

*Response:* We are not changing the regulation to specifically provide for an extension of the 60-day period to submit documentary evidence. However, we will cover this matter in staff instructions on the procedures for conducting AWG. The regulation established by these final rules allows us, but does not require us, to issue the garnishment order immediately after the 60-day period expires if the individual does not give us the evidence within that period. See § 422.425(a). We will give an individual a reasonable amount of extra time to secure documentary evidence if we find that the 60-day period established in the regulation is inadequate in a particular case. The reasonable amount of extra time will depend on the individual's specific circumstances and the type of documentary evidence the individual is trying to obtain. In addition, if a person has good cause for requesting review of the debt after the 60-day period expires and also needs more time to obtain documentary evidence, we will allow that person a reasonable amount of time according to the circumstances of the case.

*Comment:* One organization commented that AWG should not be initiated while an individual is engaged in work activities with a Ticket to Work, or is in an extended period of eligibility. The organization expressed concern that the financial condition and long-term work prospects of such an individual are uncertain.

*Response:* We agree with the organization. We added paragraphs (b)(3), (4) and (5) to § 422.403 of the final regulations to provide that we will not apply AWG in the situations described in the comment. One of our strategic goals is to deliver high-quality, citizen-centered service. In pursuit of this goal, we are committed to encouraging and supporting the work activity of individuals with disabilities. To that end, our programs, including the Ticket to Work and Self-Sufficiency program, provide incentives and services to promote return to work. Also, title II disability beneficiaries can be provided an extended period of eligibility (the reentitlement period) and extended Medicare coverage while they attempt to work. Another of our strategic goals is to ensure superior stewardship of our programs and resources. One of the steps we are taking to achieve this goal is the improvement of debt management practices, and the implementation of AWG serves this objective. In pursuing both of these goals, we must find the proper balance between these activities and objectives.

Imposing AWG on individuals who are not receiving cash benefits during the reentitlement period because they are working, or during the period in which they are entitled to extended Medicare coverage following termination of their cash benefits due to work activity, or during the period in which they are participating in the Ticket to Work and Self-Sufficiency Program and have a ticket in use, could discourage them from continuing to work and, thus, could act counter to the purposes of the work incentive programs. The exclusion from AWG would be temporary if they continue to work at a substantial level. The possible negative effects on our work incentive programs would outweigh the benefits of any additional overpayment recovery that we might gain from imposing AWG on individuals during their early attempts to work.

*Comment:* One organization commented that we should deliver our notice of planned garnishment action in formats other than written notices for people who need special accommodations.

*Response:* We have a tradition of helping people who need special accommodations in their dealings with the Agency. This includes people with visual and hearing impairments, people with physical and mental disabilities and people who speak languages other than English. Depending upon the individual's needs, we will try to take special action to help the person. For example, we give all people applying for or receiving Social Security payments by reason of blindness the opportunity to choose how they want to receive SSA notices. Such people can elect to be notified by SSA in a telephone call, by certified mail and by first class mail. They can change their election at any time, and we will honor that change. At this time, however, due to a lack of contractor support for the production of Braille notices, we cannot offer that option.

In addition, our regulations on the use of AWG will provide some accommodation for people who have physical, mental, educational or linguistic limitations which prevent them from requesting review on time or from understanding the need to make a request on time. Section 422.410(b) provides that when a person has good cause for a late request, SSA will treat the request for review as if we received it on time; *i.e.*, we would not pursue garnishment (or we would stop it if it has begun) until we notify the person about our decision. In determining whether there is good cause for a late request we will take into consideration

the person's physical, mental, educational or linguistic limitations.

*Comment:* One organization recommended that we include with our notices lists of the names and addresses of local legal aid organizations and other advocacy groups who could assist individuals who are subject to AWG.

*Response:* As required by law, we provide on notices of adverse determinations, covered by 20 CFR part 404, subpart J, and part 416, subpart N, information on the options for obtaining legal representation to assist individuals in their dealings with us. See sections 206(c) and 1631(d)(2)(B) of the Act and 20 CFR 404.1706 and 416.1506. We are not required by law to provide this information in our AWG notices.

When we send the initial notice of overpayment to an individual and also when we notify a person about an adverse determination regarding his or her benefits, we include the information about options available to the person to obtain legal representation or assistance. We inform the person that he can have a friend, lawyer or someone else help. We also tell the person that any local Social Security office can provide a list of groups that can help. In the notice of garnishment to the individual, we will include the address of the local Social Security office that services the person's area, as well as a toll-free telephone number the person can call with any questions. We believe that the information that the individual would receive in certain notices prior to receiving the notice about AWG, and the availability of the information about legal aid organizations and other advocacy groups in our local offices, are adequate to help a person obtain independent advice and assistance. Consequently, we do not plan to include names and addresses of local legal aid organizations and other advocacy groups in the notice of garnishment to individuals.

*Comment:* We received three comments from individuals. Two of the comments were not specific to the regulation and will therefore not be addressed. The third comment questioned why Federal employees are exempt from AWG under § 422.403(b)(1).

*Response:* Federal employees who owe debts to the Federal Government are subject to Federal salary offset under 5 U.S.C. 5514, rather than AWG under 31 U.S.C. 3720D. The regulation of the Department of the Treasury regarding AWG under 31 U.S.C. 3720D does not cover Federal salary offset. See 31 CFR § 285.11(b)(5). Thus, Federal salary offset is not covered under our regulations on AWG. However, we are