

for the one-year period before the insured became entitled to old-age or disability benefits or died. Under section 202(d)(9)(B) of the Act and § 404.364(b) of our regulations, if a grandchild or stepgrandchild was born during this one-year period, the living-with and support requirements must be met for “substantially all” of the period beginning on the child’s date of birth. Section 404.364(b) refers to § 404.362(b)(1)(iii) for a definition of “substantially all.” However, § 404.362(b)(1)(iii) was inadvertently deleted from the regulations. We propose to reintroduce the definition of “substantially all” as subparagraph (c) of § 404.364, using the same language that was inadvertently deleted. Under the proposed language, the “substantially all” requirement is met if, at the applicable time, the insured was living with the child and providing at least one-half of the child’s support; and any period during which the grandparent or stepgrandparent was *not* living with the child and providing at least one-half support did not exceed the lesser of 3 months or one-half of the period beginning with the month of the child’s birth.

#### Revision of Headings

We propose to revise the headings of §§ 404.339, 404.363 and 404.364 to be in plain language format to comply with the provisions of Executive Order 12866, as amended by Executive Order 13258.

#### Clarity of These Proposed Rules

Executive Order 12866, as amended by Executive Order 13258, 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 these proposed rules easier to understand. For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that isn’t clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- What else could we do to make the rules easier to understand?

#### Regulatory Procedures

##### *Executive Order 12866, as Amended by Executive Order 13258*

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

#### Regulatory Flexibility Act

We certify that these proposed rules would not have a significant economic impact on a substantial number of small entities because they affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

#### Paperwork Reduction Act

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

(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)

#### 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: August 6, 2003.

Jo Anne B. Barnhart,

Commissioner of Social Security.

For the reasons stated in the preamble, we propose to amend Subpart D of part 404 of 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 D—[Amended]**

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

**Authority:** Secs. 202, 203(a) and (b), 205(a), 216, 223, 225, 228(a)–(e), and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403(a) and (b), 405(a), 416, 423, 425, 428(a)–(e), and 902(a)(5)).

2. Section 404.339 is amended by revising the heading and paragraph (a) to read as follows:

##### **§ 404.339 How do I become entitled to mother’s or father’s benefits?**

\* \* \* \* \*

(a) You are the widow or widower of the insured and meet the conditions described in § 404.335(a);

\* \* \* \* \*

3. Section 404.352 is amended by adding paragraph (b)(7) to read as follows:

##### **§ 404.352 When does my entitlement to child’s benefits begin and end?**

\* \* \* \* \*

\* \* \* \* \*

(b) \* \* \*  
(7) With the month in which the divorce between your parent and the insured becomes final, if you are entitled to benefits as a stepchild and the marriage between your parent and the insured ends in divorce. If the marriage between your parent and the insured is annulled prospectively, your entitlement to benefits will end with the month in which the annulment becomes final. If the marriage between your parent and the insured is annulled from the beginning (*ab initio*), your entitlement to benefits will end with the month before the month in which the annulment becomes final.

\* \* \* \* \*

4. Section 404.363 is revised to read as follows:

##### **§ 404.363 When is a stepchild dependent?**

If you are the insured’s stepchild, as defined in § 404.357, you are considered dependent upon him or her if you were receiving at least one-half of your support from him or her at one of these times—

- (a) When you applied;
- (b) When the insured died; or,
- (c) If the insured had a period of disability that lasted until his or her death or entitlement to disability or old-age benefits, at the beginning of the period of disability or at the time the insured became entitled to benefits.

5. Section 404.364 is revised to read as follows:

##### **§ 404.364 When is a grandchild or stepgrandchild dependent?**

If you are the insured’s grandchild or stepgrandchild, as defined in § 404.358(a), you are considered dependent upon the insured if—

- (a) You began living with the insured before you became 18 years old; and,
- (b) You were living with the insured in the United States and receiving at least one-half of your support from him for the year before he or she became entitled to old-age or disability benefits or died; or if the insured had a period of disability that lasted until he or she became entitled to benefits or died, for the year immediately before the month