

| Section                      | Annual number of responses | Frequency of response | Average burden per response (minutes) | Estimated annual burden (hours) |
|------------------------------|----------------------------|-----------------------|---------------------------------------|---------------------------------|
| 404.929 .....                | 1                          | 1 .....               | 1                                     | 1                               |
| 404.936(d), (e) & (f) .....  | 92,000                     | Once .....            | 10                                    | 15,333                          |
| 404.938(c) .....             | 300,000                    | Once .....            | 1                                     | 5,000                           |
| 404.950(a) .....             | 210,000                    | Once .....            | 30                                    | 105,000                         |
| 416.1429 .....               | 1                          | 1 .....               | 1                                     | 1                               |
| 416.1436(d), (e) & (f) ..... | 75,000                     | Once .....            | 10                                    | 12,500                          |
| 416.1438(c) .....            | 250,000                    | Once .....            | 1                                     | 4,166                           |
| 416.1450(a) .....            | 172,000                    | Once .....            | 30                                    | 86,000                          |
| Total .....                  | 1,099,002                  | .....                 | .....                                 | 228,001                         |

An Information Collection Request has been submitted to OMB for clearance. While these rules will be effective 30 days from publication, these burdens will not be effective until cleared by 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. We will publish a notice in the **Federal Register** upon OMB's approval of the information collection requirement(s). Comments should be submitted to the OMB desk officer for SSA within 30 days of publication of this final rule at the following address: Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, DC 20530.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.003, Social Security—Special Benefits for Persons Aged 72 and Over; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income.)

#### List of Subjects

##### 20 CFR 404

Administrative practice and procedure, Aged, Blind, Disability benefits, Old-age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

##### 20 CFR 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: October 25, 2002.

**Jo Anne B. Barnhart,**  
*Commissioner of Social Security.*

For the reasons set out in the preamble, subpart J of part 404 and subpart N of part 416 of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below:

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

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, 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, 425, and 902(a)(5)); 31 U.S.C. 3720A; 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).

2. Section 404.929 is revised to read as follows:

#### **§ 404.929 Hearing before an administrative law judge—general.**

If you are dissatisfied with one of the determinations or decisions listed in § 404.930 you may request a hearing. The Associate Commissioner for Hearings and Appeals, or his or her delegate, shall appoint an administrative law judge to conduct the hearing. If circumstances warrant, the Associate Commissioner, or his or her delegate, may assign your case to another administrative law judge. At the hearing you may appear in person or by video teleconferencing, submit new evidence, examine the evidence used in making the determination or decision under review, and present and question witnesses. The administrative law judge who conducts the hearing may ask you questions. He or she shall issue a decision based on the hearing record. If you waive your right to appear at the hearing, either in person or by video teleconferencing, the administrative law judge will make a decision based on the evidence that is in the file and any new

evidence that may have been submitted for consideration.

3. Section 404.936 is revised to read as follows:

#### **§ 404.936 Time and place for a hearing before an administrative law judge.**

(a) *General.* The administrative law judge sets the time and place for the hearing. He or she may change the time and place, if it is necessary. After sending you reasonable notice of the proposed action, the administrative law judge may adjourn or postpone the hearing or reopen it to receive additional evidence any time before he or she notifies you of a hearing decision.

(b) *Where we hold hearings.* We hold hearings in the 50 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico and the Virgin Islands. The “place” of the hearing is the hearing office or other site(s) at which you and any other parties to the hearing are located when you make your appearance(s) before the administrative law judge, whether in person or by video teleconferencing.

(c) *Determining how appearances will be made.* In setting the time and place of the hearing, the administrative law judge determines whether your appearance or that of any other individual who is to appear at the hearing will be made in person or by video teleconferencing. The administrative law judge will direct that the appearance of an individual be conducted by video teleconferencing if video teleconferencing technology is available to conduct the appearance, use of video teleconferencing to conduct the appearance would be more efficient than conducting the appearance in person, and the administrative law judge does not determine that there is a circumstance in the particular case preventing use of video teleconferencing to conduct the appearance. Section 404.950 sets forth procedures under which parties to the hearing and witnesses appear and present evidence at hearings.