

telefaxing to (410) 966-0869 or writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401. All comments received will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** The Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, as shown above.

**SUPPLEMENTARY INFORMATION:**

**A. General**

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100-503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain approval of the matching agreement by the Data Integrity Boards of the participating Federal agencies;

(3) Publish a notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

**B. SSA Computer Matches Subject to the Privacy Act**

We have taken action to ensure that all of our computer matching programs

comply with the requirements of the Privacy Act, as amended.

**Kirsten J. Moncada,**

*Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.*

**Notice of Computer Matching Program, SSA With the Department of the Treasury, the Internal Revenue Service (IRS)**

*A. Participating Agencies*

SSA and IRS.

*B. Purpose of the Matching Program*

The purpose of this matching program is to set forth the terms under which IRS will disclose to us certain return information for the purpose of verifying eligibility or the correct subsidy percentage of benefits provided under section 1860D-14 of the Social Security Act (Act). (42 U.S.C. 1395w-114).

*C. Authority for Conducting the Matching Program*

Section 1860D-14 of the Act requires the Commissioner to determine the eligibility of applicants for the prescription drug subsidy who self-certify their income, resources, and family size. In addition, section 6103(1)(7) of the Internal Revenue Code (26 U.S.C. 6103(1)(7)) authorizes IRS to disclose return information with respect to unearned income to Federal, state, and local agencies administering certain benefit programs under the Act.

*D. Categories of Records and Persons Covered by the Matching Program*

Medicare beneficiaries who apply for the prescription drug subsidy under section 1860D-14 of the Act must self-certify on the application form the applicant's income, resources, and family size. We verify this information before making a subsidy determination.

When Medicare beneficiaries apply for the subsidy, and we cannot otherwise verify the income information provided on an application, we disclose to IRS the applicant's name and Social Security number.

We provide IRS with identifying information with respect to applicants for, and recipients of, the prescription drug subsidy from the existing Medicare Database system of records, SSA/ORSIS 60-0321, originally published at 69 FR 77816 (December 28, 2004), and as revised at 71 FR 42159 (July 25, 2006). IRS extracts return information with respect to unearned income from the Information Returns Master File, Treasury/IRS 22.061, as published at 77 FR 47946 (August 10, 2012).

*E. Inclusive Dates of the Matching Program*

The effective date of this matching program is November 11, 2012, provided that the following notice periods have lapsed: 30 days after publication of this notice in the **Federal Register** and 40 days after notice of the matching program is sent to Congress and OMB. The matching program will continue for 18 months from the effective date and, if both agencies meet certain conditions, it may extend for an additional 12 months thereafter.

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**SOCIAL SECURITY ADMINISTRATION**

[Docket No. SSA 2011-0106]

**Rescission of Social Security Acquiescence Rulings 92-2(6)**

**AGENCY:** Social Security Administration.

**ACTION:** Notice of Rescission of Social Security Acquiescence Ruling (AR) 92-2(6)—*Difford v. Sullivan*, 910 F.2d 1316 (6th Cir. 1990).

**SUMMARY:** In accordance with 20 CFR 402.35(b)(2), 404.985(e) and 416.1485(e), the Commissioner of Social Security gives notice of the rescission of Social Security AR 92-2(6).

**DATES:** *Effective Date:* February 21, 2013.

**FOR FURTHER INFORMATION CONTACT:** Susan Dunigan, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, (410)-966-5671 or TTY (800) 966-5609.

**SUPPLEMENTARY INFORMATION:** An AR explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

As provided by 20 CFR 404.985(e)(4) and 416.1485(e)(4), we may rescind an AR as obsolete and apply our interpretation of the Act or regulations if we subsequently clarify, modify or revoke the regulation or ruling that was the subject of a circuit court holding that we determined conflicts with our interpretation of the Act or regulations.

On March 17, 1992, we issued AR 92-2(6) to reflect the decision of the United States Court of Appeals for the Sixth Circuit in *Difford v. Sullivan*, 910 F.2d

1316 (6th Cir. 1990), in which the court interpreted section 223 of the Act to require that when we review a medical disability cessation determination or decision, we must consider whether the beneficiary was disabled at any time through the date of the adjudicator's final determination or decision.

Concurrent with the rescission of this AR, we are publishing Social Security Ruling (SSR) 12-3p to change the period an adjudicator must consider when deciding an appeal of a title II medical cessation determination or decision. This Ruling also clarifies how this policy applies at the Appeals Council (AC) level when the AC denies a request for review or issues a remand or dismissal order. The adjudicator will consider a beneficiary's disability through the date on which we make the appeal determination or decision.

Because the SSR addresses the *Difford* court's concerns and explains that an appeal must have a determination or decision through the adjudication date, we are rescinding AR 92-2(6). The SSR and this rescission restore uniformity to our nationwide system of rules in accordance with our commitment to the goal of administering our programs through uniform national standards as discussed in the preamble to the 1998 acquiescence regulations, 63 FR 24927 (May 6, 1998).

Dated: February 12, 2013.

**Michael J. Astrue,**  
Commissioner of Social Security.

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## SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2011-0106]

### Social Security Ruling, SSR 13-3p; Appeal of an Initial Medical Disability Cessation Determination or Decision

**AGENCY:** Social Security Administration.

**ACTION:** Notice of Social Security Ruling (SSR).

**SUMMARY:** We are giving notice of SSR 13-3p. This SSR changes the period an adjudicator must consider when deciding an appeal of a medical cessation determination. This Ruling also clarifies how this policy applies at the Appeals Council (AC) level when the AC denies a request for review or issues a remand or dismissal order. The adjudicator will consider a beneficiary's disability through the date on which we make the appeal determination or decision.

**DATES:** *Effective Date:* February 21, 2013.

**FOR FURTHER INFORMATION CONTACT:** Susan Dunigan, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, (410)-966-5671 or TTY (800) 966-5609.

**SUPPLEMENTARY INFORMATION:** Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so under 20 CFR 402.35(b)(1).

Through SSRs, we make available to the public precedential decisions relating to the Federal old age, survivors, disability, supplemental security income, and special veterans benefits programs. We base SSRs on determinations and decisions made at all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, or other interpretations of the law and regulations.

Although SSRs do not have the same force and effect as statutes or regulations, they are binding on all of our components. 20 CFR 402.35(b)(1)

This SSR will be in effect until we publish a notice in the **Federal Register** that rescinds it, or publish a new SSR that replaces or modifies it.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security—Disability Insurance; 96.004 Social Security—Survivors Insurance; 96.006 Supplemental Security Income; 96.020 Special Benefits for Certain World War II Veterans.)

Dated: February 12, 2013.

**Michael J. Astrue,**  
Commissioner of Social Security.

### Policy Interpretation Ruling

*Title II:* Appeal of an Initial Medical Disability Cessation Determination or Decision.

*Purpose:* This SSR explains how we will review an initial medical cessation determination or decision when we receive a timely request for administrative review of the cessation determination or decision. In this SSR, we are adopting as our nationwide policy the holding in *Difford v. Secretary of Health and Human Services*, 910 F.2d 1316 (6th Cir. 1990). We have applied the holding in that decision under Acquiescence Ruling (AR) 92-2(6) to cases involving beneficiaries residing in States within the Sixth Circuit (Kentucky, Michigan, Ohio, Tennessee). Because this SSR addresses the issue decided by the *Difford* court, in this issue of the **Federal Register**, we are also publishing a notice rescinding AR 92-2(6) as obsolete in accordance with our

acquiescence regulations, 20 CFR 404.985(e)(4).<sup>1</sup>

*Citations:* Sections 223(f) of the Social Security Act, as amended; Regulations No. 4, Subpart D, section 404.316; Subpart J, sections 404.902, 404.905; and Subpart P, sections 404.1579, 404.1589, 404.1590, 404.1593, and 404.1594.

*Pertinent History:* Section 223(f) of the Social Security Act (Act) sets forth the standard of review for determining whether an individual's disability has medically ceased. This provision provides, in relevant part, as follows:

“(f) A recipient of benefits under this title or title XVIII based on the disability of any individual may be determined not to be entitled to such benefits on the basis of a finding that the physical or mental impairment on the basis of which such benefits are provided has ceased, does not exist, or is not disabling only if such finding is supported by—

(1) substantial evidence which demonstrates that—

(A) there has been any medical improvement in the individual's impairment or combination of impairments (other than medical improvement which is not related to the individual's ability to work), and

(B) the individual is now able to engage in substantial gainful activity; or

(2) substantial evidence which—

(A) consists of new medical evidence and a new assessment of the individual's residual functional capacity, and demonstrates that—

(i) although the individual has not improved medically, he or she is nonetheless a beneficiary of advances in medical or vocational therapy or technology (related to the individual's ability to work), and

(ii) the individual is now able to engage in substantial gainful activity, or

(B) demonstrates that—

(i) although the individual has not improved medically, he or she has undergone vocational therapy (related to the individual's ability to work), and

(ii) the individual is now able to engage in substantial gainful activity; or

(3) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual's impairment or combination

<sup>1</sup> This SSR applies only to determinations or decisions finding that a beneficiary is no longer entitled to benefits because the physical or mental impairment on the basis of which the benefits have been paid has ceased, does not exist, or is no longer disabling. We call this type of finding a medical cessation determination or decision. This SSR does not apply to disability cessations based on substantial gainful activity.