

relief agencies, food bank networks, or food bank distributors, including arrangements for transportation, distribution costs, and product quality control.

(iv) Documentation of support from cold storage and transportation facilities.

(v) A proposed operating budget that is adequate to ensure that salmon donated under this program will be distributed to hunger relief agencies, food bank networks, or food bank distributors and that the salmon will be maintained in a manner fit for human consumption.

(vi) Proof of the applicant's ability to obtain and maintain adequate funding for the distribution of salmon under the SDP.

(vii) A copy of the applicant's articles of incorporation and bylaws showing that the purpose of the applicant includes providing food resources to hunger relief agencies, food bank networks, or food bank distributors.

(viii) Proof of the applicant's ability to take full responsibility for the documentation and disposition of salmon received under the SDP, including sufficient liability insurance to cover public interests relating to the quality of salmon distributed for human consumption.

(ix) Quality control criteria to be followed by vessels, processors, hunger relief agencies, food bank networks, and food bank distributors.

(x) The number of vessels and processors that the applicant is capable of administering effectively.

(xi) A list of all vessels and processors, food bank networks and food bank distributors participating in the SDP. The list of vessels and processors must include:

(A) The vessel's or processor's Federal fisheries permit number or Federal processor permit number.

(B) The name of the vessel owner or responsible operator or the name of the owner or plant manager of the processor.

(C) The vessel's or processor's telephone number and fax number.

(D) The signature of the vessel owner or responsible operator or the owner or plant manager of the processor.

(xii) A signed statement from the applicant and all persons listed under paragraph (a)(1)(xi) of this section who would conduct activities pursuant to the SDP permit waiving any and all claims against the United States and its agents and employees for any liability for personal injury, death, sickness, damage to property directly or indirectly due to activities conducted under the SDP.

(xiii) A list of locations where salmon must be delivered by participating vessels and processors.

(2) *Selection.* The Regional Director may select one or more tax-exempt organizations to be authorized distributors under the SDP based on the information submitted by applicants under paragraph (a)(1) of this section. The number of authorized distributors selected by the Regional Director will be based on the following criteria:

(i) The number and qualifications of applicants for SDP permits.

(ii) The number of harvesters and the quantity of salmon that applicants can effectively administer.

(iii) The anticipated level of salmon bycatch based on the salmon bycatch from previous years.

(iv) The potential number of vessels and processors participating in the groundfish trawl fisheries.

(3) *SDP Permit.* (i) After review of qualified applicants, the Regional Director will announce the selection of authorized distributor(s) in the Federal Register and will issue SDP permit(s).

(ii) The Regional Director may impose additional terms and conditions on an SDP permit consistent with the objectives of the SDP.

(iii) An SDP permit may be suspended, modified, or revoked under 15 CFR part 904 for noncompliance with terms and conditions specified in the permit or for a violation of this section or other regulations in this part.

(iv) An SDP permit remains in effect for a 3-year period after the selection notice is published in the Federal Register unless suspended or revoked. An SDP permit may not be transferred. An SDP permit issued to an authorized distributor may be renewed following the application procedures in this section.

(v) If the authorized distributor modifies any information on the SDP permit application submitted under paragraph (a)(1)(xi) or (a)(1)(xiii) of this section, the authorized distributor must submit a modified list of participants or a modified list of delivery locations to the Regional Director.

(b) *Reporting and Recordkeeping Requirements.* (1) A vessel or processor retaining salmon under the SDP must comply with all applicable recordkeeping and reporting requirements. A vessel or processor participating in the SDP must comply with applicable regulations at §§ 679.7(c)(2), and 679.21(c) that allow for the collection of data and biological sampling by an NMFS-certified observer prior to processing any salmon under the SDP.

(2) Salmon retained under the SDP must be packaged, and all packages must be labeled with the date of processing, the name of the processing facility, the contents and the weight of the salmon contained in the package and the words, "NMFS SALMON DONATION PROGRAM—NOT FOR SALE—PERISHABLE PRODUCT—KEEP FROZEN".

(3) A processor retaining or receiving salmon under the SDP and an authorized distributor must keep on file and make available for inspection by an authorized officer all documentation including receipt and cargo manifests setting forth the origin, weight, and destination of all salmon. Such documentation must be retained until 1 year after the effective period of the SDP permit.

(c) *Processing, handling, and distribution.* (1) Processing and reprocessing of all salmon retained under the SDP must be carried out under the direction of the authorized distributor. A processor retaining or receiving salmon under the SDP, at a minimum, must head, gut, and freeze the salmon in a manner that makes it fit for human consumption.

(2) Salmon that are determined to be unfit for human consumption prior to delivery to an authorized distributor must be discarded under § 679.21(b). Salmon that are determined to be unfit for human consumption after delivery to the authorized distributor must be destroyed in accordance with applicable sanitation laws and regulations.

(3) Authorized distributors and persons conducting activities supervised by authorized distributors may retain salmon only for the purpose of processing and delivering the salmon to hunger relief agencies, food networks or food distributors as provided by this section. Such persons may not consume or retain salmon for personal use and may not sell, trade or barter, or attempt to sell, trade or barter any salmon that is retained under the SDP.

(4) No salmon bycatch may be retained by a vessel or processor, or delivered to a delivery location under this section, unless the vessel or processor and delivery location is included on the list provided to the Regional Director under paragraph (a)(1)(xi), (a)(1)(xiii), or (a)(3)(v) of this section.

[FR Doc. 96-18788 Filed 7-19-96; 2:23 pm]

BILLING CODE 3510-22-W

SOCIAL SECURITY ADMINISTRATION**20 CFR Part 404**

[Regulation No. 4]

RIN 0960-AE21

When You Are a Full-Time Elementary or Secondary School Student

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are revising our rule on full-time elementary or secondary school students to include students enrolled in home schooling or independent study programs authorized by State or local law, e.g., political subdivision, tribal government, or the District of Columbia. The current rule covers only students in traditional institutional educational settings; however, many States (or other jurisdictions) provide for home schooling and independent study programs considered equivalent to traditional schools. We also are showing clearly that nonpayment provisions apply to certain prisoners and certain other inmates of publicly funded institutions who otherwise would meet student benefit requirements. In addition, we are removing outdated rules on student benefits relating to months before August 1982.

EFFECTIVE DATE: This final rule is effective July 24, 1996.

FOR FURTHER INFORMATION CONTACT: Daniel T. Bridgewater, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-3298 for information about this rule. For information on eligibility or claiming benefits, call our national toll-free number, 1-800-772-1213.

SUPPLEMENTARY INFORMATION**Background**

The Social Security Amendments of 1965, Public Law 89-97, section 306, defined a full-time student as "an individual who is in full-time attendance as a student at an educational institution." An "educational institution" was defined as "(i) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof, or (ii) a school or college or university which has been approved by a State or accredited by a State-recognized or nationally-recognized accrediting agency or body, or (iii) a non-accredited school or college or university whose credits are accepted,

on transfer, by not less than three institutions which are so accredited * * *." This definition of an educational institution was chosen by Congress, as explained in the Senate report, "to establish that the institution the child attends is a bona fide school." (See S. Rep. No. 404, 89th Cong., 1st Sess. 96-97, *reprinted in* 1965 U.S. Code Cong. & Admin. News 1943, 2036-37.)

The Senate report also stated: "The committee believes that a child over age 18 who is attending school full time is dependent just as a child under 18 or a disabled older child is dependent, and that it is not realistic to stop such a child's benefit at age 18." *Ibid.* We understand this to mean that the committee believed that full-time students attending class are less likely to be able to support themselves through employment than are part-time or correspondence students.

The Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, section 2210, replaced the term "educational institution" and its definition with the requirement that the student be in full-time attendance at an "elementary or secondary school," which is defined as a "school which provides elementary or secondary education, respectively, as determined under the law of the State or other jurisdiction in which it is located." (See section 202(d)(7)(C)(i) of the Social Security Act (the Act) as amended.) The purpose of this amendment was to eliminate child's insurance benefits in the case of children age 18 or older who attend postsecondary schools. Section 2210 also eliminated child's insurance benefits for children in elementary or secondary school after they attained age 19. (See S. Rep. No. 139, 97th Cong., 1st Sess. 427, *reprinted in* 1981 U.S. Code Cong. & Admin. News 396, 693.)

Present Policy

Child's insurance benefits under sections 202(d)(6) and (7) of the Act usually terminate when the child attains age 18. However, there is an exception that allows for continuation of entitlement to child's benefits for persons age 18 until attainment of age 19 who are full-time elementary or secondary school students.

Section 202(d)(7)(A) of the Act defines a full-time elementary or secondary school student as "an individual who is in full-time attendance as a student at an elementary or secondary school, as determined by the Commissioner (in accordance with regulations prescribed by him) in the light of the standards and practices of the schools involved * * *."

Section 404.367 of our current regulations states, in pertinent part:

* * * You are a full-time elementary or secondary school student if you meet all the following conditions:

(a) You attend a school which provides elementary or secondary education, respectively, as determined under the law of the State or other jurisdiction in which it is located;

(b) You are in full-time attendance in a day or evening noncorrespondence course of at least 13 weeks duration and are carrying a subject load which is considered full-time for day students under the institution's standards and practices. Additionally, your scheduled attendance must be at the rate of at least 20 hours per week unless we find that:

(1) The school attended does not schedule at least 20 hours per week and going to that particular school is your only reasonable alternative; or

(2) Your medical condition prevents you from having scheduled attendance of at least 20 hours per week. To prove that your medical condition prevents you from scheduling 20 hours per week, we may request that you provide appropriate medical evidence or a statement from the school.

New Policy

Current regulations do not provide guidance on alternative education programs covered under the laws of the State (or other jurisdiction) in which a student resides. Before the development of such programs, our policy had been in keeping with the traditional definition of educational institutions. Such traditional institutional-type schools include public, private, and religious schools. Except for the two specific exceptions noted in the regulations, we also consistently have required that the student be scheduled to attend school for at least 20 hours per week to be considered a full-time student.

Because most States (or other jurisdictions) have begun providing for education based on alternative education methods, we evaluated cases involving home schooling or independent study programs on an individual basis. This evaluation has provided sufficient information to formulate these proposed regulations.

Many States or other jurisdictions have laws recognizing home schooling. Home schooling is an educational program in which the student is generally taught within the home by a parent/teacher. The State or other jurisdiction specifies the requirements that must be met and the procedures that must be followed in these situations. There must be a parent or other home school teacher participating in the home school instruction. This participation may be in the form of

actual instruction, answering questions, administering tests, keeping attendance records, etc. The student must be carrying a course load that is considered full-time using the same standards and practices used for full-time day students in the traditional setting, as determined under the law of the State or other jurisdiction in which the student resides.

The child's home schooling teacher must submit evidence that legal requirements for home schooling are met. Depending on these requirements, this evidence might include a copy of the certificate of intent that is filed with the local school or school district, documentation that State-mandated tests were taken, a list of the courses being taught, and a copy of the attendance log or chart.

Also, some States or other jurisdictions authorize the governing board of a school district or a county office of education to offer independent study to meet the educational needs of pupils in accordance with certain requirements. An independent study course could (but need not) include instruction in the student's home or elsewhere outside the classroom. The study program is conducted in accordance with written policies and rules. It is coordinated, evaluated, and under the supervision of an employee of the school district or county office of education who has been certified to act as a home teacher. Independent study programs which involve instruction and supervision by a teacher employed by the school (or local school district) include written agreements for each independent study student specifying, among other things, the duration of the agreement and a statement of the number of course credits to be earned by the pupil upon completion. The effect of the written agreement is to extend the educational setting beyond the traditional classroom. It is a situation similar to those students who are in school-approved work-study programs that extend the educational setting.

We therefore are revising § 404.367 to include students enrolled in home schooling or independent study programs authorized by State (or other jurisdiction) laws. The student must be carrying a course load considered to be full-time under the standards and practices used for day students who are in full-time attendance at traditional educational institutions. Students in these types of situations include a wide range of individuals. For example, home schooling students may be in that situation for religious reasons or because the parents do not agree with the local school curriculum.

Students in independent study programs may include those individuals who cannot take advantage of the traditional school setting, such as hard-to-keep-in-school students (unable to adjust or delinquents), single mothers, or expectant mothers. All students—those in traditional programs and those in alternative programs—who work are subject to the annual earnings test.

A home schooling program must meet the requirements set forth by the State (or other jurisdiction). An independent study program organized in accordance with the State (or other jurisdiction) requirements must be coordinated, evaluated and supervised by an employee of the school district or county office of education and must comply with the policies of the school district or county office of education. To be entitled to child's insurance benefits as a student, an individual enrolled in either type of program must meet both the Federal and the State (or other jurisdiction) full-time attendance (FTA) requirements.

When determining FTA, the home schooling teacher will be the certifying school official for FTA purposes. In independent study situations, the school teacher/official supervising the performance of the student under the written agreement between the school and the student will be the certifying official for FTA.

When determining the number of hours spent in school attendance for an approved independent study program, we will combine the number of agreed upon hours spent in independent study with the number of hours in actual school attendance. The course load must be equivalent to that of a student in the school's full-time day program.

We will continue to exclude from eligibility those individuals who are enrolled solely in correspondence courses. We do not believe that such courses satisfy the definition of an elementary or secondary school in the Act, and usually they would not meet State (or other jurisdiction) requirements.

We also are revising § 404.367 to clearly show that section 202(x) of the Act, regarding nonpayment of benefits to certain prisoners and certain other inmates of publicly funded institutions, applies to those individuals who otherwise meet student benefit requirements. Section 202(x) is applicable to those who otherwise would qualify for benefits under section 202(d)(7)(A) of the Act.

Further, we are removing § 404.369 since it applies only to child's benefits for full-time students for months before August 1982. This section has not been

applicable for over 10 years and there is no longer a need to retain it. Sections that refer to § 404.369 (i.e., §§ 404.350–404.353) are revised to remove such references.

On December 7, 1995, we published this final rule as a proposed rule in the Federal Register at 60 FR 62783, and on December 18, 1995, a minor correction was published at 60 FR 65093. The proposed rule provided for a 60-day comment period; however, there were no public comments during this period. Therefore, we are publishing this final rule essentially unchanged from the proposed rule.

In addition, SSA is not providing a 30-day delay in the effective date of this final rule. The rule relieves a restriction on who may qualify for student benefits and meets the exception under 5 U.S.C. 553(d)(1).

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget and determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities since it only affects individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

This rule imposes no additional reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance)

List of Subjects in 20 CFR Part 404

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

Dated: July 8, 1996.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, subpart D of part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

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

Subpart D—[Amended]

1. The authority citation for subpart D of part 404 continues to read as follows:

Authority: Secs. 202, 203(a) and (b), 205(a), 216, 223, 225, 228(a)–(e), and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403(a) and (b), 405(a), 416, 423, 425, 428(a)–(e), and 902(a)(5)).

2. Section 404.350 is amended by revising paragraph (a)(5) to read as follows:

§ 404.350 Who is entitled to child's benefits.

(a) * * *

(5) You are under age 18; you are 18 years old or older and have a disability that began before you became 22 years old; or you are 18 years or older and qualify for benefits as a full-time student as described in § 404.367.

* * * * *

3. Section 404.351 is amended by revising paragraph (a) to read as follows:

§ 404.351 Who may be reentitled to child's benefits.

* * * * *

(a) The first month in which you qualify as a full-time student. (See § 404.367.)

* * * * *

4. Section 404.352 is amended by revising the fourth sentence of paragraph (b)(1) to read as follows:

§ 404.352 When child's benefits begin and end.

* * * * *

(b) * * *

(1) * * * If you become 18 years old and you qualify as a full-time student who is not disabled, your entitlement ends with the last month you are a full-time student or, if earlier, the month before the month you become age 19.

* * * * *

5. Section 404.353 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 404.353 Child's benefit amounts.

(a) * * * The amount of your monthly benefit may change as explained in § 404.304.

* * * * *

6. Section 404.367 is amended by revising the first sentence of the introductory text; revising paragraphs (a) and (b); redesignating paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), respectively; adding paragraph (c); and, revising paragraph (f) to read as follows:

§ 404.367 When you are a "full-time elementary or secondary school student".

You may be eligible for child's benefits if you are a full-time elementary or secondary school student. * * *

(a) You attend a school which provides elementary or secondary education as determined under the law of the State or other jurisdiction in which it is located. Participation in the following programs also meets the requirements of this paragraph:

(1) You are instructed in elementary or secondary education at home in accordance with a home school law of the State or other jurisdiction in which you reside; or

(2) You are in an independent study elementary or secondary education program in accordance with the law of the State or other jurisdiction in which you reside which is administered by the local school or school district/ jurisdiction.

(b) You are in full-time attendance in a day or evening noncorrespondence course of at least 13 weeks duration and you are carrying a subject load which is considered full-time for day students under the institution's standards and practices. If you are in a home schooling program as described in paragraph (a)(1) of this section, you must be carrying a subject load which is considered full-time for day students under standards and practices set by the State or other jurisdiction in which you reside;

(c) To be considered in full-time attendance, your scheduled attendance must be at the rate of at least 20 hours per week unless one of the exceptions in paragraphs (c)(1) and (2) of this section applies. If you are in an independent study program as described in paragraph (a)(2) of this section, your number of hours spent in school attendance are determined by combining the number of hours of attendance at a school facility with the agreed upon number of hours spent in independent study. You may still be considered in full-time attendance if your scheduled rate of attendance is below 20 hours per week if we find that:

(1) The school attended does not schedule at least 20 hours per week and going to that particular school is your only reasonable alternative; or

(2) Your medical condition prevents you from having scheduled attendance of at least 20 hours per week. To prove that your medical condition prevents you from scheduling 20 hours per week, we may request that you provide appropriate medical evidence or a statement from the school.

* * * * *

(f) You are not subject to the provisions in § 404.468 for nonpayment

of benefits to certain prisoners and certain other inmates of publicly funded institutions.

§ 404.369 [Removed]

7. Section 404.369 is removed.

[FR Doc. 96-18357 Filed 7-23-96; 8:45 am]

BILLING CODE 4190-29-P

20 CFR Part 404

RIN 0960-AE00

Miscellaneous Coverage Provisions of the Social Security Independence and Program Improvements Act of 1994; Coverage Provisions of the Social Security Domestic Employment Reform Act of 1994

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: These final regulations reflect sections 303, 305, 319 and 320 of the Social Security Independence and Program Improvements Act of 1994, which made several amendments to the Social Security Act (the Act) concerning the Social Security coverage of State and local government election officials and election workers effective beginning January 1, 1995, police officers and firefighters effective with respect to modifications filed under section 218 of the Act on and after August 16, 1994, Federal employees transferred to international organizations effective January 1, 1995, and nonresident aliens who enter the United States under a cultural exchange program effective October 1, 1994. These final regulations also reflect section 1001(d)(2)(E) of the Technical and Miscellaneous Revenue Act of 1988, which excludes from coverage certain services performed by certain nonresident aliens temporarily in the United States to pursue a vocational or nonacademic technical education. In addition, these final regulations also reflect section 2 of the Social Security Domestic Employment Reform Act of 1994, which concerns the coverage of domestic services performed in a private home of the employer.

EFFECTIVE DATE: These regulations are effective July 24, 1996.

FOR FURTHER INFORMATION CONTACT: Lois Berg, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1713 for information about these rules. For information on eligibility, claiming benefits, or coverage of earnings, call