

2. *Labeling rule.* The Commission could issue a rule banning PBRs that did not contain specified warnings and instructions.

3. *Voluntary standard.* If the industry developed, adopted, and substantially conformed to an adequate voluntary standard, the Commission could defer to the voluntary standard in lieu of issuing a mandatory rule.

#### E. Existing Standards

The Commission is not aware of any promulgated state, voluntary, foreign, international, or other standard dealing with the described risk of injury or death. In February 1998, the CPSC staff requested that ASTM develop a provisional standard for PBRs to address the hazard of entrapment-related deaths. In May 1999, CPSC staff drafted proposed performance requirements and submitted them to ASTM for consideration. As of May 2000, the ASTM Portable Bed Rail Subcommittee had not balloted a proposed performance standard for these products.

#### F. Economic Considerations

##### 1. PBR Sales and Numbers Available for Use

Based on information gathered by the CPSC Office of Compliance, eleven firms produced a total of approximately 7.7 million PBRs during the period from January 1988 to July 14, 1998. Subsequent sales (1998 and 1999) were reportedly stable. Thus, based on available information, approximately 733,000 units are sold per year. The retail cost of a PBR is in the range of \$15–\$30.

No information is available on the average product life of a PBR. CPSC staff estimate that for the period of first use an expected life of two years would be appropriate. However, some units could see use with subsequent children so four years is estimated as a reasonable upper bound on the expected useful life of a PBR. Assuming an expected useful life of four years and stable sales, there may be as many as approximately 3 million PBRs in use at any one given time (733,000 PBRs sold per year x 4 years).

##### 2. Suppliers

CPSC staff has identified eleven firms that marketed PBRs in the United States during the period 1980–1998. There may be other manufacturers or importers that the staff has not identified.

##### 3. Substitutes

Substitutes for PBRs include beds equipped with fixed side rails that are

designed for children in the two to five year old age range or differently designed PBRs that do not pose an entrapment hazard.

#### 4. Cost Effectiveness Considerations

The CPSC is aware of 14 deaths since 1990 that are directly attributable to PBRs, for an average of 1.34 deaths per year over that period. At a statistical value of life of \$5 million, the aggregate cost to society from PBR-attributable deaths is approximately \$6.7 million annually. This estimate does not account for the costs associated with non-fatal PBR-related injuries.

Using the death rate and annual sales estimates noted above, CPSC staff calculate that the expected societal cost of those deaths over the life of a PBR is approximately \$9 per PBR. Thus, if product improvements were 100% effective in preventing the predicted deaths, a cost per bed rail for the improvements of \$9 would be economically justified. (The \$9 per bed rail societal cost represents between 30% and 60% of the retail price of a PBR.)

#### G. Solicitation of Information and Comments

This ANPR is the first step of a proceeding that could result in a mandatory rule for PBRs to address the described risk of injury or death. All interested persons are invited to submit to the Commission their comments on any aspect of the alternatives discussed above. In particular, CPSC solicits the following additional information:

1. The models and numbers of PBRs produced for sale in the U.S. each year from 1990 to the present;
2. The names and addresses of manufacturers and distributors of PBRs;
3. The expected useful life of PBRs;
4. Comparisons of the utility obtained from PBRs versus any available substitute products;
5. The number of persons injured or killed by the hazards associated with PBRs;
6. The circumstances under which these injuries and deaths occur, including the ages of the victims;
7. An explanation of designs that could be adapted to PBRs to reduce the described risk of injury;
8. Physical or performance characteristics of the product that could or should not be used to define which products might be subject to a rule;
9. The costs to manufacturers involved in either redesigning PBRs to remove the risk or removing PBRs from the market;
10. Other information on the potential costs and benefits of potential rules;

11. Steps that have been taken by industry or others to reduce the risk of injury from the product;

12. The likelihood and nature of any significant economic impact of a rule on small entities;

13. The costs and benefits of mandating a banning, labeling, or instructions requirement.

Also, in accordance with section 3(f) of the FHSA, the Commission solicits:

1. Written comments with respect to the risk of injury identified by the Commission, the regulatory alternatives being considered, and other possible alternatives for addressing the risk.

2. Any existing standard or portion of a standard which could be issued as a proposed regulation.

3. A statement of intention to modify or develop a voluntary standard to address the risk of injury discussed in this notice, along with a description of a plan (including a schedule) to do so.

Comments should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814; telephone (301) 504–0800. Comments also may be filed by telefacsimile to (301) 504–0127 or by email to [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov). Comments should be captioned “ANPR for Portable Bed Rails.” All comments and submissions should be received no later than December 4, 2000.

Dated: September 27, 2000.

**Todd A. Stevenson,**

*Deputy Secretary, Consumer Product Safety Commission.*

[FR Doc. 00–25279 Filed 10–2–00; 8:45 am]

BILLING CODE 6355–01–P

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## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Parts 404 and 416

RIN 0960–AF13

#### Collection of Supplemental Security Income (SSI) Overpayments From Social Security Benefits

**AGENCY:** Social Security Administration.  
**ACTION:** Proposed rules.

**SUMMARY:** We propose to revise our regulations dealing with the recovery of overpayments under the Supplemental Security Income (SSI) program under title XVI of the Social Security Act (the Act). Under the proposed revisions, we would modify our regulations to permit SSA to recover SSI overpayments by

adjusting the amount of social security benefits payable to the individual under title II of the Act. This collection practice would be limited to individuals who are not currently eligible to receive any cash payments under any provision of title XVI or State supplementary cash payments that we administer. Also, the amount of the title II benefits withheld in a month to recover the title XVI overpayment would not exceed 10 percent of the amount payable under title II unless the overpaid person requests us to withhold a higher amount or the overpaid person (or his or her spouse) willfully misrepresented or concealed material information in connection with the overpayment. In a case involving willful misrepresentation or concealment, the entire title II benefit amount will be withheld to recover the overpayment. These revisions would permit SSA to recover SSI overpayments from title II benefits payable to the overpaid individual when SSI cash benefits are not payable. These revisions are necessary to implement section 1147 of the Act.

**DATES:** To be sure your comments are considered, we must receive them no later than December 4, 2000.

**ADDRESSES:** Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, Maryland 21235-1585, sent by telefax to (410) 966-2830, sent by e-mail to [regulations@ssa.gov](mailto:regulations@ssa.gov) or delivered to the Office of Process and Innovation Management, Social Security Administration, 2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401.

**FOR FURTHER INFORMATION CONTACT:** Robert Augustine, Social Insurance Specialist, Office of Process and Innovation Management, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, (410) 966-5121 or TTY (410) 966-5609 for information about these rules. For information on eligibility or claiming benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778.

**SUPPLEMENTARY INFORMATION:** Under the law in effect prior to the enactment of Pub. L. 105-306 on October 28, 1998, if an individual received an SSI overpayment and failed to refund the full overpayment amount, SSA was authorized to recover the overpayment by adjusting future SSI payments due the recipient or his or her eligible spouse. If the overpaid person was not receiving SSI payments but was entitled to benefits under title II of the Act, he or she generally could elect voluntarily to have the overpayment recovered by

adjusting the title II benefits. If an overpaid individual was no longer entitled to SSI payments, we could refer the overpayment to the Department of the Treasury for offset against any Federal tax refund due that individual.

Section 8 of Pub. L. 105-306 added new section 1147 to the Act, permitting SSA to use an additional collection tool to recover SSI overpayments. Under section 1147, SSA may recover SSI overpayments by adjusting the amount of any benefits payable to the overpaid individual under title II of the Act, without the consent of the individual. Throughout the remainder of this preamble, this type of overpayment recovery is referred to as "cross-program recovery."

Section 1147 limits the use of cross-program recovery to SSI overpayments made to individuals who are not currently eligible to receive cash payments, including State supplementary payments, under title XVI or under section 212(b) of Pub. L. 93-66. Also, section 1147 limits the amount of the SSI overpayment that may be recovered in any month through cross-program recovery to 10 percent of the benefit amount payable under title II in any month, unless the overpaid person requests that SSA withhold a higher amount or unless the overpaid person or his or her spouse willfully misrepresented or concealed material information in connection with the overpayment. If there is willful misrepresentation or concealment, section 1147 permits SSA to recover the overpayment by withholding 100 percent of the title II benefit payable.

#### Explanation of Proposed Changes

We propose to add to our regulations new § 416.572 setting forth our rules on cross-program recovery. This new section would:

- Define certain terms;
- Explain the conditions for imposing cross-program recovery;
- Explain the rights of the overpaid individual to request review of our determination that he or she still owes us the overpayment balance; and
- Explain the rules for determining the amount to be withheld from the individual's title II benefits.

Specifically, in paragraph (a) of proposed § 416.572, we would define the following terms:

- "Cross-program recovery" would be defined as the process we will use to collect SSI overpayments by adjusting title II benefits payable in a month.
- "Benefits payable in a month" would be defined as the amount of title II benefits a person would actually receive in a given month. Under our

proposed definition, "benefits payable in a month" would include any past due benefits a person would receive, but would not include any amounts withheld from the person's benefits under the deductions or reductions listed in § 404.401(a) or (b) of our regulations. The proposed definition also includes an example of how we determine the "benefits payable in a month."

- "Not currently eligible for SSI cash benefits" would mean that a person is receiving no cash payments, including State supplementary payments, under title XVI of the Act or under section 212(b) of Pub. L. 93-66.

In paragraph (b) of proposed § 416.572, we would explain that we may use cross-program recovery to collect SSI overpayments if the overpaid person is not currently receiving SSI cash benefits and is receiving benefits under title II of the Act. Thus, if a person whose title II benefits are being adjusted to recover an SSI overpayment again becomes eligible for SSI benefits, cross-program recovery would end with the month in which SSI cash benefits resume. When SSI benefits become payable to the overpaid person, we would resume the monthly adjustment of SSI payments to collect the overpayment. We would not start cross-program recovery if the overpaid person is refunding the title XVI overpayment by regular monthly installments or we are recovering a title II overpayment by withholding that person's title II benefits.

Paragraph (c) of proposed § 416.572 would list the information that we would include in the notice we would send to a person whose title II benefits would be subject to cross-program recovery. The notice would inform the person that he or she owes a specific SSI overpayment balance, that we will be using cross-program recovery to collect that balance and that we will withhold a specific amount from the title II benefits. The notice would state that the person may ask us to review our determination that he or she still owes the overpayment balance. Unless the overpaid person or that person's spouse willfully misrepresented or concealed material information in connection with the overpayment, the notice would also state that the person may request that we withhold from the title II benefits a different amount than the amount stated in the notice.

Paragraph (d) of proposed § 416.572 would explain that we will begin to withhold no sooner than 30 days after the date of the notice. If the individual pays the entire overpayment balance within that 30-day period, we will not

impose cross-program recovery. If within the 30-day period the person asks us to review the determination that he or she still owes us the overpayment balance, we will not begin cross-program recovery until we review the matter and notify the person of our decision. If within the 30-day period, the person requests that we withhold a different amount, we will not begin cross-program recovery until we determine the amount we will withhold.

Paragraph (e) of proposed § 416.572 would explain that we will generally collect the overpayment at the rate of 10 percent of the title II benefits payable in any month. However, we would collect at a different rate if the person requests, and we approve, a different rate of withholding or if the overpaid person (or his or her spouse) willfully misrepresented or concealed material information in connection with the overpayment. If there has been willful misrepresentation or concealment of material information in connection with the overpayment, we would recover the overpayment by withholding at the rate of 100 percent of the title II benefits payable. We would not collect at a lesser rate.

#### Other Revisions

We propose to revise § 404.401(c) to explain that we may adjust a person's title II benefits to recover an SSI overpayment using cross-program recovery.

We propose to revise § 416.570 to eliminate the reference to voluntary withholding of an SSI overpayment from title II benefits. Under section 1147 of the Act, we now have authority to use cross-program recovery to recover title XVI overpayments without the consent of the overpaid person.

#### Clarity of This Regulation

Executive Order (E.O.) 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make these proposed rules easier to understand.

For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that is unclear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?

- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

#### Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** on the Internet site for the Government Printing Office: [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html). It is also available on the Internet site for SSA (i.e., SSA Online): <http://www.ssa.gov/>.

#### Regulatory Procedures

##### *Executive Order 12866*

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed regulations meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they are subject to OMB review. However, the amounts of the savings or costs involved do not cross the threshold for an economically significant regulation as defined in E.O. 12866. The program savings from increased collections as a result of implementation of section 8 of Pub. L. 105-306 are \$15 million in each of fiscal years (FY) 2001 through 2003; \$40 million in FY 2004; and \$30 million in FY 2005 for a total increase of \$115 million over 5 years. The administrative savings estimate for FYs 2001 through 2005 is less than \$5 million.

##### *Regulatory Flexibility Act*

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

##### *Paperwork Reduction Act*

These proposed regulations would impose no new reporting or recordkeeping requirements requiring OMB clearance. In fact, these proposed rules would decrease the paperwork burden on the public by 833 burden hours per year. This is because, under the proposed rules, the public would no longer complete Form SSA-730-U2 (Request To Have Supplemental Security Income Overpayment Withheld From My Social Security Benefits) which provides SSA with the overpaid person's request that SSA collect a title XVI overpayment from the person's title II benefits.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.006, Supplemental Security Income)

#### List of Subjects

##### *20 CFR Part 404*

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

##### *20 CFR Part 416*

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

Dated: June 9, 2000.

**Kenneth S. Apfel,**

*Commissioner of Social Security.*

For the reasons set forth in the preamble, we propose to amend subpart E of part 404 and subpart E of part 416 of Chapter III of Title 20, Code of Federal Regulations as follows:

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

1. The authority citation for subpart E of part 404 is revised to read as follows:

**Authority:** Secs. 202, 203, 204(a) and (e), 205(a) and (c), 222(b), 223(e), 224, 225, 702(a)(5) and 1147 of the Social Security Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 422(b), 423(e), 424a, 425, 902(a)(5) and 1320b-17).

2. Section 404.401 is amended by revising paragraph (c) to read as follows:

##### **§ 404.401 Deduction, reduction, and nonpayment of monthly benefits or lump-sum death payments.**

\* \* \* \* \*

(c) *Adjustments.* We may adjust your benefits if you receive more or less than the correct amount due under title II of the Act. We may also adjust your benefits if you received more than the correct amount due under title XVI of the Act. For the title II rules on adjustments to your benefits, see subpart F of this part. For the rules on adjusting your benefits to recover title XVI overpayments, see § 416.572 of this chapter.

\* \* \* \* \*

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

3. The authority citation for subpart E of part 416 is revised to read as follows:

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

4. Section 416.570 is amended by revising the third sentence to read as follows:

**§ 416.570 Adjustment-general rule.**

\* \* \* Absent a specific request from the person from whom recovery is sought, no overpayment made under title II or XVIII of the Act will be recovered by adjusting SSI benefits.  
\* \* \*

5. Section 416.572 is added to read as follows:

**§ 416.572 Are title II benefits subject to adjustment to recover title XVI overpayments?**

(a) *Definitions*—(1) *Cross-program recovery*. Cross-program recovery is the process that we will use to collect title XVI overpayments from benefits payable to you in a month under title II of the Social Security Act.

(2) *Benefits payable in a month*. For purposes of this section, benefits payable in a month means the amount of title II benefits you would actually receive in that month. It includes your monthly benefit and any past due benefits after any reductions or deductions listed in § 404.401(a) and (b) of this chapter.

*Example*: A person is entitled to monthly title II benefits of \$1000. The first benefit payment the person would receive includes past-due benefits of \$1000. The amount of benefits payable in that month for purposes of cross-program recovery is \$2000. The monthly benefit payable for subsequent months is \$1000. If \$200 would be deducted from the person's title II benefits in a later month because of excess earnings as described in §§ 404.415 and 404.416 of this chapter, the benefit payable in that month for purposes of cross-program recovery would be \$800.

(3) *Not currently eligible for SSI cash benefits*. This means that a person is not receiving any cash payment, including State supplementary payments, under any provision of title XVI of the Act or under section 212(b) of Pub. L. 93-66 (42 U.S.C. 1382 note).

(b) *When we may collect title XVI overpayments using cross-program recovery*. (1) We may use cross-program recovery to collect a title XVI overpayment you owe if:

(i) You are not currently eligible for SSI cash benefits, and  
(ii) You are receiving title II benefits.  
(2) We will not start cross-program recovery if:

(i) You are refunding your title XVI overpayment by regular monthly installments, or  
(ii) We are recovering a title II overpayment by adjusting your title II benefits under § 404.502 of this chapter.

(c) *Notice you will receive*. Before we collect an overpayment from you using

cross-program recovery, we will send you a written notice that tells you the following information:

(1) We have determined that you owe a specific overpayment balance that can be collected by cross-program recovery;

(2) We will withhold a specific amount from the title II benefits payable to you in a month (see paragraph (e) of this section);

(3) You may ask us to review this determination that you still owe this overpayment balance; and

(4) You may request that we withhold a different amount (the notice will not include this information if paragraph (e)(2) of this section applies).

(d) *When we will begin cross-program recovery*. We will begin collecting the overpayment balance by cross-program recovery no sooner than 30 calendar days after the date of the notice described in paragraph (c) of this section.

(1) If within that 30-day period you pay us the full overpayment balance stated in the notice, we will not begin cross-program recovery.

(2) If within that 30-day period you ask us to review our determination that you still owe us this overpayment balance, we will not begin cross-program recovery before we review the matter and notify you of our decision in writing.

(3) If within that 30-day period you ask us to withhold a different amount than the amount stated in the notice, we will not begin cross-program recovery until we determine the amount we will withhold. This paragraph does not apply when paragraph (e)(2) of this section applies.

(e) *Rate of withholding*. (1) We will collect the overpayment at the rate of 10 percent of the title II benefits payable to you in any month, unless:

(i) You request and we approve a different rate of withholding, or

(ii) You or your spouse willfully misrepresented or concealed material information in connection with the overpayment.

(2) If you or your spouse willfully misrepresented or concealed material information in connection with the overpayment, we will collect the overpayment at the rate of 100 percent of the title II benefits payable in any month. We will not collect at a lesser rate. (See § 416.571 for what we mean by concealment of material information.)

[FR Doc. 00-25184 Filed 10-2-00; 8:45 am]

BILLING CODE 4191-02-U

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[REG-108522-00]

RIN 1545-AY25

**Recognition of Gain on Certain Transfers to Certain Foreign Trusts and Estates; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice of proposed rulemaking.

**SUMMARY:** This document contains a correction to a notice of proposed rulemaking that was published in the **Federal Register** on Monday, August 7, 2000 (65 FR 48198) relating to the recognition of gain on certain transfers to certain foreign trusts and estates.

**FOR FURTHER INFORMATION CONTACT:** Karen A. Rennie Quarrie at (202) 622-3880 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The notice of proposed rulemaking that is the subject of this correction is under section 684 of the Internal Revenue Code.

**Need for Correction**

As published, the notice of proposed rulemaking contains errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the publication of the notice of proposed rulemaking (REG-108522-00), that was the subject of FR Doc. 00-19896, is corrected as follows:

**§ 1.684-3 [Corrected]**

On page 48202, column 1, § 1.684-3(f), the first line of *Example 1*, the language "Example 1. Transfer to owner trust. In" is corrected to read "Example 1. Transfer to grantor trust. In".

**Cynthia E. Grigsby,**

*Chief, Regulations Unit, Office of Special Counsel (Modernization and Strategic Planning).*

[FR Doc. 00-25290 Filed 10-2-00; 8:45 am]

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