

we will find that you are disabled. We are not adding a corresponding listing in part B of our listings, the listings we use to evaluate people who are under 18 years old, because ALS is rare in children. We will use revised listing 11.10 to evaluate all people with ALS, including people who are under age 18, as we did under the prior listing.

As already noted, we are also adding a new paragraph (i) to § 416.934 to allow us to make findings of presumptive disability without medical evidence in cases involving allegations of ALS. Together with this addition, we are also making minor editorial changes for context and to update one of our rules. We needed to revise paragraph (g) near the end of prior § 416.934 to remove the word "and" at the end of the section because paragraph (h) is no longer the last paragraph in the section. In addition, we are changing the language of paragraph (g) from "Allegation of Down's syndrome (Mongolism)" to "Allegation of Down syndrome." This is the current terminology for the condition.

Regulatory Procedures

Pursuant to section 702(a)(5) of the Act, 42 U.S.C. 902(a)(5), the Social Security Administration follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its Notice of Proposed Rulemaking (NPRM) procedures when an agency finds that there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. In the case of these rules, we have determined that, under 5 U.S.C. 553(b)(3), good cause exists for waiving the NPRM procedures.

As we have noted above, we receive very few claims each year based on ALS. In light of the nature of ALS, we find disabled at the initial level of our administrative review process about 96 percent of people who apply for disability benefits under title II and title XVI based on the condition. Many of the remaining few people whose claims are denied initially are found disabled on appeal. Ultimately, we find that almost all people who apply based on ALS are disabled. We expect that the changes we are making in these rules will simplify and expedite our processing of claims based on ALS. The main differences between these rules and our prior rules are that a small number of people who would be required to appeal an unfavorable determination under our prior rules will no longer have to do so, and a very small number of people

whose claims were denied incorrectly under our prior rules will now properly be found to be disabled. Consequently, we find that prior notice and comment is unnecessary with respect to these rules.

We also find that good cause exists for waiving the APA's notice-and-comment rulemaking procedures because use of notice-and-comment rulemaking procedures would be contrary to the public interest. In light of the serious consequences caused by ALS, ultimately, we find that almost all people who apply for disability benefits based on the condition are disabled. The serious consequences caused by ALS are also reflected in Congress' judgment, set out in section 226(h) of the Act, to eliminate for individuals who are disabled with ALS the normal 24-month Medicare waiting period that applies to people who are found disabled under title II of the Act. The changes we are making in these rules will allow us to make more timely determinations of disability for individuals with a progressive and invariably fatal disorder. The changes we are making in these rules will also help to implement Congress' judgment that individuals who are disabled under title II of the Act based on ALS should also receive immediate entitlement to Medicare rather than having to wait 24 months. It is critical that we issue these rules as soon as possible so that more people can qualify as quickly as possible for Medicare benefits and other services. Likewise, the small number of individuals who file applications for SSI will be able to benefit from the presumptive eligibility provisions of these rules. For these reasons, we find that use of the APA's notice-and-comment rulemaking procedures is contrary to the public interest in this instance.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, as provided for by 5 U.S.C. 553(d)(3). For the reasons that we have discussed above, we find that it is in the public interest to make these rules effective upon publication.

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these final rules meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were subject to OMB review.

Regulatory Flexibility Act

We certify that these final rules will 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

These final rules contain reporting requirements at sections 11.00G and 11.10. The public reporting burden is accounted for in the Information Collection Requests for the various forms that the public uses to submit the information to SSA. Consequently, a 1-hour placeholder burden is being assigned to the specific reporting requirement(s) contained in these rules. We are seeking clearance of the burden referenced in these rules because the rules were not considered during the clearance of the forms. An Information Collection Request has been submitted to OMB. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Comments should be submitted to the Office of Management and Budget at the following fax number and to the Social Security Administration at the following address or fax number:

Office of Management and Budget, Attn: Desk Officer for SSA, Fax Number: 202-395-6974.

Social Security Administration, Attn: SSA Reports Clearance Officer, 1338 Annex Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, Fax Number: 410-965-6400.

Comments can be received for between 30 and 60 days after publication of this notice and will be most useful if received by SSA within 30 days of publication.

(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