

### *Paperwork Reduction Act*

This NPRM imposes no reporting or recordkeeping requirements subject to OMB clearance.

### **List of Subjects in 20 CFR Part 220**

Disability benefits, Railroad retirement.

The Railroad Retirement Board proposes to amend title 20, chapter II, subchapter F, part 220 of the Code of Federal Regulations as follows:

### **PART 220 DETERMINING DISABILITY**

- 1. The authority citation for part 220 continues to read as follows:

**Authority:** 45 U.S.C. 231a(1); 45 U.S.C. 231f.

- 2. Revise § 220.45 to read as follows:

#### **§ 220.45 Providing evidence of disability.**

(a) *General.* You are responsible for providing all evidence of the claimed disability and the effect of the disability on your ability to work. You must inform the Board about or submit all evidence known to you that relates to the claimed disability. This duty is ongoing and requires you to disclose any additional related evidence about which you become aware. This duty applies at each level of the administrative review process, including the appeals level, if the evidence relates to the period on or before the date of the hearings officer's decision. The Board will assist you, when necessary, in obtaining the required evidence. At its discretion, the Board will arrange for an examination by a consultant at the expense of the Board as explained in §§ 220.50 and 220.51.

(b) *Kind of evidence.* (1) You must provide medical evidence proving that you have an impairment(s) and how severe it is during the time you claim to be disabled. The Board will consider only impairment(s) you claim to have or about which the Board receives evidence. Before deciding your disability status, the Board will develop a complete medical history (*i.e.*, evidence from the records of the your medical sources) covering at least the preceding 12 months, unless you say that your disability began less than 12 months before you filed an application. The Board will make every reasonable effort to help you in getting medical reports from your own medical sources when you give the Board permission to request them. Every reasonable effort means that the Board will make an initial request and, after 20 days, one follow-up request to your medical source to obtain the medical evidence

necessary to make a determination before the Board evaluates medical evidence obtained from another source on a consultative basis. The medical source will have 10 days from the follow-up request to reply (unless experience indicates that a longer period is advisable in a particular case). In order to expedite processing, the Board may order a consultative exam from a non-treating source while awaiting receipt of medical source evidence. If the Board asks you to do so, you must contact the medical sources to help us get the medical reports.

(2) *Exceptions.* Notwithstanding paragraph (a) of this section, evidence does not include:

(i) Oral or written communications between you and your representative that are subject to the attorney-client privilege, unless you voluntarily disclose the communication to us; or

(ii) Your representative's analysis of your claim, unless he or she voluntarily discloses it to us. Your representative's "analysis of your claim," means information that is subject to the attorney work product doctrine, but it does not include medical evidence, medical source opinions, or any other factual matter that we may consider in determining whether or not you are entitled to benefits (See paragraph (b)(2)(iv) of this section).

(iii) The provisions of paragraph (b)(2)(i) of this section apply to communications between you and your non-attorney representative only if the communications would be subject to the attorney-client privilege, if your non-attorney representative were an attorney. The provisions of paragraph (b)(2)(ii) of this section apply to the analysis of your claim by your non-attorney representative only if the analysis of your claim would be subject to the attorney work product doctrine, if your non-attorney representative were an attorney.

(iv) The attorney-client privilege generally protects confidential communications between an attorney and his or her client that are related to providing or obtaining legal advice. The attorney work product doctrine generally protects an attorney's analysis, theories, mental impressions, and notes. In the context of your disability claim, neither the attorney-client privilege nor the attorney work product doctrine allows you to withhold factual information, medical source opinions, or other medical evidence that we may consider in determining whether or not you are entitled to benefits. For example, if you tell your representative about the medical sources you have seen, your representative cannot refuse

to disclose the identity of those medical sources to us based on the attorney-client privilege. As another example, if your representative asks a medical source to complete an opinion form related to your impairment(s), symptoms, or limitations, your representative cannot withhold the completed opinion form from us based on the attorney work product doctrine. The attorney work product doctrine would not protect the source's opinions on the completed form, regardless of whether or not your representative used the form in his or her analysis of your claim or made handwritten notes on the face of the report.

(c) *Your responsibility.* You must inform us about or submit all evidence known to you that relates to whether or not you are blind or disabled. When you submit evidence received from another source, you must submit that evidence in its entirety, unless you previously submitted the same evidence to us or we instruct you otherwise. The Board may also ask you to provide evidence about:

- (1) Your age;
- (2) Your education and training;
- (3) Your work experience;
- (4) Your daily activities both before and after the date you say that you became disabled;
- (5) Your efforts to work; and
- (6) Any other evidence showing how your impairment(s) affects your ability to work. (In §§ 220.125 through 220.134, we discuss in more detail the evidence the Board needs when it considers vocational factors.)

Dated: November 3, 2016.

By Authority of the Board.

**Martha P. Rico,**

*Secretary to the Board.*

[FR Doc. 2016-27060 Filed 11-8-16; 8:45 am]

**BILLING CODE P**

### **DEPARTMENT OF HOMELAND SECURITY**

#### **Coast Guard**

#### **33 CFR Part 165**

[Docket Number USCG-2016-0799]

**RIN 1625-AA87**

#### **Safety and Security Zones; New York Marine Inspection and Captain of the Port Zone**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Technical correction.

**SUMMARY:** The Coast Guard is publishing this notice to correct a misstatement and typographical error in a previous

Advance Notice of Proposed Rulemaking (ANPRM). A sentence in the summary of that document erroneously stated that the Coast Guard was considering removing a security zone around Liberty State Park and Ellis Island, while the document itself merely discussed the possibility of modifying the zone, not removing it.

**DATES:** Comments and related material regarding the ANPRM must be received by the Coast Guard on or before January 3, 2017.

**ADDRESSES:** You may submit comments identified by docket number [USCG–2016–0799] using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the ANPRM for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this technical correction, call or email Ari Scott, Office of Regulations and Administrative Law, U.S. Coast Guard; telephone (202) 372–3860, email [Ari.J.Scott@uscg.mil](mailto:Ari.J.Scott@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

On November 3, 2016, the Coast Guard published an ANPRM which discussed the possibility of modifying the security zone around Liberty State Park and Ellis Island (81 FR 76545). On page 76545, in the second column, correct the second sentence of the Summary to read: “The proposed modification of the security zone would increase navigational safety in New York Harbor by allowing vessels to transit under the Ellis Island Bridge, rather than being required to transit the Anchorage Channel.”

Dated: November 3, 2016.

**Katia Kroutil,**

*Office Chief, Office of Regulations and Administrative Law, U.S. Coast Guard.*

[FR Doc. 2016–27037 Filed 11–8–16; 8:45 am]

**BILLING CODE 9110–04–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Part 440**

[CMS–2404–NC]

RIN 0938–ZB33

**Medicaid Program; Request for Information (RFI): Federal Government Interventions To Ensure the Provision of Timely and Quality Home and Community Based Services**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Request for information.

**SUMMARY:** This request for information seeks information and data on additional reforms and policy options that we can consider to accelerate the provision of home and community-based services (HCBS) to Medicaid beneficiaries taking into account issues affecting beneficiary choice and control, program integrity, ratesetting, quality infrastructure, and the homecare workforce.

**DATES:** To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on January 9, 2017.

**ADDRESSES:** In commenting, refer to file code CMS–2404–NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the “Submit a comment” instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2404–NC, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2404–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier)

your written comments ONLY to the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Melissa Harris, (410) 786–3397.

Jodie Anthony, (410) 786–5903.

**SUPPLEMENTARY INFORMATION: Inspection of Public Comments:** All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.