

actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Empresa Brasileira de

Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil.

(3) You may review copies of the service information that is incorporated by reference at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and

Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

| Service Bulletin                           | Revision level    | Date              |
|--------------------------------------------|-------------------|-------------------|
| EMBRAER Service Bulletin 120-25-0262 ..... | Change 02 .....   | October 30, 2003. |
| EMBRAER Service Bulletin 120-27-0095 ..... | Revision 01 ..... | October 30, 2007. |
| EMBRAER Service Bulletin 120-27-0096 ..... | Revision 01 ..... | October 1, 2007.  |

**Note 1:** The subject of this AD is addressed in Brazilian airworthiness directive 2001-06-01R4, effective August 23, 2007.

#### Effective Date

(i) This amendment becomes effective on August 21, 2008.

Issued in Renton, Washington, on July 3, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate,  
Aircraft Certification Service.

[FR Doc. E8-15969 Filed 7-16-08; 8:45 am]

BILLING CODE 4910-13-P

## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 404

[Docket No. SSA-2006-0086]

RIN 0960-AG43

### Technical Changes to the Title II Regulations

**AGENCY:** Social Security Administration.

**ACTION:** Direct Final Rule with request for comments.

**SUMMARY:** We are issuing this direct final rule to make technical corrections to our title II regulations affecting the Federal Old-Age, Survivors and Disability Insurance programs. This rule amends our regulations by correcting a cross-reference affecting entitlement to mother's and father's benefits, to include alternatives to the 9-month duration of marriage requirement. We are deleting an out-of-date cross-reference to the definition of "substantially all." In its place, we are restoring the regulatory definition for "substantially all" that had been inadvertently deleted to show if a grandchild or stepgrandchild is dependent based on our support requirements. Also, we are revising headings in six of our regulations to conform to plain language provisions of Executive Order (E.O.) 12866, as amended.

We are also amending one of our regulations for clarity and to correct a typographical error.

**DATES:** *Effective Date:* This direct final rule is effective September 15, 2008 unless adverse or critical comments are received by August 18, 2008. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**COMMENT DATE:** To be sure your comments are considered, we must receive them by August 18, 2008.

**ADDRESSES:** You may submit comments by one of four methods—Internet, facsimile, regular mail, or hand-delivery. Commenters should not submit the same comments multiple times or by more than one method. Regardless of which of the following methods you choose, please state that your comments refer to Docket No. SSA-2006-0086 to ensure that we can associate your comments with the correct regulation:

1. Federal eRulemaking portal at <http://www.regulations.gov>. (This is the most expedient method for submitting your comments, and we strongly urge you to use it.) In the "Comment or Submission" section of the webpage, type "SSA-2006-0086", select "Go", and then click "Send a Comment or Submission." The Federal eRulemaking portal issues you a tracking number when you submit a comment.

2. Telefax to (410) 966-2830.

3. Letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235-7703.

4. Deliver your comments to the Office of Regulations, Social Security Administration, 922 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days.

All comments are posted on the Federal eRulemaking portal, although they may not appear for several days after receipt of the comment. You may also inspect the comments on regular business days by making arrangements

with the contact person named in this preamble.

**Caution:** All comments we receive from members of the public are available for public viewing on the Federal eRulemaking portal at <http://www.regulations.gov>. Therefore, you should be careful to include in your comments only information that you wish to make publicly available on the Internet. We strongly urge you not to include any personal information, such as your Social Security number or medical information, in your comments.

**FOR FURTHER INFORMATION CONTACT:** Mary Jayne Neubauer, Social Insurance Specialist, Office of Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 966-7303. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>.

##### Explanation of Changes

Correction of cross-reference in section 404.339(a)—Who is entitled to mother's or father's benefits.

Section 404.339 describes how a person becomes entitled to mother's or father's benefits. Section 404.339(a) currently requires that the person be the widow or widower of the insured "and meet the conditions described in § 404.335(a)(1)", which refers to a 9-month duration of marriage requirement for a widow or widower. This cross-reference is incorrect because it does not include the alternatives to the 9-month duration of marriage requirement, which are contained in § 404.335(a)(2), (a)(3) and (a)(4). Therefore, we are

correcting the cross-reference to refer to § 404.335(a).

Technical correction to section 404.340—Who is entitled to mother's or father's benefits as a surviving divorced spouse.

Currently, § 404.340 of the regulations explains that for you to be entitled to mother's or father's benefits as a surviving divorced spouse, you must be a surviving divorced wife or surviving divorced husband of someone who was fully or currently insured when he or she died. We are amending the introductory text in § 404.340 to add "on the earnings record" after "husband" for clarity and consistency with the introductory language of § 404.339 of our regulations.

We are also making a correction in the introductory text to correct a typographical error.

Technical corrections to sections 404.348—When a child living with you is "in your care"—and section 404.762—Evidence of having a child in your care.

In 1979, we published final regulations reorganizing and restating in simpler language, the rules on requirements for entitlement to Social Security benefits and how we determine family relationships when benefits are requested as the insured's dependent or survivor. (44 FR 34479.) We have found that the wording of the introductory text in §§ 404.348 and 404.762 could be misinterpreted so that it would inaccurately reflect the Social Security Act (the Act) and the operating policies that we follow. Therefore, in this direct final regulation, we are making clarifying corrections to those sections by removing the language that could be misinterpreted.

Paragraphs (b)(1) and (c)(1) of section 202 of the Act explain that benefits are payable to a wife or husband of an individual entitled to Title II benefits. Paragraph (g)(1) of section 202 of the Act explains that benefits are also payable to a mother or father who is the widow or widower of a deceased insured individual (including a surviving divorced parent), if he or she has an entitled child of the insured in his or her care. Currently, our regulations at § 404.348 provide the conditions for child in care and define the beneficiaries who can be entitled based on having a child of the insured in care. However, they do not explain that benefits can be payable to husbands before they become 62 years old and surviving divorced mothers and surviving divorced fathers, if they have the insured's entitled child in-care. Section 404.348, unlike § 404.762, does not clearly state that benefits are

payable to mothers and fathers as the widows or widowers of the insured. In addition, in discussing the evidentiary requirements for establishing that a child is in-care, § 404.762 does not explain that benefits are payable to husbands and surviving divorced fathers.

The inadvertent omission of husband's and surviving divorced mother's and surviving divorced father's benefits from the regulation defining child-in-care and the omission of husband's and surviving divorced father's benefits from the regulation describing the child in-care evidentiary requirements was an oversight when the regulations were amended in 1979 to remove gender-based distinctions.

We properly define the individuals who are entitled to benefits based on having a child of the insured in care in §§ 404.330, 404.339 and 404.340 of the regulations. We have determined that defining the categories of beneficiaries in §§ 404.348 and 404.762 is not relevant to the subject regulations—§§ 404.330, 404.339 and 404.340. Therefore, we are removing the first sentences in §§ 404.348 and 404.762 because they are incomplete and covered more fully in other sections.

Restoring definition of "substantially all" and amending language to eliminate gender-based distinctions in section 404.364—When a grandchild or stepgrandchild is dependent.

To be entitled to benefits as a grandchild or stepgrandchild of an insured person, the child must be dependent on the insured. Consistent with requirements in section 202(d)(9)(A) of the Act, § 404.364 explains when a grandchild or stepgrandchild applying for benefits is considered dependent. One of the dependency requirements is that a grandchild or stepgrandchild must have been both living with and receiving at least one-half support from the insured for the 1-year period before the insured died or became entitled to old-age or disability benefits. Under section 202(d)(9)(B) of the Act and § 404.364(b) of our regulations, if a grandchild or stepgrandchild was born during this 1-year period, the living-with and support requirements must be met for "substantially all" of the period beginning on the child's date of birth. Section 404.364(b) refers to § 404.362(b)(1)(iii) for a definition of "substantially all." However, we inadvertently deleted § 404.362(b)(1)(iii) from the regulations in 1991. (56 FR 23999.) We are defining "substantially all" in a new paragraph (c) of § 404.364, using essentially the deleted language. Under this definition, the "substantially

all" requirement is met if, at the applicable time, the insured was living with the child and providing at least one-half of the child's support and any period during which the grandparent or stepgrandparent was not living with the child and providing at least one-half support did not exceed the lesser of 3 months or one-half of the period beginning with the month of the child's birth.

We are also amending paragraph (b) of § 404.364 to insert "or her" after "him" to eliminate gender-based distinctions.

### Revision of Headings to Clarify These Regulations

We are rewriting the headings for §§ 404.339, 404.340, 404.348, 404.349, 404.364 and 404.762 to comply with the provisions of Executive Order 12866, as amended, requiring that each agency write all rules in plain language.

### Regulatory Procedures

Pursuant to sections 205(a), 702(a)(5), and 1631(d)(1) of the Act, 42 U.S.C. 405(a), 902(a)(5), 1383(d)(1), we follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of our regulations. The APA provides exceptions to its prior notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest.

In the case of this rule, we believe that, under 5 U.S.C. 553(b)(B), good cause exists for issuing these regulatory changes as a direct final rule, without prior public comment. As we explained above, in this rule, we are merely clarifying and making minor technical changes to some of our regulations. The clarifications and changes do not involve substantial exercise of our discretion, but merely correct typographical errors and incorrect cross references, make our regulations internally consistent, and restore language that had been inadvertently deleted from the regulations. Therefore, we have determined that opportunity for prior public comment is unnecessary, and we are issuing these regulations as a direct final rule. However, we are inviting public comment on the changes made by this rule and will consider any responsive comments received within 30 days of the publication of this direct final rule.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d). As explained above, we are revising our title II rules to correct minor technical

errors and to clarify the rules. Therefore, we find that it is in the public interest to make this rule effective upon publication.

#### *Executive Order 12866, as Amended*

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as amended. Thus, it was not subject to OMB review. We have also determined that this rule meets the plain language requirement of Executive Order 12866, as amended.

#### *Regulatory Flexibility Act*

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

#### *Paperwork Reduction Act*

This rule imposes no additional reporting or recordkeeping requirements requiring OMB 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 10, 2008.

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

■ For the reasons set out in the preamble, we are amending part 404 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

#### **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. Amend § 404.339 by revising the heading and paragraph (a) to read as follows:

##### **§ 404.339 How do I become entitled to mother's or father's benefits as a surviving spouse?**

\* \* \* \* \*

(a) You are the widow or widower of the insured and meet the conditions described in § 404.335(a);

\* \* \* \* \*

■ 3. Amend § 404.340 by revising the heading and introductory text to read as follows:

##### **§ 404.340 How do I become entitled to mother's or father's benefits as a surviving divorced spouse?**

You may be entitled to mother's or father's benefits as the surviving divorced wife or the surviving divorced husband on the earnings record of someone who was fully or currently insured when she or he died. You are entitled to these benefits if—

\* \* \* \* \*

■ 4. Amend § 404.348 by revising the heading and the introductory text to read as follows:

##### **§ 404.348 When is a child living with me in my care?**

A child who has been living with you for at least 30 days is *in your care* unless—

\* \* \* \* \*

■ 5. Amend § 404.349 by revising the section heading to read as follows:

##### **§ 404.349 When is a child living apart from me in my care?**

\* \* \* \* \*

■ 6. Amend § 404.364 by revising the heading and paragraph (b), and by adding paragraph (c) to read as follows:

##### **§ 404.364 When is a grandchild or stepgrandchild dependent?**

\* \* \* \* \*

(b) You were living with the insured in the United States and receiving at least one-half of your support from him or her for the year before he or she became entitled to old-age or disability benefits or died; or if the insured had a period of disability that lasted until he or she became entitled to benefits or died, for the year immediately before the month in which the period of disability began. If you were born during the 1-year period, the insured must have lived with you and provided at least one-half of your support for *substantially all* of the period that begins on the date of your birth. Paragraph (c) of this section explains when the *substantially all* requirement is met.

(c) The “substantially all” requirement will be met if, at one of the times described in paragraph (b) of this

section, the insured was living with you and providing at least one-half of your support, and any period during which he or she was not living with you and providing one-half of your support did not exceed the lesser of 3 months or one-half of the period beginning with the month of your birth.

##### **Subpart H—[Amended]**

■ 7. 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)).

■ 8. Amend § 404.762 by revising the heading and the introductory text to read as follows:

##### **§ 404.762 What is acceptable evidence of having a child in my care?**

What evidence we will ask for depends upon whether the child is living with you or with someone else. You will be asked to give the following evidence:

\* \* \* \* \*

[FR Doc. E8–16332 Filed 7–16–08; 8:45 am]

BILLING CODE 4191–02–P

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Food and Drug Administration**

#### **21 CFR Part 892**

[Docket No. FDA–2005–N–0346] (formerly Docket No. 2005N–0467)

#### **Medical Devices; Radiology Devices; Reclassification of Bone Sonometers**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing a final rule to reclassify bone sonometer devices from class III into class II, subject to special controls. FDA is taking this action on its own initiative after reviewing recent scientific and technological studies regarding bone sonometer devices. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of a guidance document entitled “Guidance for Industry and FDA Staff: Class II Special Controls Guidance Document: Bone Sonometers” that will serve as the special control for these devices.

**DATES:** This final rule is effective August 18, 2008.

**FOR FURTHER INFORMATION CONTACT:** Robert A. Phillips, Center for Devices