

government-controlled conformity assessment bodies, when that review and any necessary discussions with the applicant are satisfactorily completed, the third party conformity assessment body in question is added to the CPSC's list of accredited third party conformity assessment bodies at <http://www.cpsc.gov/about/cpsia/labaccred.html>. In the case of a firewalled conformity assessment body seeking accredited status, when the staff's review is complete, the staff transmits its recommendation on accreditation to the Commission for consideration. (A third party conformity assessment body that may ultimately seek acceptance as a firewalled third party conformity assessment body also can initially request acceptance as a third party conformity assessment body accredited for testing of children's products other than those of its owners.) If the Commission accepts a staff recommendation to accredit a firewalled conformity assessment body, the Commission will issue an order making the required statutory findings and the firewalled conformity assessment body will then be added to the CPSC's list of accredited third party conformity assessment bodies. In each case, the Commission will notify the third party conformity assessment body electronically of acceptance of its accreditation. All information to support an accreditation acceptance request must be provided in the English language.

Subject to the limited provisions for acceptance of "retrospective" testing noted in part IV of this document below, once the Commission adds a third party conformity assessment body to the list, the third party conformity assessment body may begin testing of children's products to support certification of compliance with the regulations identified earlier in part I of this document for which it has been accredited.

IV. Limited Acceptance of Children's Product Certifications Based on Third Party Conformity Assessment Body Testing Prior to the Commission's Acceptance of Accreditation

The Commission will accept a certificate of compliance with 16 CFR part 1420, *Requirements for All Terrain Vehicles*, based on testing performed by an accredited third party conformity assessment body (including a government-owned or government-controlled conformity assessment body, or a firewalled conformity assessment body) prior to the Commission's acceptance of its accreditation if all the following conditions are met:

- When the product was tested, the testing was done by a third party conformity assessment body that at that time was ISO/IEC 17025 accredited by an ILAC-MRA signatory. For firewalled conformity assessment bodies, the Commission will not accept a certificate of compliance based on testing performed by the third party conformity assessment body unless the firewalled conformity assessment body was accredited by order as a firewalled conformity assessment body before the product was tested, even though the order will not have included the test methods in the regulations specified in this notice.
- The third party conformity assessment body's application for testing using the test methods in the regulations identified in this notice is accepted by the CPSC on or before October 26, 2010.
- The product was tested on or after November 4, 2008 (the date that 16 CFR part 1420 was published), with respect to the regulations identified in this notice;
- The accreditation scope in effect for the third party conformity assessment body at the time of testing expressly included testing to the regulations identified earlier in part I of this document.
- The test results show compliance with the applicable current standards and/or regulations; and
- The third party conformity assessment body's accreditation, including inclusion in its scope the standards described in part I of this notice, remains in effect through the effective date for mandatory third party testing and manufacturer certification for conformity with 16 CFR part 1611.

Dated: August 20, 2010.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

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BILLING CODE 6355-01-P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Docket No. SSA-2006-0154]

RIN 0960-AF78

Entitlement and Termination Requirements for Stepchildren

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are revising our regulations to reflect changes made in the Contract with America

Advancement Act of 1996 (CAAA) to the entitlement and termination requirements for Social Security child's benefits to stepchildren. Under the CAAA, we consider a stepchild as dependent on a stepparent to receive child's benefits based on the stepparent's earnings only if the stepchild receives at least one-half support from the stepparent. Also, we terminate a stepchild's benefits that are based on the stepparent's earnings if the stepchild's parent or adoptive parent and the stepparent divorce, unless the stepparent adopted the stepchild and the stepchild can qualify for benefits as the stepparent's adopted child.

DATES: This final rule will be effective September 27, 2010.

FOR FURTHER INFORMATION CONTACT:

Peter White, Office of Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 594-2041. 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>.

Determining Stepchild Dependency

A stepchild may be entitled to receive Social Security child's benefits based on a stepparent's Social Security earnings record if the stepchild is dependent on a stepparent and the stepparent is entitled to Social Security benefits because he or she is disabled, retires, or dies.¹ In those situations, the stepchild's benefits help replace the lost support from the stepparent. Prior to the CAAA,² we considered a stepchild to be dependent on a stepparent if the stepchild was either "living with" or receiving at least one-half support from the stepparent. The CAAA revised the Social Security Act (Act) so that a stepchild's living with a stepparent is not a basis for determining that a stepchild is dependent on the stepparent.³ Now, we consider a stepchild to be dependent on a stepparent only if the stepchild is receiving at least one-half support from the stepparent.⁴

¹ 42 U.S.C. 402(d)(1)(C).

² Public Law 104-121.

³ Section 104(a) of the CAAA.

⁴ 42 U.S.C. 402(d)(4).

The House Committee on Ways and Means explained that the change “would result in the payment of benefits only to stepchildren who are truly dependent on the stepparent for their support, and only as long as the natural parent and stepparent are married. As a result, other children entitled on the worker’s record will not be unnecessarily disadvantaged by entitlement of stepchildren who have other means of support.”⁵

Consequently, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** on August 12, 2003, 68 FR 47877, and proposed to eliminate the reference to the “living with” dependency standard for child’s benefits to stepchildren. We are adopting our proposed language, with minor changes for clarity, in final section 404.363.

Termination of Child’s Benefits When the Stepparent Divorces the Parent or Adoptive Parent

Although the CAAA requires us to terminate child’s benefits to a stepchild if the stepparent and the stepchild’s “natural” parent divorce,⁶ it did not explicitly state that we should terminate a stepchild’s benefits if the stepparent and the stepchild’s adoptive parent divorce. Nevertheless, we are revising our rules in final section 404.352(b)(7) to clarify that we will terminate child’s benefits to a stepchild if the stepparent and the stepchild’s parent or adoptive parent divorce. We believe that there is clear support for this approach.

First, the CAAA’s context supports treating parents and adoptive parents equally in this situation. The CAAA states that when a stepchild’s parents divorce, “each stepparent shall notify the Commissioner of Social Security of any divorce upon such divorce becoming final * * *.”⁷ We interpret the use of the terms “each stepparent” and “any divorce” to include divorces between a stepchild beneficiary’s insured stepparent and the stepchild’s parent or adoptive parent.

Second, the legislative history shows a preference for equal treatment of children and adopted children under the stepchild benefit rules. A report by the House Committee on Ways and Means suggests that Congress did not intend to treat children and adopted children differently.⁸ The report

discusses the new stepchild dependency rules, which are applicable to all stepchildren, and states that “[in] cases of a subsequent divorce * * * benefits to stepchildren terminate * * *.”⁹ Although the legislative history also refers to a divorce between a child’s “natural parent” and stepparent, we interpret the use of the term “natural parent” in the report in the same way we do in our rules—to distinguish the stepparent from the other parent in a divorce.¹⁰ We do not believe that the report suggests any basis for excluding adopted children of stepparents’ spouses from our stepchild rules.

Finally, several other benefit eligibility sections treat child-parent and adoptive child-parent relationships equally.¹¹ For example, a child can become entitled to child’s benefits if the child’s parent or adoptive parent marries an insured person who subsequently dies or if the stepparent becomes entitled to benefits.¹² Also, the change to the dependency test discussed earlier applies the test to both children and adoptive children of the stepparent’s spouse.¹³ This inclusion of a child whose parent or adoptive parent married the insured stepparent is consistent with the definition in our existing regulations.¹⁴

For these reasons, we are adding new final section 404.352(b)(7) to allow us to terminate child’s benefits to a stepchild if the stepparent and the stepchild’s parent or adoptive parent divorce. However, the stepchild may still be entitled to child’s benefits if the stepparent adopted the stepchild.

Termination of Child’s Benefits by Prospective or Ab Initio Marriage Annulments

In the NPRM, we proposed to revise 20 CFR 404.352 to add a rule about prospective and ab initio marriage annulments. Specifically, we proposed that a prospective marriage annulment would terminate child’s benefits to a stepchild in the month in which a court issues the final annulment decree. We also proposed that an ab initio marriage annulment would terminate child’s benefits to a stepchild in the month before the month in which a court issues a final annulment decree. However, we are not adopting these

proposals in final at this time because we now believe that we should change policy about annulments in the context of marriage policy, not in regulations regarding stepchildren.

Other Revisions

In the NPRM, we proposed to correct a cross-reference in section 404.339 and to clarify the section headings in 404.339, 404.363, and 404.364. We are adopting our proposed revision to the section heading in final section 404.363. We adopted the other proposed revisions in the final rule we published at 73 FR 40965 (July 17, 2008). We also are adding references to “an adoptive parent” and “insured stepparent” in section 404.352(b)(7) to clarify that we treat child-parent and adoptive child-parent relationships equally.

Public Comments

We gave the public 60 days to comment on the NPRM. We received three comment letters. We have carefully read and considered each of them. They are available for public viewing at <http://www.regulations.gov>. Because some of the comments we received were detailed, we have condensed, summarized, and paraphrased them in the discussion below. We address below the issues raised by the commenters that are within the scope of the NPRM.

Comment: One commenter expressed general disagreement with the proposed changes to stepchild entitlement and termination requirements and stated that stepchildren will “now have to prove something totally irrelevant to get and keep benefits.”

Response: Although the comment is unclear, to the extent that the commenter is discussing the stepchild dependency test, we must apply the CAAA’s stepchild benefit entitlement and termination provisions. The CAAA specifically provided that living with a stepparent would no longer be a basis for finding a stepchild dependent on a stepparent. Now, we consider a stepchild to be dependent on a stepparent only if the stepchild is receiving at least one-half support from the stepparent. The one-half support requirement existed prior to the CAAA and is not a new requirement.

Comment: Two commenters expressed concern that we will apply our proposed child’s benefit termination rules for annulments retroactively and collect overpayments from stepchildren affected by this rule. They commented that we should not penalize families who relied on the regulations in effect at the time of the stepparent’s disability or death and that we should waive any

⁵ H.R. Rep. No. 104–379 at 14 (1995), as reprinted in 1995 WL 717402.

⁶ Section 104(b) of the CAAA, amending section 202(d)(1) of the Act (42 U.S.C. 402(d)(1)).

⁷ Section 104(b)(2) of the CAAA, adding section 202(d)(10) to the Act (42 U.S.C. 402(d)(10)).

⁸ H.R. Rep. 104–872 at 36 (1996), as reprinted in 1996 WL 760037.

⁹ *Id.*

¹⁰ See, for example, 20 CFR 404.355.

¹¹ See, for example, sections 202(d)(1), 202(d)(3), 202(d)(8), and 216(e) of the Act (42 U.S.C. 402(d)(1), 402(d)(3), 402(d)(8), and 416(e)).

¹² See section 202(d)(1) of the Act; see also 20 CFR 404.357.

¹³ Section 202(d)(4) of the Act (42 U.S.C. 402(d)(4)).

¹⁴ 20 CFR 404.363, referencing 20 CFR 404.357.

resulting overpayments. One commenter recommended that we clarify that an annulment ab initio will not affect the eligibility for child's benefits to stepchildren prior to annulments. One of these commenters asked us to notify families affected by this final rule.

Response: As we stated above, we are not adopting our proposed rules about ab initio or prospective marriage annulments at this time.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule meets the criteria for a significant regulatory action under Executive Order 12866. Thus, OMB reviewed it.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because it affects only individual persons. Therefore, the Regulatory Flexibility Act, as amended, does not require us to develop a regulatory flexibility analysis.

Paperwork Reduction Act

This final rule does not impose reporting or recordkeeping requirements subject to 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: June 7, 2010.

Michael J. Astrue,
Commissioner of Social Security.

■ For the reasons stated in the preamble, we are amending 20 CFR part 404 subpart D 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 § 404.352 by adding paragraph (b)(7) to read as follows:

§ 404.352 When does my entitlement to child's benefits begin and end?

* * * * *

(b) * * *

(7) With the month in which the divorce between your parent (including an adoptive parent) and the insured stepparent becomes final if you are entitled to benefits as a stepchild and the marriage between your parent (including an adoptive parent) and the insured stepparent ends in divorce.

* * * * *

■ 3. Amend § 404.363 by revising the section heading and introductory text to read as follows:

§ 404.363 When is a stepchild dependent?

If you are the insured's stepchild, as defined in § 404.357, we consider you dependent on him or her if you were receiving at least one-half of your support from him or her at one of these times—

* * * * *

[FR Doc. 2010-21341 Filed 8-26-10; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, and 522

[Docket No. FDA-2010-N-0002]

New Animal Drugs; Change of Sponsor; Withdrawal of Approval of New Animal Drug Applications; Deslorelin Acetate; Dichlorophene and Toluene Capsules; Pyrantel Pamoate Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for a new animal drug application (NADA) from Peptech Animal Health Pty, Ltd. to Dechra, Ltd. and for an abbreviated new animal drug application (ANADA) from Church & Dwight Co., Inc., to Pegasus Laboratories, Inc. In addition, FDA is removing those portions of the regulations that reflect approval of two other NADAs transferred from Church & Dwight Co., Inc., to Pegasus Laboratories, Inc., for which voluntary withdrawal of approval was requested after the change of sponsorship. In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of these two NADAs.

DATES: This rule is effective:

1. August 27, 2010 for 21 CFR 510.600(c), 520.2043, and 522.533.

2. September 7, 2010 for 21 CFR 520.580.

FOR FURTHER INFORMATION CONTACT:

David R. Newkirk, Center for Veterinary Medicine (HFV-100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240-276-8307, e-mail: david.newkirk@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Church & Dwight Co., Inc., 469 North Harrison St., Princeton, NJ 08543-5297, has informed FDA that it has transferred ownership of, and all rights and interest in, NADA 101-497 and NADA 101-498 for oral capsules containing dichlorophene and toluene, and ANADA 200-028 for an oral suspension of pyrantel pamoate to Pegasus Laboratories, Inc., 8809 Ely Rd., Pensacola, FL 32514. Accordingly, the agency is amending the regulations in 21 CFR 520.2043 to reflect the transfer of ownership.

Peptech Animal Health Pty, Ltd., 19-25 Khartoum Rd., Macquarie Park, New South Wales 2113, Australia, has informed FDA that it has transferred ownership of, and all rights and interest in, NADA 141-044 for subcutaneous implants containing deslorelin acetate to Dechra, Ltd., Dechra House, Jamage Industrial Estate, Talke Pits, Stoke-on-Trent, Staffordshire, ST7 1XW, United Kingdom. Accordingly, the agency is amending the regulations in 21 CFR 522.533 to reflect the transfer of ownership and a current format.

Following these changes of sponsorship, Pegasus Laboratories, Inc., has requested that FDA withdraw approval of the two NADAs for dichlorophene and toluene capsules because they are no longer manufactured or marketed. In a notice published elsewhere in this issue of the **Federal Register**, FDA gave notice that approval of NADA 101-497 and 101-498, and all supplements and amendments thereto, is withdrawn, effective September 7, 2010. As provided in the regulatory text of this document, the agency is amending the regulations in 21 CFR 520.580 to reflect these withdrawals of approval.

Also, following these changes of sponsorship, Church & Dwight Co., Inc., and Peptech Animal Health Pty, Ltd., are no longer sponsors of an approved application. Accordingly, 21 CFR 510.600(c) is being amended to remove the entries for these firms.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the