

education and employment goals embodied in the New Freedom Initiative.

Explanation of Proposed Changes

The proposed rules would update our regulations to reflect amendments to sections 225(b) and 1631(a)(6) of the Act. They also would make certain other changes to our regulations regarding eligibility for continued benefit payments under these sections of the Act.

Extension of Eligibility for Continued Benefit Payments to Individuals Who Receive SSI Benefits Based on Blindness

We propose to revise §§ 416.1321(d), 416.1331(a) and (b), 416.1338(a) and (b), and 416.1402(j) to reflect the OBRA 1987 amendment which extended the scope of section 1631(a)(6) of the Act to cover individuals receiving SSI benefits based on blindness. We propose to revise these sections to indicate that an individual whose eligibility for SSI benefits is based on blindness and whose blindness ends due to medical recovery while he or she is participating in a program of vocational rehabilitation services, employment services, or other support services may be eligible for continued benefits under section 1631(a)(6) of the Act. We also are reflecting this expanded scope of the statute in proposed new § 416.1338(e), which we discuss later in this preamble.

Individuals Whose Disability Is Determined To Have Ended as a Result of an Age-18 Redetermination of SSI Eligibility

We propose to revise the introductory text of § 416.1338(a) to indicate that children who receive SSI benefits based on disability and whose disability is determined to have ended under the rules in § 416.987(b) and (e)(1) in an age-18 redetermination may have their benefit payments continued under section 1631(a)(6) of the Act if the individual meets all other requirements for continued benefits.

Students Participating in an Individualized Education Program

As noted above, the NLTS documented the importance of vocational education and work experience programs in school. An IEP that addresses needed transition services is developed, reviewed and, if appropriate, revised on a regular basis by the IEP team for a student with a disability beginning at age 16 (or younger, if determined appropriate by the IEP team). Therefore, we are proposing rules to provide that we will consider a student's completion of or

continuation in such a program to be analogous to the individualized determination that completion of or continuation in other approved programs of vocational rehabilitation services will improve an individual's level of education, work experience, or skills so that he or she would be more likely to be able to do other work that exists in the national economy, despite a possible future reduction in his or her residual functional capacity. On this basis, under the rules we are proposing to add as §§ 404.328 and 416.1338(e), we will determine that participation in such a program will increase the likelihood that an individual who is engaged in such a program at the time his or her disability ceases will not have to return to the disability rolls.

The NLTS also demonstrated that there was a consistently positive relationship between staying in school and employment success, and suggested that any efforts that encourage students with disabilities to stay in school and complete their educational and vocational training are important to improving post-school outcomes for students with disabilities. We, therefore, propose to amend our rules to encourage young people with disabilities to stay in school and complete their educational and vocational training, and to encourage the families of students with disabilities to support them in preparing for employment and self-sufficiency. This is consistent with the goals of the President's New Freedom Initiative to expand access to quality education for youth with disabilities, ensure that they receive support to transition from school to employment, and improve the high school graduation rates of students with disabilities. Specifically, we are proposing that, if a student age 18 through 21 is receiving services under an IEP, and if the student's disability ceases as a result of a continuing disability review or a redetermination of his or her eligibility at age 18 under the rules for determining initial eligibility as adults (*i.e.*, age 18 redeterminations), we will consider that the student's completion of or continuation in the IEP will increase the likelihood that he or she will not have to return to the disability or blindness benefit rolls.

We are proposing benefit continuation on this basis for students beginning at age 18, who are receiving services under IEPs when their disabilities cease as a result of continuing disability reviews or age-18 redeterminations, in order to encourage young people with disabilities to stay in school and complete their educational and vocational training, and to encourage

their families to support them in preparing for employment and self-sufficiency, regardless of the possible outcome of continuing disability reviews or age 18 redeterminations. We are proposing benefit continuation on this basis for students with disabilities through age 21, since each State can receive a grant of assistance under IDEA for serving a child with a disability through age 21.

Individuals Participating in the Ticket to Work Program or Another Program of Vocational Rehabilitation Services, Employment Services, or Other Support Services Approved by Us

We propose to revise and update our regulations regarding the type of program in which an individual must be participating in order to qualify for continued benefits. Our existing regulations, which are based on the original provisions of sections 225(b) and 1631(a)(6) of the Act, indicate that an individual whose impairment is no longer disabling may be considered for eligibility for continued benefits if he or she is participating in a vocational rehabilitation program provided by a State vocational rehabilitation agency. The amendments to sections 225(b)(1) and 1631(a)(6)(A) of the Act, made by OBRA 1990, extended consideration for continued benefits under sections 225(b) and 1631(a)(6) of the Act to individuals in approved non-State vocational rehabilitation programs.

We implemented the amendments made by OBRA 1990 by publishing operating instructions in 1992. These instructions identified an approved non-State vocational rehabilitation program as any non-State vocational rehabilitation service provider who meets one of the following criteria:

- Is licensed, certified, accredited, or registered, as appropriate, to provide vocational rehabilitation services in the State in which it provides services; or
- Is an agency of the Federal government (*e.g.*, the Department of Veterans Affairs); or
- Is a provider approved to provide services under a Social Security Administration research or demonstration project.

The amendments to sections 225(b)(1) and 1631(a)(6)(A) of the Act, made by section 101(b) of Pub. L. 106-170, further expanded the type of program in which an individual must be participating to qualify for continued benefits. These sections of the Act now provide that an individual may be considered for eligibility for continued benefits if she or he is participating in a program consisting of the Ticket to Work program or another program of