

on this regulation in person in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office is on the plaza level of the Nassif Building at the Department of Transportation, 400 7th St., SW., Room 401, Washington, DC 20590.

You may also request a paper copy of the final rule or the additional data from the Office of Rulemaking, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, or by calling (202) 267-9685.

**FOR FURTHER INFORMATION CONTACT:** Gary Davis, Flight Standards Service, (AFS-200) Federal Aviation Administration, Seventh and Maryland Streets, SW., Washington, DC, 20591. Telephone: (202) 267-3747, or by e-mail at [Gary.Davis@faa.gov](mailto:Gary.Davis@faa.gov).

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**Louis C. Cusimano,**

*Acting Director, Flight Standards Service.*

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## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 404

[Reg. No. 4]

**RIN 0960-AE02**

#### **Federal Old-Age, Survivors and Disability Insurance; Repeal of the Facility-of-Payment Provision**

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Final rules.

**SUMMARY:** We are revising our rules on benefit reduction for the family maximum to reflect enactment of two self-implementing provisions in the Social Security Independence and Program Improvements Act of 1994. The provisions repealed the facility-of-payment provision of the Social Security Act (the Act) and provided that reduction for the family maximum will be made prior to a temporary suspension for work when a non-working auxiliary or survivor beneficiary resides in a separate household from a working auxiliary or survivor beneficiary. These revisions are necessary to conform our regulations to current law. We have been paying benefits under these self-implementing provisions since January 1996.

**EFFECTIVE DATE:** The rule is effective April 1, 2003.

**FOR FURTHER INFORMATION CONTACT:** Jerry Strauss, Social Insurance Specialist,

Office of Payment Policy, Office of Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, 410-965-7930, TTY 410-966-5609, or [regulations@ssa.gov](mailto:regulations@ssa.gov) for information about these rules. For information on eligibility or filing for benefits, contact our national toll free number at 1-800-772-1213 or TTY at 1-800-325-0778, or visit our Internet Web site, Social Security Online, at <http://www.ssa.gov>.

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#### **SUPPLEMENTARY INFORMATION:**

The facility-of-payment provision established a simplified method to use in paying benefits when all of the following conditions applied:

- An individual receiving benefits as an auxiliary or survivor of an insured individual incurred a deduction in his or her benefits (for example, his or her earnings exceeded the earnings test exempt amount); and
- The maximum family benefit applied (the maximum family benefit is a limit on the total amount of monthly benefits which may be paid for any month to an insured individual and his or her auxiliaries or survivors); and
- All of the auxiliaries or survivors lived in the same household.

The facility-of-payment provision permitted us to continue paying the same amount to the household instead of withholding the amount of the deduction from the beneficiary who incurred the deduction and recalculating and redistributing the same amount of total family benefits to the other auxiliaries or survivors. The provision was enacted to relieve SSA of the need to engage in costly, time-consuming manual recalculations of benefits when the family would continue to receive the same amount of benefits.

However, because these recalculations are now automated, the withholding of benefits and redistribution to other family members is no longer a burdensome procedure and the simplified method is no longer needed.

Section 309(a) of the Social Security Independence and Program Improvements Act of 1994, Public Law 103-296, repealed the facility-of-payment provision effective with benefits payable for months after December 1995. Deductions are now made from the monthly benefit of the

beneficiary who is affected by the deductions, and the benefits are recalculated and redistributed to the other beneficiaries living in the same household. We are, therefore revising § 408.458 of our regulations to reflect that repeal.

In addition, we are revising our regulations at § 404.402 to reflect section 309(b) of Public Law 103-296 which provides that benefits will be reduced to meet the family maximum before benefits are suspended to a working auxiliary or survivor beneficiary who lives in a separate household from a non-working auxiliary or survivor beneficiary. This prevents potential overpayments to those in separate households and the need to recover them in the event that the working auxiliary stops working.

#### **Regulatory Procedure**

Pursuant to section 702(a)(5) of the Act, 42 U.S.C. 902(a)(5), we follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when developing our regulations. The APA provides exceptions to its notice and comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures for these rules. Good cause exists because these regulations simply reflect self-implementing statutory changes and do not involve the making of any discretionary policy. Therefore, we have determined that opportunity for prior comment is unnecessary and we are issuing these changes to our regulations as final rules.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided by 5 U.S.C. 553(d). As explained above, these regulations merely reflect self-implementing statutory changes that were effective for all benefits payable after 1995.

#### **Executive Order 12866**

We have consulted with the Office of Management and Budget (OMB) and determined that these final rules do not meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were not subject to OMB review.