laws by minimizing the impact of the Rule on securities trading and distribution in the United States.

Because the amendment to the Rule is exemptive in nature, the Commission has determined to make the foregoing action effective immediately upon publication in the Federal Register.[17]

VI. Statutory Basis

The amendment to Rule 3a12–8 is being adopted pursuant to 15 U.S.C. §§ 78a *et seq.*, particularly Sections 3(a)(12) and 23(a), 15 U.S.C. §§ 78c(a)(12) and 78w(a).

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of the Adopted Amendment

For the reasons set forth above, the Commission is amending Part 240 of Chapter II, Title 17 of the *Code of Federal Regulations* as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78w, 78x, 78*ll*(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Section 240.3a12–8 is amended by removing the word ''or'' at the end of paragraph (a)(1)(xv), removing the ''period'' at the end of paragraph (a)(1)(xvi) and adding ''; '' in its place, and adding paragraph (a)(1)(xvii), paragraph (a)(1)(xviii), and paragraph (a)(1)(xix) to read as follows:

§ 240.3a12–8 Exemption for designated foreign government securities for purposes of futures trading.

(a) * * *

(1) * * *

(xvii) the Federative Republic of Brazil;

(xviii) the Republic of Argentina; or

(xix) the Republic of Venezuela.

* * * * *

Dated: March 7, 1996.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–5968 Filed 3–12–96; 8:45 am]

BILLING CODE 8010–01–P

[17] 15 U.S.C. § 553(d).

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

RIN 0960–AC55

Supplemental Security Income for the Aged, Blind, and Disabled; Continuation of Full Benefit Standard for Persons Temporarily Institutionalized

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: These final rules are being issued to reflect section 3 of the Employment Opportunities for Disabled Americans Act and section 9115 of the Omnibus Budget Reconciliation Act of 1987. These statutory provisions amended the Social Security Act (the Act) to permit certain recipients to receive payments based on the full supplemental security income (SSI) benefit rate for a limited period after becoming residents of medical or psychiatric institutions.

EFFECTIVE DATE: These final rules are effective May 13, 1996.

FOR FURTHER INFORMATION CONTACT: Lawrence V. Dudar, Legal Assistant, Office of Regulations and Rulings, Social Security Administration, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1759.

SUPPLEMENTARY INFORMATION: SSI regulations generally require the suspension of SSI benefits when a recipient is a resident of a public institution throughout a month, except that the recipient may receive a reduced benefit if he or she is a resident throughout a month in a public or private institution where over 50 percent of the cost of care is paid for by Medicaid. The following legislative provisions, however, now allow for benefits based on the full SSI Federal benefit rate to continue during months of residency in an institution under certain circumstances.

Benefits Payable Based on Section 1611(e)(1)(E) of the Act

Section 3 of Public Law 99–643 (the Employment Opportunities for Disabled Americans Act) added subparagraph (E) to section 1611(e)(1) of the Act. Based on this added provision, a recipient, whose SSI eligibility is based on section 1619 (a) or (b) of the Act for the month preceding the first full month of residence in (1) a public medical or psychiatric institution or (2) a public or private institution where Medicaid is paying more than 50 percent of the cost of care, can remain eligible for an SSI benefit based on the full Federal benefit rate for up to 2 months after entering the institution. This statutory provision also provides that payment is conditioned on an agreement by the institution that these benefits are to be retained by the recipient and cannot be used to defray the cost of institutional care.

Section 1902(o) of the Act requires that all State Medicaid plans provide for disregarding any SSI payments paid by reason of section 1611(e)(1)(E) or 1611(e)(1)(G) of the Act in computing the post-eligibility contribution of the individual to the cost of care. Therefore, if the institution is receiving Medicaid payments for the recipients, we will rely on the agreement the institution signed with the State Medicaid agency to ensure that this condition is met.

Benefits Payable Based on Section 1611(e)(1)(G) of the Act

Section 9115 of Public Law 100–203 (the Omnibus Budget Reconciliation Act of 1987) added subparagraph (G) to section 1611(e)(1) of the Act. Based on this added provision, a recipient is eligible for continued benefits for up to 3 full months after entering the institution if the following conditions are met:

1. A physician certifies that the recipient's stay in the institution or facility is likely not to exceed 3 months;

2. The recipient demonstrates a need to continue to maintain and provide for the expenses of a home or other living arrangement to which he or she may return after leaving the facility; and

3. The recipient was eligible for Federal SSI cash benefits or federally administered State supplementation in the month before the month benefits would otherwise be reduced or suspended because of residence in an institution.

The following policies implement the provisions of section 1611(e)(1)(G) of the Act.

We state in these final rules at § 416.212(b) that, in order for a recipient to be eligible for these benefits, the physician's certification and the evidence of the need to pay home or living arrangement expenses must be submitted to the Social Security Administration (SSA) no later than the day of discharge or the 90th full day of confinement, whichever is earlier. We will determine the date of submission to be the date we receive it or, if mailed, the date of the postmark. This time frame for submission of the needed evidence to establish eligibility for continued payments represents what we believe is the best balance between the statutory language and Congressional intent that:

• The benefits are payable ''without interruption;''

• The physician's statement must be ''anticipatory'' (i.e., based on an *expectation* rather than accomplished fact); and,

• The Commissioner will assist recipients in establishing eligibility for the payments.

We will encourage recipients to submit the necessary evidence as early as possible to facilitate our administration of the provision.

Section 1611(e)(1)(H) allows, but does not require, the Commissioner to enter into agreements with outside agencies and organizations for making the determinations required under section 1611(e)(1)(G) or for providing information or assistance in connection with making such determinations. We are not exercising the option at this time.

Final Rules Applicable to Both Categories of Benefits

These final rules include the following policy provisions that are applicable to both categories of benefits:

1. We will compute a recipient's benefits under sections 1611(e)(1)(E) and 1611(e)(1)(G) of the Act on the basis of the permanent living arrangement used to compute benefits for the month immediately prior to the first month the recipient is otherwise subject to suspension under § 416.1325 or subject to a reduced benefit amount under § 416.414 because of residence in an institution. All the Federal income provisions (including living arrangements, in-kind support and maintenance, and deeming) applicable to the recipient's permanent living arrangement will continue to apply for the period in which benefits are payable while in the institution. This also means that we will compute the benefits as an eligible couple (instead of as two eligible individuals) for months in which either benefit is being paid to one member of the couple.

Section 1611(e)(1)(E) of the Act originally was interpreted and implemented as requiring the computation of benefits under section 1611(e)(1)(E) to be based on a living arrangement in the institution. Under such an interpretation, the section 1611(e)(1)(E) benefits were not subject to the in-kind support and maintenance and deeming of income provisions that applied before the person was institutionalized and which apply when computing benefits under section 1611(e)(1)(G). This computation could increase the benefits paid under section 1611(e)(1)(E) as compared to the benefits paid prior to institutionalization. To ensure the payment of section 1611(e)(1)(E) benefits comparable to those paid before institutionalization (and comparable to benefits payable under section 1611(e)(1)(G)), as of the effective date of the final regulations, benefits under section 1611(e)(1)(E) will be computed based on the living arrangement existing prior to institutionalization. Thus, all Federal living arrangement, in-kind support and maintenance, and deeming provisions will continue to apply for up to the first 2 full months of institutionalization.

We are delaying the effective date of the final rules for 60 days after publication in the Federal Register in order to avoid a notice problem for those individuals who already have been notified of section 1611(e)(1)(E) benefit amounts calculated under our prior practice. If the effective date were not delayed, those individuals whose first full month of institutionalization is the month in which the regulations are published and who have one remaining month of eligibility under section 1611(e)(1)(E) would not be notified timely that their benefits would be computed differently for each of the 2 months under section 1611(e)(1)(E). For those individuals, benefits for their first full month of institutionalization will be computed based on a living arrangement in the institution. Benefits for the second full month of institutionalization will be computed based on the living arrangement existing prior to institutionalization. The delayed effective date of the final rules will enable us to timely notify our field offices of the regulatory change, and will provide field office personnel with sufficient time to identify and notify the affected individuals before the effective date of the change.

We also are amending the rules on temporary absence from a living arrangement at § 416.1149 to show that these recipients are ''temporarily absent'' from their permanent living arrangement. This living arrangement as a computation basis will *not* extend past the last month that section 1611(e)(1)(E) or section 1611(e)(1)(G) benefits are payable or, if the recipient is discharged in the month following the last month of eligibility for section 1611(e)(1)(E) or section 1611(e)(1)(G) benefits, past the date of discharge. In the event the recipient remains institutionalized and becomes eligible for a reduced benefit, the temporary absence ends, and we will consider the institution as the permanent living arrangement. The computation basis will no longer include factors (e.g., deemed income) which were applicable in the recipient's last permanent living arrangement.

We are amending §§ 416.1147, 416.1149, and 416.1167 to reflect the temporary absence rules applicable to the treatment of in-kind support and maintenance and deeming of income and resources for these two types of benefits. We are also amending §§ 416.410, 416.412, 416.413, and 416.414 both to reference the extension of full benefit eligibility to institutionalized recipients under sections 1611(e)(1)(E) and 1611(e)(1)(G) and to update and include the full Federal yearly benefit rate applicable in recent years to an eligible individual, qualified individual, and an eligible couple. In § 416.212(a)(1), we substituted the word ''under'' for the phrase ''for benefits based on'' because an individual who is eligible under section 1619(b) of the Act does not receive cash benefits, but only acquires a special eligibility status for purposes of establishing or maintaining eligibility for Medicaid.

2. The new §§ 416.212(a)(2) and 416.212(c) state the policy barring reimbursement to an institution for a recipient's current maintenance (excepting, of course, reimbursement of expenditures for personal needs) from the benefits authorized under section 1611(e)(1)(E) and section 1611(e)(1)(G) of the Act.

Section 1611(e)(1)(E) prohibits payment of benefits unless the institution agrees to permit the recipient to retain any benefits paid under this section. If the institution is receiving Medicaid payments for the recipient, we rely on the agreement the institution signed with the State Medicaid agency to ensure this condition is enforced. However, section 1611(e)(1)(G) does not specifically require that the recipient be permitted to retain the benefits payable under that section, as does section 1611(e)(1)(E). The legislative history is clear, however, that Congress intended that the benefits payable under section 1611(e)(1)(G) be available for maintenance of the recipient's home or living arrangement and not for paying the institution for the cost of the recipient's current maintenance except reimbursement of expenditures for personal needs. Moreover, as noted above, section 1902(o) of the Act requires that all State Medicaid plans provide for disregarding any SSI payments paid by reason of section 1611(e)(1)(E) or 1611(e)(1)(G) of the Act in computing the post-eligibility contribution of the individual to the cost of care. Consequently, to permit institutions to secure these benefits would appear to negate the purpose of

the legislation and, in the case of Medicaid institutions, to be in conflict with section 1902(o) of the Act. Based on this intent and section 1902(o), we are extending the prohibition on the payment of benefits to, or the use of benefits by, an institution to defray current maintenance costs, except personal needs items, to benefits payable under section 1611(e)(1)(G). This prohibition concerning benefits payable under the two sections will be implemented as follows.

In view of Congressional intent that benefits payable under sections 1611(e)(1)(E) and 1611(e)(1)(G) of the Act be used for meeting expenses outside the institution, the new §§ 412.212(a)(2) and 416.212(c) provide that an institution must allow the recipient to retain those benefits. The institution can only be reimbursed for nominal costs it may have incurred for the recipient's personal needs such as personal hygiene items, snacks, and candy to the extent not covered by Medicaid. We believe that payment to the institution for these costs is not inconsistent with sections 1611(e)(1)(E) and 1611(e)(1)(G). However, reimbursement is not permitted beyond personal needs.

The current § 416.640(c) prohibits a representative payee from reimbursing an institution from SSI benefits for the current maintenance costs of an institutionalized recipient when Medicaid pays to the institution more than 50 percent of the cost of the individual's care. In the previously published notice of proposed rulemaking, we had proposed to amend § 416.640 (b) and (c) to repeat the prohibition on reimbursement for current maintenance costs (with the exception of personal needs) for recipients who are receiving benefits payable under sections 1611(e)(1)(E) and 1611(e)(1)(G). However, to avoid unnecessary duplication, we have revised § 416.640 (b) and (c) in these final regulations simply to include cross references in those sections to the new § 416.212.

3. We are amending § 416.2040 to reflect that for States whose supplementation programs are federally administered under the authority of section 1616(a) of the Act and/or section 212 of Public Law 93–66, institutionalized recipients receiving benefits under either section 1611(e)(1)(E) or section 1611(e)(1)(G) can continue to be eligible to receive the optional/mandatory State supplementary payments. In addition, a recipient who would be eligible for benefits authorized under § 416.212 but for countable income which reduces his or her Federal SSI benefit to zero may still be eligible to receive a federally administered State supplementary payment. Non-federally administered States will elect whether institutionalized beneficiaries receiving Federal benefits under either section 1611(e)(1)(E) or section 1611(e)(1)(G) will receive the same State supplementary payment they received prior to the first full month of institutionalization or the payment (if any) normally made in such circumstances.

We are extending eligibility for federally administered State supplementation to recipients receiving benefits payable under the two sections. With respect to federally administered optional State supplementation, section 1616(b)(2) of the Act provides the Commissioner with broad authority to adopt such ''. . . procedural or other general administrative provisions, as the Commissioner of Social Security finds necessary . . . to achieve efficient and effective administration of both the program which he conducts under this title and the optional State supplementation.'' The regulation at § 416.2005(d) provides similar authority for federally administered mandatory State supplements. These authorities enable SSA to administer statutory provisions that affect State supplementation in a fashion fully in accord with their underlying Congressional intent. Congress, when enacting section 1611(e)(1)(E) and section 1611(e)(1)(G), intended that recipients not be disadvantaged financially when entering an institution for a stay of short duration. To implement this intention, we consider the recipient's living arrangement as not having changed when computing the amount of the Federal benefit payable under sections 1611(e)(1)(E) and 1611(e)(1)(G). The same policies used for determining the Federal benefit will be used to determine the State supplementary payment. Thus, a recipient's living arrangement would not be considered to have changed for purposes of determining the recipient's State supplementary payment. This will ensure that the State supplementary payments payable in the month prior to the first full month of institutionalization will, subject to the income counting provisions, continue through the months of institutionalization. Thus, we believe that the policy will assist the Commissioner in achieving efficient and effective administration of both the title XVI and State supplementary payment programs, because continuing the State supplementary payments will negate the need for field office intervention, with attendant error potential.

In light of the above, it is reasonable to conclude that the Commissioner exercise discretion and require, under the authority of section 1616(b)(2) of the Act, States, whose State supplementary payments are federally administered, to continue to supplement the full benefit rate payable for months of hospitalization under both section 1611(e)(1)(E) and section 1611(e)(1)(G).

4. We are also amending § 416.1325 of subpart M in part 416 to show that benefits will not be suspended for months of residency in a public institution if the recipient is eligible for benefits payable under section 1611(e)(1)(E) or section 1611(e)(1)(G) of the Act for those months. However, this amended rule is not being included in these regulations and, instead, will be separately published as an interim final rule in final regulations which recodify Subpart M entitled: ''Suspensions, Terminations, and Advance Notice of Unfavorable Determinations.''

On September 28, 1992, we published a notice of proposed rulemaking (NPRM) at 57 FR 44519 reflecting the provisions of the Employment Opportunities for Disabled Americans Act and the Omnibus Budget Reconciliation Act of 1987 that are described above. We received two comments on the proposed regulations from State mental health agencies, both of which endorsed the regulatory changes. Therefore, the proposed rules are adopted as final regulations. However, we have made a number of minor, nonsubstantive changes to the rules as written in the NPRM, including updates on the amount of benefits payable, the change to § 416.640 which is discussed above, and a correction to a cross reference to reflect the numerical redesignation of a section. We also have deleted the benefit amounts payable in the years prior to 1994 since such information is generally not needed by the public.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to OMB review.

Paperwork Reduction Act

These final regulations contain information collection requirements in §§ 416.212(b)(1)(iii) and

416.212(b)(1)(iv). The Social Security Administration would normally request clearance of this requirement (under the Paperwork Reduction Act) by the Office of Management and Budget (OMB). However, we are not doing so in this situation because we have already obtained OMB clearance to collect this information under OMB control number 0960–0516.

Public reporting burden for each of these collections of information is estimated to average 5 minutes per response. This includes the time it will take to read the instructions, gather the necessary facts, and provide the information requested. The respondents to the collection in paragraph (b)(1)(iii) will be physicians. The respondents to the requirement in paragraph (b)(1)(iv) will be recipients of SSI payments. We estimate that 60,000 people will provide this information yearly. The total annual burden for both information collections is therefore estimated to be 5,000 hours.

Regulatory Flexibility Act

We certify that these final regulations will not have a significant economic impact on a substantial number of small entities because they affect individuals. Therefore, a regulatory flexibility analysis, as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 93.807, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

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

Dated: February 28, 1996.

Shirley Chater,

Commissioner of Social Security.

For the reasons set forth in the preamble, subparts B, D, F, K, and T of part 416 of chapter III of title 20 of the Code of Federal Regulations are amended as follows:

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

Subpart B—Eligibility

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, 1615(c), 1619(a), 1631, and 1634 of the Social Security Act (42 U.S.C. 902(a)(5), 1310(b), 1381a, 1382, 1382c, 1382d(c), 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 416.202 is amended by revising paragraph (b)(4) to read as follows:

§ 416.202 Who may get SSI benefits.

* * * * *

(b) * * *

(4) A child of armed forces personnel living overseas as described in § 416.216.

* * * * *

3. Section 416.211 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 416.211 You are a resident of a public institution.

(a) *General rule.* (1) Subject to the exceptions described in paragraphs (b), (c), and (d) of this section and § 416.212, you are not eligible for SSI benefits for any month throughout which you are a resident of a public institution as defined in § 416.201. In addition, if you are a resident of a public institution when you apply for SSI benefits and meet all other eligibility requirements, you cannot be eligible for benefits until the day of your release from the institution. The amount of your SSI benefits for the month of your release will be prorated (see subpart D of this part) beginning with the date of your release.

* * * * *

(b) *Exception—SSI benefits payable at a reduced rate.* You may be eligible for SSI benefits at a reduced rate described in § 416.414, if—

(1)(i) The public institution in which you reside throughout a month is a medical care facility for which Medicaid (title XIX of the Social Security Act) pays a substantial part (more than 50 percent) of the cost of your care; or

(ii) You reside for part of a month in a public institution and the rest of the month in a public institution or private medical facility where Medicaid pays more than 50 percent of the cost of your care; and

(2) You are ineligible in that month for a benefit described in § 416.212 that is payable to a person temporarily confined in a medical facility.

* * * * *

§§ 416.212–416.215 [Redesignated as §§ 416.213–416.216]

4. Sections 416.212 through 416.215 are redesignated as §§ 416.213 through 416.216 respectively and a new § 416.212 is added to read as follows:

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

(a) *Benefits payable under section 1611(e)(1)(E) of the Social Security Act.* 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)(E) of the Social Security Act for up to 2 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 over 50 percent of the cost of your care if—

(1) You were eligible under either section 1619(a) or section 1619(b) of the Social Security Act in the month before the first full month of residence in an institution;

(2) The institution agrees that no portion of these benefits will be paid to or retained by the institution excepting nominal sums for reimbursement of the institution for any outlay for a recipient's personal needs (e.g., personal hygiene items, snacks, candy); and

(3) The month of your institutionalization is one of the first 2 full months of a continuous period of confinement.

(b) *Benefits payable under section 1611(e)(1)(G) of the Social Security Act.* (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 over 50 percent of the cost if—

(i) You were eligible for SSI cash benefits and/or federally administered State supplementary payments for the month immediately prior to the first full month you were a resident in such institution;

(ii) The month of your institutionalization is one of the first 3 full months of a continuous period of confinement;

(iii) A physician certifies, in writing, that you are not likely to be confined for longer than 90 full consecutive days following the day you entered the institution, and the certification is submitted to SSA no later than the day of discharge or the 90th full day of confinement, whichever is earlier; and

(iv) You need to pay expenses to maintain the home or living arrangement to which you intend to return after institutionalization and

evidence regarding your need to pay these expenses is submitted to SSA no later than the day of discharge or the 90th full day of confinement, whichever is earlier.

(2) We will determine the date of submission of the evidence required in paragraphs (b)(1) (iii) and (iv) of this section to be the date we receive it or, if mailed, the date of the postmark.

(c) *Prohibition against using benefits for current maintenance.* If the recipient is a resident in an institution, the recipient or his or her representative payee will not be permitted to pay the institution any portion of benefits payable under section 1611(e)(1)(G) excepting nominal sums for reimbursement of the institution for any outlay for the recipient's personal needs (e.g., personal hygiene items, snacks, candy). If the institution is the representative payee, it will not be permitted to retain any portion of these benefits for the cost of the recipient's current maintenance excepting nominal sums for reimbursement for outlays for the recipient's personal needs.

Subpart D—Amount of Benefits

5. The authority citation for subpart D of part 416 is 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 416.410 is revised to read as follows:

§ 416.410 Amount of benefits; eligible individual.

The benefit under this part for an eligible individual (including the eligible individual receiving benefits payable under the § 416.212 provisions) who does not have an eligible spouse, who is not subject to either benefit suspension under § 416.1325 or benefit reduction under § 416.414, and who is not a qualified individual (as defined in § 416.221) shall be payable at the rate of $5,640 per year ($470 per month) effective for the period beginning January 1, 1996. This rate is the result of a 2.6 percent cost-of-living adjustment (see § 416.405) to the December 1995 rate. For the period January 1, through December 31, 1995, the rate payable, as increased by the 2.8 percent cost-of-living adjustment, was $5,496 per year ($458 per month). For the period January 1, through December 31, 1994, the rate payable, as increased by the 2.6 percent cost-of-living adjustment, was $5,352 per year ($446 per month). The monthly rate is reduced by the amount of the individual's income which is not excluded pursuant to subpart K of this part.

7. Section 416.412 is revised to read as follows:

§ 416.412 Amount of benefits; eligible couple.

The benefit under this part for an eligible couple (including couples where one or both members of the couple are receiving benefits payable under the § 416.212 provisions), neither of whom is subject to suspension of benefits based on § 416.1325 or reduction of benefits based on § 416.414 nor is a qualified individual (as defined in § 416.221) shall be payable at the rate of $8,460 per year ($705 per month), effective for the period beginning January 1, 1996. This rate is the result of a 2.6 percent cost-of-living adjustment (see § 416.405) to the December 1995 rate. For the period January 1, through December 31, 1995, the rate payable, as increased by the 2.8 percent cost-of-living adjustment, was $8,224 per year ($687 per month). For the period January 1, through December 31, 1994, the rate payable, as increased by the 2.6 percent cost-of-living adjustment, was $8,028 per year ($669 per month). The monthly rate is reduced by the amount of the couple's income which is not excluded pursuant to subpart K of this part.

8. Section 416.413 is revised to read as follows:

§ 416.413 Amount of benefits; qualified individual.

The benefit under this part for a qualified individual (defined in § 416.221) is payable at the rate for an eligible individual or eligible couple plus an increment for each essential person (defined in § 416.222) in the household, reduced by the amount of countable income of the eligible individual or eligible couple as explained in § 416.420. A qualified individual will receive an increment of $2,820 per year ($235 per month), effective for the period beginning January 1, 1996. This rate is the result of the 2.6 percent cost-of-living adjustment (see § 416.405) to the December 1995 rate, and is for each essential person (as defined in § 416.222) living in the household of a qualified individual. (See § 416.532.) For the period January 1, through December 31, 1995, the rate payable, as increased by the 2.8 percent cost-of-living adjustment, was $2,748 per year ($229 per month). For the period January 1, through December 31, 1994, the rate payable, as increased by the 2.6 percent cost-of-living adjustment, was $2,676 per year ($223 per month). The total benefit rate, including the increment, is reduced by the amount of the individual's or couple's income that is not excluded pursuant to subpart K of this part.

9. Section 416.414 is amended by revising the introductory text of paragraph (a) to read as follows:

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

(a) *General rule.* Except where the § 416.212 provisions provide for payment of benefits at the rates specified under §§ 416.410 and 416.412, reduced SSI benefits are payable to persons and couples who are in medical care facilities where more than 50 percent of the cost of their care is paid by a State plan under title XIX of the Social Security Act (Medicaid). This reduced SSI benefit rate also applies to persons who are in medical care facilities where more than 50 percent of the cost would have been paid by an approved Medicaid State plan but for the application of section 1917(c) of the Social Security Act due to a transfer of assets for less than fair market value. Persons and couples to whom these reduced benefits apply are—

* * * * *

Subpart F—Representative Payment

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

Authority: Secs. 702(a)(5), 1631 (a)(2) and (d)(1) of the Social Security Act (42 U.S.C. 902(a)(5) and 1383 (a)(2) and (d)(1)).

11. Section 416.640 is amended by revising paragraphs (b) and (c) to read as follows:

§ 416.640 Use of benefit payments.

* * * * *

(b) *Institution not receiving Medicaid funds on beneficiary's behalf.* If a beneficiary is receiving care in a Federal, State, or private institution because of mental or physical incapacity, current maintenance will include the customary charges for the care and services provided by an institution, expenditures for those items which will aid in the beneficiary's recovery or release from the institution, and nominal expenses for personal needs (e.g., personal hygiene items, snacks, candy) which will improve the beneficiary's condition. Except as provided under § 416.212, there is no restriction in using SSI benefits for a beneficiary's current maintenance in an institution. Any payments remaining from SSI benefits may be used for a temporary period to maintain the

beneficiary's residence outside of the institution unless a physician has certified that the beneficiary is not likely to return home.

Example: A hospitalized disabled beneficiary is entitled to a monthly benefit of $264. The beneficiary, who resides in a boarding home, has resided there for over 6 years. It is doubtful that the beneficiary will leave the boarding home in the near future. The boarding home charges $215 per month for the beneficiary's room and board.

The beneficiary's representative payee pays the boarding home $215 (assuming an unsuccessful effort was made to negotiate a lower rate during the beneficiary's absence) and uses the balance to purchase miscellaneous personal items for the beneficiary. There are no benefits remaining which can be conserved on behalf of the beneficiary. The payee's use of the benefits is consistent with our guidelines.

(c) *Institution receiving Medicaid funds on beneficiary's behalf.* Except in the case of a beneficiary receiving benefits payable under § 416.212, if a beneficiary resides throughout a month in an institution that receives more than 50 percent of the cost of care on behalf of the beneficiary from Medicaid, any payments due shall be used only for the personal needs of the beneficiary and not for other items of current maintenance.

Example: A disabled beneficiary resides in a hospital. The superintendent of the hospital receives $30 per month as the beneficiary's payee. The benefit payment is disbursed in the following manner, which would be consistent with our guidelines:

Miscellaneous canteen items	$10
Clothing	15
Conserved for future needs of the beneficiary	5

* * * * *

Subpart K—Income

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, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

13. Section 416.1147 is amended by revising paragraphs (b) and (d) to read as follows:

§ 416.1147 How we value in-kind support and maintenance for a couple.

* * * * *

(b) *One member of a couple lives in another person's household and receives food and shelter from that person and the other member of the couple is in a medical institution.* (1) If one of you is living in the household of another person who provides you with both food and shelter, and the other is temporarily absent from the household as provided in § 416.1149(c)(1) (in a medical institution that receives substantial Medicaid payments for his or her care (§ 416.211(b))), and is ineligible in the month for either benefit payable under § 416.212, we compute your benefits as if you were separately eligible individuals (see § 416.414(b)(3)). This begins with the first full calendar month that one of you is in the medical institution. The one living in another person's household is eligible at an eligible individual's Federal benefit rate and one-third of that rate is counted as income not subject to any income exclusions. The one in the medical institution cannot receive more than the reduced benefit described in § 416.414(b)(3)(i).

(2) If the one member of the couple in the institution is eligible for one of the benefits payable under the § 416.212 provisions, we compute benefits as a couple at the rate specified under § 416.412. However, if that one member remains in the institution for a full month after expiration of the period benefits based on § 416.212 can be paid, benefits will be computed as if each person were separately eligible as described under paragraph (c)(1) of this section. This begins with the first calendar month after expiration of the period benefits based on § 416.212 can be paid.

* * * * *

(d) *One member of a couple is subject to the presumed value rule and the other member is in a medical institution.*

(1) If one of you is subject to the presumed value rule and the other is temporarily absent from the household as provided in § 416.1149(c)(1) (in a medical institution that receives substantial Medicaid payments for his or her care (§ 416.211(b))), and is ineligible in that month for either benefit payable under § 416.212, we compute your benefits as if both members of the couple are separately eligible individuals (see § 416.414(b)(3)). This begins with the first full calendar month that one of you is in the medical institution (see § 416.211(b)). We value any food, clothing, or shelter received by the one outside of the medical institution at one-third of an eligible individual's Federal benefit rate, plus the amount of the general income exclusion (§ 416.1124(c)(12)), unless you can show that their value is less as described in § 416.1140(a)(2). The member of the couple in the medical institution cannot receive more than the reduced benefit described in § 416.414(b)(3)(i).

(2) If one of you is subject to the presumed value rule and the other in the institution is eligible for one of the benefits payable under § 416.212, we compute the benefits as a couple at the rate specified under § 416.412. However, if the one in the institution remains in the institution after the period benefits based on § 416.212 can be paid, we will compute benefits as if each member of the couple were separately eligible as described in paragraph (d)(1) of this section.

14. Section 416.1149 is amended by revising paragraphs (a) and (c)(1) to read as follows:

§ 416.1149 What is a temporary absence from your living arrangement.

(a) *General.* A temporary absence may be due to employment, hospitalization, vacations, or visits. The length of time an absence can be temporary varies depending on the reason for your absence. For purposes of valuing in-kind support and maintenance under §§ 416.1130 through 416.1148, we apply the rules in this section. In general, we will find a temporary absence from your permanent living arrangement if you (or you and your eligible spouse)–

(1) Become a resident of a public institution, or a public or private medical care facility where over 50 percent of the cost of care is paid by Medicaid, and are eligible for the benefits payable under § 416.212; or

(2) Were in your permanent living arrangement for at least 1 full calendar month prior to the absence and intend to, and do, return to your permanent living arrangement in the same calendar month in which you (or you and your spouse) leave, or in the next month.

* * * * *

(c) *Rules for temporary absence in certain circumstances.*

(1)(i) If you enter a medical care facility that receives substantial Medicaid payments for your care (as described in § 416.211(b)) and you are not eligible for either benefit payable under § 416.212 (and you have not received such benefits during your current period of confinement) and you intend to return to your prior living arrangement (and you are eligible for the reduced benefits payable under § 416.414 for full months in the facility), we consider this a temporary absence regardless of the length of your stay in the facility. We use the rules that apply to your permanent living arrangement to value any food, clothing, or shelter you receive during the month (for which reduced benefits under § 416.414 are not payable) you enter or leave the facility.

During any full calendar month you are in the medical care facility, you cannot receive more than the Federal benefit rate described in § 416.414(b)(1). We do not consider food or shelter provided during a medical confinement to be income.

(ii) If you enter a medical care facility and you are eligible for either benefit payable under § 416.212, we also consider this a temporary absence from your permanent living arrangement. We use the rules that apply to your permanent living arrangement to value any food, clothing, or shelter you receive during the month you enter the facility and throughout the period you are eligible for these benefits. We consider your absence to be temporary through the last month benefits under § 416.212 are paid unless you are discharged from the facility in the following month. In that case, we consider your absence to be temporary through the date of discharge.

* * * * *

15. Section 416.1167 is amended by revising paragraph (a) to read as follows:

§ 416.1167 Temporary absences and deeming rules.

(a) *General.* During a temporary absence, we continue to consider the absent person a member of the household. A temporary absence occurs when—

(1) You, your ineligible spouse, parent, or an ineligible child leaves the household but intends to and does return in the same month or the month immediately following; or

(2) You enter a medical care facility and are eligible for either benefit payable under § 416.212. We consider your absence to be temporary through the last month benefits under § 416.212 were paid unless you were discharged from the facility in the following month. In that case, we consider your absence to be temporary through the date of discharge.

* * * * *

Subpart T—State Supplementation Provisions; Agreement; Payments

16. The authority citation for subpart T of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1616, 1618, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382e, 1382g, and 1383); sec. 212, Pub. L. 93–66, 87 Stat. 155 (42 U.S.C. 1382 note); sec. 8 (a), (b)(1)–(b)(3), Pub. L. 93–233, 87 Stat. 956 (7 U.S.C. 612c note, 1431 note and 42 U.S.C. 1382e note); secs. 1 (a)–(c) and 2(a), 2(b)(1), 2(b)(2), Pub. L. 93–335, 88 Stat. 291 (42 U.S.C. 1382 note, 1382e note).

17. Section 416.2040 is amended by revising paragraph (a) and adding a new paragraph (c) to read as follows:

§ 416.2040 Limitations on eligibility.

* * * * *

(a) *Inmate of public institution.* A person who is a resident in a public institution for a month, is ineligible for a Federal benefit for that month under the provision of § 416.211(a), and does not meet the requirements for any of the exceptions in § 416.211 (b), (c), or (d), or § 416.212, also shall be ineligible for a federally administered State supplementary payment for that month.

* * * * *

(c) *Recipient eligible for benefits under § 416.212.* A recipient who is institutionalized and is eligible for either benefit payable under § 416.212 for a month or months may also receive federally administered State supplementation for that month. Additionally, a recipient who would be eligible for benefits under § 416.212 but for countable income which reduces his or her Federal SSI benefit to zero, may still be eligible to receive federally administered State supplementation.

[FR Doc. 96–5705 Filed 3–12–96; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 90N–0134]

RIN 0910–AA19

Food Labeling: Reference Daily Intakes; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the Federal Register of December 28, 1995 (60 FR 67164). The final rule amended FDA regulations to establish Reference Daily Intakes (RDI's) for vitamin K, selenium, manganese, chromium, molybdenum, and chloride, but not for fluoride. The document was published with some typographical errors. This document corrects those errors.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Camille E. Brewer, Center for Food Safety and Applied Nutrition (HFS–165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5483.

In FR Doc. 95–31197, appearing on page 67164 in the Federal Register of Thursday, December 28, 1995, the following corrections are made:

1. On page 67167, in the second column, in lines three, five, seven, and eight, ''mg'' is corrected to read ''μg.''

§ 101.36 Corrected

2. On page 67175, in the second column, in § 101.36(b)(3)(ii), in line fourteen, ''vitamin B6'' is corrected to read ''vitamin B_6'', and ''vitamin B12'' is corrected to read ''vitamin B_{12}''.

Dated: March 7, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–6029 Filed 3–12–96; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 0E3889, 2E4113, and 5E4538/R2210; FRL–5352–8]

RIN 2070–AC78

Chlorothalonil; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This document establishes tolerances for combined residues of the fungicide chlorothalonil and it metabolite in or on the raw agricultural commodities blueberries, filberts, and mushrooms. The Interregional Research Project No. 4 (IR-4) requested the regulation to establish a maximum permissible level for residues of the fungicide pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA).

EFFECTIVE DATE: This regulation becomes effective March 13, 1996.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 0E3889, 2E4113, and 5E4538/R2210], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be