

- f.1. Botulinum toxins;
- f.2. Clostridium perfringens toxins;
- f.3. Conotoxin;
- f.4. Microcystin (cyanogenosin);
- f.5. Ricin;
- f.6. Saxitoxin;
- f.7. Shiga toxin;
- f.8. Staphylococcus aureus toxins;
- f.9. Tetradotoxin; or
- f.10. Verotoxin.

*1C91F Vaccines containing microorganisms and/or toxins controlled by ECCN 1C61B, and immunotoxins.*

#### Requirements

*Validated License Required:* SZ, Iran  
*Unit:* \$ value  
*Reason for Control:* FP  
*GLV:* No  
*GCT:* No  
*GFW:* No

Note: Vaccines that do not contain items controlled by ECCN 1C61B are controlled by ECCN 1C96G.

*Technical Note:* For the purposes of ECCN 1C91F, the definition of "Immunotoxin" is an antibody-toxin conjugate intended to destroy specific target cells, e.g., tumor cells, that bear antigens homologous to the antibody.

Dated: July 30, 1996.

Sue E. Eckert,

*Assistant Secretary for Export Administration.*

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## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 404

[Regulations No. 4]

RIN 0960-AE20

#### Living in the Same Household and the Lump-Sum Death Payment

**AGENCY:** Social Security Administration.

**ACTION:** Final rules.

**SUMMARY:** We are revising our rules on "living in the same household" (LISH) and the lump-sum death payment (LSDP) to bring them into accord with legislation that restricted the payment of the LSDP. This revision includes the removal from our regulations of several outdated sections and paragraphs. We also are incorporating into our rules the policy established previously in a Social Security Ruling (SSR) that interpreted the definition of LISH to allow for extended separations that are based solely on medical reasons.

**EFFECTIVE DATE:** These rules are effective September 9, 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 these rules. For information on eligibility or claiming benefits, call our national toll-free number, 1-800-772-1213.

#### SUPPLEMENTARY INFORMATION:

##### Background

Prior to passage of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, the widow(er) of a deceased worker could qualify for the LSDP if he/she had been LISH with the deceased at the time of death *or*, under certain conditions, if he/she paid the burial expenses of the deceased. Thus, a widow(er) who was not LISH with the deceased could still receive the LSDP if he/she paid the deceased's burial expenses.

Public Law 97-35 redefined who could qualify for the LSDP. Effective September 1, 1981, the LSDP no longer was payable to any individuals, other than those described in Public Law 97-35, or to funeral homes.

Under Public Law 97-35, the LSDP is payable to 3 categories of individuals: (1) the surviving spouse of the deceased who was LISH with the deceased at the time of death; (2) a person who is entitled to (or was eligible for) benefits on the deceased's earnings record for the month of death as a widow(er) or as the mother or father of a child of the deceased; or (3) a child of the deceased who is entitled to (or was eligible for) benefits on the deceased's earnings record for the month of death.

For those widow(ers) who were not LISH, a possible anomaly was created by the LSDP limitations in Public Law 97-35 and existing regulations. An example of such an anomaly is the following situation.

A worker had been living in a nursing home for 3 years prior to his death because his wife was unable to provide the daily medical care he needed. Until his death, the worker was visited frequently by his wife, who lived in the house to which the worker would have returned if he were able. The widow was receiving a Retirement Insurance Benefit (RIB) which exceeded her late husband's Primary Insurance Amount (PIA). Based on Public Law 97-35 and a strict interpretation of the regulatory definition of LISH, this widow would not qualify for the LSDP because she was neither LISH nor entitled to benefits based on her late husband's earnings record. (However, if the widow's RIB

did not exceed her late husband's PIA, she would qualify for the LSDP.)

##### Present Policy

Operating instructions, as well as most of the pertinent regulatory sections, have been changed to reflect the changes in the law established by Public Law 97-35. To qualify as a LISH spouse, the widow(er) and the deceased must have "customarily lived together as husband and wife in the same residence" (§ 404.347). While temporary separations do not necessarily preclude the Social Security Administration (SSA) from considering a couple to be LISH, extended separations (including most that last 6 months or more) generally indicate the couple was not LISH.

However, in order to avoid the possible anomaly discussed above, SSR 82-50 was issued to provide for an exception when an extended separation is based solely on medical reasons. SSR 82-50 states:

If a husband and wife are (or were) separated and continue(d) to be separated, *solely* for medical reasons, SSA may consider them to be living in the same household even if the separation is (or was) likely to be permanent and there is (or was) little or no expectation of the parties again physically residing together. As long as the spouse who is now applying for the LSDP or spouse's benefits based on a deemed marriage has continued to demonstrate strong personal and/or financial concern for the worker, SSA will assume they would have lived together (absent evidence to the contrary) had the medical reasons not necessitated their separation, and will pay the LSDP or spouse's benefits to the spouse.

##### New Policy

Since there are still some sections of our regulations that refer to the law on entitlement to the LSDP which predated Public Law 97-35 and since these sections no longer are applicable, we are updating or removing them. We are eliminating obsolete §§ 404.393, 404.394, 404.395, and 404.765 and paragraphs 404.2(a)(2) through (a)(6), 404.3(a), 404.612(e), and 404.615(b).

Also, we are incorporating the LISH policy interpretation found in SSR 82-50 into our regulations. The new regulatory definition will clearly allow for extended separations due to the confinement of either spouse in a nursing home, hospital, or other medical institution. As long as evidence indicates the husband and wife were initially separated, and continue to be separated, solely for medical reasons and would otherwise have resided together, they will be considered to be LISH. Because of this action, we are rescinding SSR 82-50 upon the effective

date of these rules. This rescission appears in the "Notices" section of today's Federal Register.

On December 6, 1995, we published these final rules as proposed rules in the Federal Register at 60 FR 62354 with a 60-day comment period. We received comments from only one source, which represents the largest professional organization of funeral directors in the United States. The commenter fully supported the proposed rules. Therefore, we are publishing the final rules essentially unchanged from the proposed rules.

#### Regulatory Procedures

##### *Regulatory Flexibility Act*

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

##### *Paperwork Reduction Act*

These final rules impose no additional reporting or recordkeeping requirements subject to the 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 25, 1996.

Shirley S. Chater,

*Commissioner of Social Security.*

For the reasons set out in the preamble, subparts A, D, G, and H of part 404 of chapter III of title 20 of the Code of Federal Regulations are amended as follows:

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

#### **Subpart A—[Amended]**

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

Authority: Secs. 203, 205(a), 216(j), and 702(a)(5) of the Social Security Act (42 U.S.C. 403, 405(a), 416(j), and 902(a)(5)).

#### **§ 404.2 [Amended]**

2. Section 404.2 is amended by removing paragraphs (a)(2) through (a)(6) and redesignating paragraph (a)(7) as paragraph (a)(2).

#### **§ 404.3 [Amended]**

3. Section 404.3 is amended by removing paragraph (a) and redesignating paragraphs (b) and (c) as paragraphs (a) and (b), respectively.

#### **Subpart D—[Amended]**

4. 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)).

5. Section 404.347 is revised to read as follows:

#### **§ 404.347 "Living in the same household" defined.**

Living in the same household means that you and the insured customarily lived together as husband and wife in the same residence. You may be considered to be living in the same household although one of you is temporarily absent from the residence. An absence will be considered temporary if:

(a) It was due to service in the U.S. Armed Forces;

(b) It was 6 months or less and neither you nor the insured were outside of the United States during this time and the absence was due to business, employment, or confinement in a hospital, nursing home, other medical institution, or a penal institution;

(c) It was for an extended separation, regardless of the duration, due to the confinement of either you or the insured in a hospital, nursing home, or other medical institution, if the evidence indicates that you were separated solely for medical reasons and you otherwise would have resided together; or

(d) It was based on other circumstances, and it is shown that you and the insured reasonably could have expected to live together in the near future.

6. Section 404.390 is amended by revising the second sentence to read as follows:

#### **§ 404.390 General.**

\* \* \* If the insured is not survived by a widow(er) who meets this requirement, all or part of the \$255 payment may be made to someone else as described in § 404.392.

7. Section 404.392 is amended by revising the section heading and the introductory text of paragraph (a) to read as follows:

#### **§ 404.392 Who is entitled to the lump-sum death payment when there is no widow(er) who was living in the same household.**

(a) *General.* If the insured individual is not survived by a widow(er) who

meets the requirements of § 404.391, the lump-sum death payment shall be paid as follows:

\* \* \* \* \*

#### **§ 404.393 [Removed]**

8. Section 404.393 is removed.

#### **§ 404.394 [Removed]**

9. Section 404.394 is removed.

#### **§ 404.395 [Removed]**

10. Section 404.395 is removed.

#### **Subpart G—[Amended]**

11. The authority citation for subpart G of part 404 continues to read as follows:

Authority: Secs. 202(i), (j), (o), (p), and (r), 205(a), 216(i)(2), 223(b), 228(a), and 702(a)(5) of the Social Security Act (42 U.S.C. 402(i), (j), (o), (p), and (r), 405(a), 416(i)(2), 423(b), 428(a), and 902(a)(5)).

#### **§ 404.612 [Amended]**

12. Section 404.612 is amended by removing paragraph (e) and redesignating paragraphs (f), (g), and (h) as paragraphs (e), (f), and (g), respectively.

#### **§ 404.615 [Amended]**

13. Section 404.615 is amended by removing paragraph (b) and redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

#### **Subpart H—[Amended]**

14. The authority citation for subpart H of part 404 continues to read as follows:

Authority: Secs. 205(a) and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a) and 902(a)(5)).

#### **§ 404.765 [Removed]**

15. Section 404.765 is removed.

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### **ENVIRONMENT PROTECTION AGENCY**

#### **40 CFR Part 5**

[FRL-5548-8]

#### **Clean Air, Clean Water, Solid Waste, Pesticides Programs; Removal of Legally Obsolete Rule**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is today removing from