return evidence. We are not changing how the AC considers additional evidence or when the AC will give protective filing based on the receipt of additional evidence.

Given the change in our operating environment since we first published these rules in 1987, both in terms of our administrative resources and the electronic availability of evidence, we believe it is no longer administratively efficient or cost effective to return additional evidence when the AC

[1] 20 CFR 404.970(b) and 416.1470(b).

[2] 20 CFR 404.976(b) and 416.1476(b).

determines it does not relate to the period on or before the date of the ALJ decision. We expect these proposed changes will benefit the public by reducing the time it takes to release an AC action document.

**Clarity of This Notice of Proposed Rulemaking**

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make them easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the proposed rules clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?
- Do the proposed rules contain technical language or jargon that is not clear?
- Would a different format make the proposed rules easier to understand, *e.g.* grouping and order of sections, use of headings, paragraphing?

**Regulatory Procedures**

*Executive Order 12866 as Supplemented by Executive Order 13563*

We consulted with the Office of Management and Budget (OMB) and determined that these proposed rules do not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Thus, OMB did not review these proposed rules.

*Regulatory Flexibility Act*

We certify that these proposed rules will not have a significant economic impact on a substantial number of small entities because they affect individuals only. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

*Paperwork Reduction Act*

These proposed rules do not create any new or affect any existing collections and, therefore, do not require Office of Management and Budget approval under the Paperwork Reduction Act.

(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; and 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, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: September 14, 2015.

**Carolyn W. Colvin,**

*Acting Commissioner of Social Security.*

For the reasons stated in the preamble, we propose to amend 20 CFR chapter III parts 404 and 416 as set forth below:

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

### Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

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

**Authority:** Secs. 201(j), 204(f), 205(a)–(b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a)–(b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. In § 404.976, revise paragraph (b)(1) to read as follows:

**§ 404.976 Procedures before Appeals Council on review.**

* * * * *

(b) * * * (1) The Appeals Council will consider all the evidence in the administrative law judge hearing record as well as any new and material evidence submitted to it that relates to the period on or before the date of the administrative law judge hearing decision. If you submit evidence that does not relate to the period on or before the date of the administrative law judge hearing decision, the Appeals Council will explain why it did not accept the additional evidence and will advise you of your right to file a new application. The notice will also advise you that if you file a new application within 6 months after the date of the Appeals Council's notice, your request for review will constitute a written statement indicating an intent to claim benefits in accordance with § 404.630. If you file a new application within 6 months of the date of this notice, we will use the date of the request for review as the filing date for your application.

* * * * *

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

### Subpart N—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

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

**Authority:** Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 4. In § 416.1476, revise paragraph (b)(1) to read as follows:

**§ 416.1476 Procedures before Appeals Council on review.**

* * * * *

(b) * * * (1) In reviewing decisions based on an application for benefits, the Appeals Council will consider the evidence in the administrative law judge hearing record as well as any new and material evidence submitted to it that relates to the period on or before the date of the administrative law judge hearing decision. If you submit evidence that does not relate to the period on or before the date of the administrative law judge hearing decision, the Appeals Council will explain why it did not accept the additional evidence and will advise you of your right to file a new application. The notice will also advise you that if you file a new application within 60 days after the date of the Appeals Council's notice, your request for review will constitute a written statement indicating an intent to claim benefits in accordance with § 416.340. If you file a new application within 60 days of the date of this notice, we will use the date of the request for review as the filing date for your application.

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[FR Doc. 2015–26747 Filed 10–20–15; 8:45 am]

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