

compliance with the Acceptable Practices will assure DCMs of their compliance with the requirements of Core Principle 15 as they pertain to conflicts of interest in self-regulation and self-regulatory organizations. The amendments should not impose additional costs, but in fact may reduce costs of compliance in light of the removal of ambiguities. They assure that what is intended to be a bright-line test operates as such. After considering the above mentioned factors and issues, the Commission has determined to propose these amendments to the Acceptable Practices of Core Principle 15. The Commission specifically invites public comment on its application of the criteria contained in Section 15(a) of the Act and furthermore invites interested parties to submit any quantifiable data that they may have concerning the costs and benefits of the proposed amendments to the Acceptable Practices of Core Principle 15.

#### *B. Paperwork Reduction Act of 1995*

These proposed amendments to the Acceptable Practices of Core Principle 15 would not impose any new recordkeeping or information collection requirements, or other collections of information that require approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Accordingly, the Paperwork Reduction Act does not apply. We solicit comment on the accuracy of our estimate that no additional recordkeeping or information collection requirements or changes to existing collection requirements would result from the amendments proposed herein.

#### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities. The proposed amendments to the Acceptable Practices for Core Principle 15 affect DCMs. The Commission has previously determined that DCMs are not small entities for purposes of the Regulatory Flexibility Act.<sup>12</sup> Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed amendments to the Acceptable Practices will not have a significant economic impact on a substantial number of small entities.

<sup>12</sup> See Policy Statement and Establishment of Definitions of "Small Entities" for Purposes of the Regulatory Flexibility Act, 47 FR 18618, 18619 (Apr. 30, 1982).

### **V. Text of Proposed Amendments to Acceptable Practices for Core Principle 15**

#### **List of Subjects in 17 CFR Part 38**

Commodity futures, Reporting and recordkeeping requirements.

In light of the foregoing, and pursuant to the authority in the Act, and in particular, Sections 3, 5, 5c(a) and 8a(5) of the Act, the Commission hereby proposes to amend Part 38 of Title 17 of the Code of Federal Regulations as follows:

#### **PART 38—DESIGNATED CONTRACT MARKETS**

1. The authority citation for part 38 continues to read as follows:

**Authority:** 7 U.S.C. 2, 5, 6, 6c, 7, 7a–2, and 12a, as amended by Appendix E of Pub. L. 106–554, 114 Stat. 2763A–365.

2. In Appendix B to Part 38 amend paragraphs (b)(2)(ii)(B) and (b)(2)(ii)(C) of the Acceptable Practices for Core Principle 15 to read as follows:

#### **Appendix B to Part 38—Guidance on, and Acceptable Practices in, Compliance with Core Principles**

\* \* \* \* \*

Core Principle 15 of section 5(d) of the Act: CONFLICTS OF INTEREST

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(B) The director is a member of the contract market, or a person employed by or affiliated with a member. "Member" is defined according to Section 1a(24) of the Commodity Exchange Act and Commission Regulation 1.3(q). In this context, a person is "affiliated" with a member if he or she is an officer, director, or partner of the member;

(C) The director, or a firm of which the director is an employee, officer, director or partner, receives more than \$100,000 in combined annual payments from the contract market, any affiliate of the contract market, as defined in Subsection (2)(ii)(A), or from a member or an officer or director of a member of the contract market. As used in this Subsection (2)(ii)(C), "payments" means compensation for professional services. Compensation for services as a director of the contract market does not count toward the \$100,000 payment limit, nor does deferred compensation for services prior to becoming a director, so long as such compensation is in no way contingent, conditioned, or revocable;

\* \* \* \* \*

Issued in Washington, DC, on March 20, 2007 by the Commission.

**Eileen A. Donovan,**

*Acting Secretary of the Commission.*

[FR Doc. E7–5468 Filed 3–23–07; 8:45 am]

**BILLING CODE 6351–01–P**

### **SOCIAL SECURITY ADMINISTRATION**

#### **20 CFR Part 416**

[Docket No. SSA–2006–0103]

**RIN 0960–AF99**

#### **Technical Updates to Applicability of the Supplemental Security Income (SSI) Reduced Benefit Rate for Individuals Residing in Medical Treatment Facilities**

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** We propose to revise our regulations to codify two provisions of the Balanced Budget Act of 1997 that affect the payment of benefits under title XVI of the Social Security Act (the Act). One of the provisions extended temporary institutionalization benefits to children receiving SSI benefits who enter private medical treatment facilities and who otherwise would be ineligible for temporary institutionalization benefits because of private insurance coverage. The other provision replaced obsolete terminology in the Act that referred to particular kinds of medical facilities and substituted a broader, more descriptive term.

**DATES:** To be sure that we consider your comments, we must receive them by May 25, 2007.

**ADDRESSES:** You may give us your comments: by Internet through the Federal eRulemaking Portal at <http://www.regulations.gov>; by e-mail to [regulations@ssa.gov](mailto:regulations@ssa.gov); by telefax to (410) 966–2830; or by letter to the Commissioner of Social Security, PO Box 17703, Baltimore, MD 21235–7703. You may also deliver them to the Office of Regulations, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on our Internet site. You also may inspect the comments on regular business days by making arrangements with the contact person shown in the preamble.

**FOR FURTHER INFORMATION CONTACT:** Curt Dobbs, Social Insurance Specialist, Office of Income Security Programs, Social Security Administration, 252 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–7963 or TTY (410) 966–5609, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site,

Social Security Online, at <http://www.socialsecurity.gov>.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>.

##### Background

The basic purpose of the SSI program is to ensure a minimum level of income to individuals who are age 65 or older, or blind or disabled, and who have limited income and resources. The Balanced Budget Act of 1997 (Public Law 105–33), enacted August 5, 1997, contained two provisions that affected the payment of SSI benefits to certain SSI beneficiaries who are institutionalized. One of the provisions extended temporary institutionalization benefits to children who enter private medical treatment facilities and who otherwise would be subject to a reduced benefit because of private insurance coverage. The other provision removed obsolete terminology in the Act that referred to particular categories of inpatient medical facilities and substituted the broader, more descriptive term “medical treatment facility.” This change in terminology permits us to correct an unintended inequity in the amount of SSI benefits that were payable to certain children under the obsolete terminology.

##### Extending Temporary Institutionalization Benefits to Children Under Age 18 in Private Institutions

Residents of public institutions generally are ineligible to receive SSI payments. However, there are some exceptions to this general rule. One exception in section 1611(e)(1)(B) of the Act provides that residents of medical treatment facilities (which we are proposing to define as a facility licensed or otherwise approved by a Federal, State, or local government to provide inpatient medical care and services) may be eligible for SSI if Medicaid pays a substantial part (more than 50 percent) of the cost of the beneficiary’s care. In such cases, SSI payments to the resident of the medical treatment facility are limited to a maximum of \$30 a month.

Another exception in section 1611(e)(1)(G) of the Act allows payment of full SSI benefits for up to 3 full months after entering a public facility if a physician certifies that the recipient’s stay in the facility is likely not to exceed 3 months and we determine the recipient needs to continue to maintain and provide for the expenses of the home to which he or she may return.

These benefits are referred to as “temporary institutionalization benefits.”

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193), enacted August 22, 1996, amended section 1611(e)(1)(B) of the Act to allow children under age 18 who are in medical treatment facilities and who have private health insurance to receive the reduced SSI payment (\$30). However, Public Law 104–193 did not amend the statutory provision on temporary institutionalization to extend such benefits to children with private health insurance. Consequently, children who were temporarily in private medical facilities could not be eligible for 3 months of full benefits if private health insurance, or a combination of Medicaid and private health insurance, paid more than 50 percent of the cost of their care. Payments to these children were limited to the reduced benefit amount of no more than \$30 a month beginning with their first full month of institutionalization.

Section 5522(c) of Public Law 105–33 revised section 1611(e)(1)(G) of the Act to correct this omission. Prior to this revision, section (e)(1)(G) specified that the recipient must be an inmate of either a public institution whose primary purpose is to provide medical or psychiatric care, or a hospital, extended care facility, nursing home, or intermediate care facility that receives payments under a State plan approved under title XIX. As a result of Public Law 105–33, and subject to SSI eligibility and benefit computation rules, those children in private medical facilities for whom private health insurance, or a combination of Medicaid and private health insurance was paying more than 50 percent of the cost of care, now can be eligible for continuation of their full SSI benefits for up to 3 months under section 1611(e)(1)(G) of the Act. For example, when a child who is receiving SSI while living at home goes into a medical treatment facility, and private insurance through the parent’s employment pays for more than 50 percent of the cost of care, the child can continue to receive SSI benefits during a temporary institutionalization of up to 3 months. Providing SSI benefits during a temporary period of institutionalization is a provision designed to enable SSI beneficiaries (adult or child) to provide for the expenses of the home where they live and to reduce the risk of losing their place of residence due to a sudden loss of SSI benefits during a temporary period of institutionalization.

##### Revised Terminology for Inpatient Providers

Section 5522(c) of Public Law 105–33 also replaced outdated terminology in section 1611(e)(1)(B) of the Act. Prior to this statutory change, section 1611(e)(1)(B) specified certain categories of inpatient providers used in the Medicaid program. In the early years of the SSI program, the terminology “hospital, extended care facility, nursing home, or intermediate care facility” provided a comprehensive list of all possible inpatient settings as defined by the Medicaid program. However, as Medicaid dropped or renamed some of those coverage categories and added new categories, the list in section 1611(e)(1)(B) became obsolete and was no longer used. As a result, prior to Public Law 105–33, children in certain kinds of inpatient facilities were subject to the reduced benefit amount of no more than \$30, while children in other kinds of Medicaid covered inpatient facilities could receive the full SSI benefit. For example, Medicaid created the new coverage category of Psychiatric Residential Treatment Facility (PRTF) for individuals under age 21. PRTFs can receive substantial Medicaid payments, including the room and board payment. Before Public Law 105–33 made this technical amendment, children residing in a PRTF received full SSI benefits because that kind of facility was not listed in section 1611(e)(1)(B) as a facility whose residents would be subject to the \$30 payment limit. For many PRTF residents, Medicaid was paying all of their expenses, and yet Public Law 104–193 required payment of the full SSI benefit rate. This situation created an inequity between those children and children in other kinds of Medicaid covered inpatient facilities. This change in terminology now allows for similarly situated children (i.e., children residing in medical treatment facilities where Medicaid is providing for more than 50 percent of the cost of their care) to be paid the same amount of SSI benefits.

##### Explanation of Proposed Changes

We propose to make the following changes to our rules to codify provisions of Public Law 105–33 that affect the payment of benefits under title XVI of the Act to individuals who are in institutions:

- We propose to revise § 416.212(b)(1) by adding “or private” to the introductory text to reflect the provision that gives full temporary institutionalization benefits to children who enter private medical treatment

facilities when Medicaid pays more than 50 percent of the cost of their care.

- We propose to revise §§ 416.201 and 416.414(c) to remove the definition for “medical care facility” and replace it with a new definition for “medical treatment facility.”

- We propose to amend §§ 416.201, 416.211(b) and (c)(5)(iv), 416.414(a), (b)(2) and (3)(i)–(ii), 416.571, 416.1149(a)(1) and (c)(1)(i)–(ii), 416.1165(g)(6) and (i)(1), 416.1167(a)(2), and 416.1202(b)(2)(i) by eliminating the obsolete terms “medical facility” and “medical care facility” and replacing them with the term “medical treatment facility.”

- We propose to amend § 416.708(k) by eliminating the terms “hospital”, “skilled nursing facility”, and “intermediate care facility” and replacing them with the term “medical treatment facility.”

### Clarity of These Regulations

Executive Order 12866, as amended by Executive Order 13258, requires each agency to write all rules in plain language. In addition to comments you may have on these proposed rules, we also invite your comments on how to make these 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 is unclear?

- 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?

- Could we improve clarity by adding tables, lists, or diagrams?

- 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 rules meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were reviewed by OMB.

### Regulatory Flexibility Act

We certify that these proposed rules will not have a significant economic impact on a substantial number of small entities as they affect individuals only. Therefore, a regulatory flexibility analysis as provided in the Regulatory

Flexibility Act, as amended, is not required.

### Paperwork Reduction Act

In order to codify two provisions of the Balanced Budget Act of 1997, we are proposing to revise our regulations that affect the payment of benefits under title XVI of the Act. One of the provisions extended temporary institutionalization benefits to children who enter private medical treatment facilities and who otherwise would be subject to a reduced benefit because of private insurance coverage. The other provision replaced obsolete terminology in the Act that referred to particular kinds of medical facilities and substituted a broader, more descriptive term.

As a result, we are amending the terminology in § 416.708 (k) by eliminating the terms “hospital”, “skilled nursing facility”, and “intermediate care facility” and replacing them with the term “medical treatment facility.” As outlined below this section contains specific public reporting requirements that require clearance under the Paperwork Reduction Act of 1995. Respondents to this collection are SSI recipients who are admitted to, or discharged from, a medical treatment facility or other public or private institution.

| Title/section & collection description   | Annual number of respondents | Frequency of response | Average burden per response (minutes) | Estimated annual burden (hours) |
|--|------------------------------|-----------------------|---------------------------------------|---------------------------------|
| What you must report 416.708(k) Admission to or discharge from:<br>(1) A medical treatment facility,<br>(2) A public institution, or<br>(3) A private institution. | 34,200                       | 1                     | 7                                     | 3,990                           |

An Information Collection Request has been submitted to OMB for clearance.

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 sent to OMB by fax or by email to: Office of Management and Budget, *Attn:* Desk Officer for SSA, *Fax Number:* 202–395–6974, *Email address:*

*OIRA\_Submission@omb.eop.gov.*

Comments can be received for up to 60 days after publication of this notice and will be most useful if received within 30 days of publication. This does not affect the deadline for the public to comment to SSA on the proposed

regulations. These information collection requirements will not become effective until approved by OMB. When OMB has approved these information collection requirements, SSA will publish a notice in the **Federal Register**.

To receive a copy of the OMB clearance package, your staff may call the SSA Reports Clearance Officer on 410–965–0454.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

### List of Subjects in 20 CFR Part 416

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

Dated: December 13, 2006.

**Jo Anne B. Barnhart,**

*Commissioner of Social Security.*

For the reasons set out in the preamble, we propose to amend subparts B, D, E, G, K, and L of part 416 of chapter III of title 20 of the Code of Federal Regulations as follows:

### PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

#### Subpart B—[Amended]

1. The authority citation for subpart B of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1110(b), 1602, 1611, 1614, 1619(a), 1631, and 1634 of the Social Security Act (42 U.S.C. 902(a)(5), 1310(b), 1381a, 1382, 1382c, 1382h(a), 1383, and 1383c); secs. 211 and 212, Pub. L. 93–66, 87 Stat. 154 and 155 (42 U.S.C. 1382 note); sec. 502(a), Pub. L. 94–241, 90 Stat.

268 (48 U.S.C. 1681 note); sec. 2, Pub. L. 99–643, 100 Stat. 3574 (42 U.S.C. 1382h note).

2. Section 416.201 is amended by removing the definition of “Medical care facility” and adding a definition of “Medical treatment facility” in alphabetical order to read as follows:

**§ 416.201 General definitions and terms used in this subpart.**

\* \* \* \* \*

*Medical treatment facility* means an institution or that part of an institution that is licensed or otherwise approved by a Federal, State, or local government to provide inpatient medical care and services.

\* \* \* \* \*

**§§ 416.201 and 416.211 [Amended]**

3. In 20 CFR part 416, subpart B, remove the words “medical facility” and “medical care facility” each time they appear and add in their place the words “medical treatment facility” in the following places:

a. Section 416.201 in the definitions of “Medical care facility” and “Public emergency shelter for the homeless”; and

b. Section 416.211(b) and (c)(5)(iv).

4. Section 416.212 is amended by revising the introductory text in paragraph (b)(1) to read as follows:

**§ 416.212 Continuation of full benefits in certain cases of medical confinement.**

\* \* \* \* \*

(b) \* \* \*

(1) Subject to eligibility and regular computation rules (see subparts B and D of this part), you are eligible for the benefits payable under section 1611(e)(1)(G) of the Social Security Act for up to 3 full months of medical confinement during which your benefits would otherwise be suspended because of residence in a public institution or reduced because of residence in a public or private institution where Medicaid pays a substantial part (more than 50 percent) of the cost of your care or, if you are a child under age 18, reduced because of residence in a public or private institution which receives payments under a health insurance policy issued by a private provider, or a combination of Medicaid and a health insurance policy issued by a private provider, pay a substantial part (more than 50 percent) of the cost of your care if—

\* \* \* \* \*

**Subpart D—[Amended]**

5. The authority citation for subpart D of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1611(a), (b), (c), and (e), 1612, 1617, and 1631 of the Social

Security Act (42 U.S.C. 902(a)(5), 1382(a), (b), (c), and (e), 1382a, 1382f, and 1383).

6. Section 416.414 is amended by revising the section heading and paragraph (c) to read as follows:

**§ 416.414 Amount of benefits; eligible individual or eligible couple in a medical treatment facility.**

\* \* \* \* \*

(c) *Definition.* For purposes of this section, a *medical treatment facility* means an institution or that part of an institution that is licensed or otherwise approved by a Federal, State, or local government to provide inpatient medical care and services.

**§ 416.414 [Amended]**

7. In addition to the amendment set forth above, in 20 CFR part 416, subpart D, remove the words “medical facility” and “medical care facility” and add in their place the words “medical treatment facility” in § 416.414(a), (b)(2), and (b)(3)(i) through (ii).

**Subpart E—[Amended]**

8. The authority citation for subpart E of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1147, 1601, 1602, 1611(c) and (e), and 1631(a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1320b–17, 1381, 1381a, 1382(c) and (e), and 1383(a)–(d) and (g)); 31 U.S.C. 3720A.

**§ 416.571 [Amended]**

9. In 20 CFR part 416, subpart E, remove the words “medical facility” wherever they appear and add in their place the words “medical treatment facility” in § 416.571.

**Subpart G—[Amended]**

10. The authority citation for subpart G of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1611, 1612, 1613, 1614, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382a, 1382b, 1382c, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

11. Section 416.708 is amended by revising paragraph (k) to read as follows:

**§ 416.708 What you must report.**

\* \* \* \* \*

(k) *Admission to or discharge from a medical treatment facility, public institution, or private institution.* You must report to us your admission to or discharge from—

(1) A medical treatment facility; or  
(2) A public institution (defined in § 416.201); or

(3) A private institution. *Private institution* means an institution as defined in § 416.201 which is not

administered by or the responsibility of a governmental unit.

\* \* \* \* \*

**Subpart K—[Amended]**

12. The authority citation for subpart K of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, 1383 and 1383b); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

**§§ 416.1149, 416.1165 and 416.1167 [Amended]**

13. In 20 CFR part 416, subpart K, remove the words “medical facility” and “medical care facility” and add in their place the words “medical treatment facility” in the following places:

a. Section 416.1149(a)(1) and (c)(1)(i) through (ii);

b. Section 416.1165(g)(6) and (i)(1);

and

c. Section 416.1167(a)(2).

**Subpart L—[Amended]**

14. The authority citation for subpart L of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, 1631 and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, 1383 and 1383b); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

**§ 416.1202 [Amended]**

15. In 20 CFR part 416, subpart L, remove the words “medical facility” and “medical care facility” and add in their place the words “medical treatment facility” in § 416.1202(b)(2)(i).

[FR Doc. E7–5134 Filed 3–23–07; 8:45 am]

BILLING CODE 4191–02–P

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Parts 19 and 20**

**RIN 2900–AM49**

**Supplemental Statement of the Case**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its regulations regarding the time limit for filing a response to a Supplemental Statement of the Case in appeals to the Board of Veterans' Appeals (Board). We propose to change the response period