

AD into the limitations section of aircraft maintenance manual.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4138; fax: (816) 329-4090; e-mail: taylor.martin@faa.gov. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2010-0162, dated August 4, 2010; BAE Systems British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 05-JA090143, dated April 30, 2009; and British Aerospace Regional Aircraft British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32-JA990142, dated March 26, 1999, for related information.

Material Incorporated by Reference

(i) You must use BAE Systems British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 05-JA090143, dated April 30, 2009; and British Aerospace Regional Aircraft British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32-JA990142, dated March 26, 1999, to do the 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 BAE Systems (Operations) Ltd, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207, fax: +44 1292

675704; e-mail:

RAPublications@baesystems.com.

(3) You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816-329-4148.

(4) You may also review copies of the service information incorporated by reference for this AD 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.

Issued in Kansas City, Missouri, on November 23, 2010.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

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SOCIAL SECURITY ADMINISTRATION

20 CFR Part 418

[Docket No. SSA-2010-0029]

RIN 0960-AH22

Regulations Regarding Income-Related Monthly Adjustment Amounts to Medicare Beneficiaries' Prescription Drug Coverage Premiums

AGENCY: Social Security Administration.

ACTION: Interim final rule with request for comments.

SUMMARY: We are adding a new subpart to our regulations, which contains the rules we will apply to determine the income-related monthly adjustment amount for Medicare prescription drug coverage premiums. This new subpart implements changes made to the Social Security Act (Act) by the Affordable Care Act. These rules parallel the rules in subpart B of this part, which describes the rules we apply when we determine the income-related monthly adjustment amount for certain Medicare Part B (medical insurance) beneficiaries. These rules describe the new subpart; what information we will use to determine whether you will pay an income-related monthly adjustment amount and the amount of the adjustment when applicable; when we will consider a major life-changing event that results in a significant reduction in your modified adjusted gross income; and how you can appeal our determination about your income-related monthly adjustment amount. These rules will allow us to implement the provisions of the Affordable Care

Act on time that relate to the income-related monthly adjustment amount for Medicare prescription drug coverage premiums, when they go into effect on January 1, 2011.

DATES: Effective date: This interim final rule will be effective on December 7, 2010. Comment date: To ensure that your comments are considered, we must receive them no later than February 7, 2011.

ADDRESSES: You may submit comments by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA-2010-0029 so that we may associate your comments with the correct regulation.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the Internet. Please visit the Federal eRulemaking portal at <http://www.regulations.gov>. Use the Search function to find docket number SSA-2010-0029. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to a week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966-2830.

3. *Mail:* Mail your comments to the Office of Regulations, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401.

Comments are available for public viewing on the Federal eRulemaking portal at <http://www.regulations.gov> or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Craig Streett, Office of Income Security Programs, Social Security Administration, 2-R-24 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-9793. 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>.

Background

Medicare prescription drug coverage (also known as Medicare Part D) is a voluntary program that covers prescription drugs, as explained in 42 CFR Part 423. These regulations cover participants in Medicare prescription drug coverage plans as defined in 42 CFR 423.4, including standalone Medicare prescription drug plans, Medicare Advantage plans with prescription drug coverage, Programs of All-Inclusive Care for the Elderly plans, and cost plans offering prescription drug coverage. We will refer to these plans collectively as Medicare prescription drug coverage plans.

Beneficiaries enrolled in Medicare prescription drug coverage are responsible for deductibles, cost-sharing, and monthly premiums. Costs vary by plan. Beneficiaries with limited income and resources may qualify for "Extra Help" with their monthly premiums, deductibles, and cost-sharing.

The Centers for Medicare & Medicaid Services (CMS) promulgates rules and regulations concerning the Medicare program. CMS sets the Medicare prescription drug coverage base beneficiary premium, which covers approximately 25.5 percent of the cost of the basic Medicare prescription drug coverage. The Federal Government subsidizes approximately 74.5 percent of the cost of this basic Medicare prescription drug coverage with contributions from the Medicare Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund.

In March 2010, Congress passed the Affordable Care Act, which establishes an income-related adjustment to Medicare prescription drug coverage premiums.¹ The Affordable Care Act contains rules for determining when, based on income, a beneficiary's monthly premium for Medicare prescription drug coverage will include a monthly adjustment amount.² The changes made to the Act by section 3308(a) of the Affordable Care Act are effective for months after December 2010. Beginning in January 2011, an estimated 1.05 million of the approximately 29.2 million beneficiaries enrolled in the Medicare prescription drug coverage program will be assessed

an income-related monthly adjustment amount.

Generally, beneficiaries who have a modified adjusted gross income above the threshold level in their most recently filed tax return (usually the tax year 2 years prior to the effective year of our determination) will pay an income-related monthly adjustment amount for their Medicare prescription drug coverage, resulting in these beneficiaries paying more of the cost of their Medicare prescription drug coverage. The income-related monthly adjustment amount applied is in addition to the Medicare Prescription drug coverage plan sponsor's monthly premium and any applicable premium increase for late enrollment or reenrollment. We are responsible for making any determination necessary to carry out the income-related increase in beneficiary premiums.

How This Will Affect You

The phrase "modified adjusted gross income" has the same meaning given to that term in section 1839(i)(4)(A) of the Act.³ The phrase "modified adjusted gross income" means your "adjusted gross income," as defined in section 62 of the Internal Revenue Code of 1986, plus certain other forms of income that may be excluded from adjusted gross income for the purpose of determining the amount of Federal income tax that you must pay.⁴

We determine the taxable year to use for purposes of determining your modified adjusted gross income.⁵ Your modified adjusted gross income is generally determined for the "last taxable year beginning in the second calendar year proceeding the year involved."⁶ Thus, in general, we will use your modified adjusted gross income provided by the Internal Revenue Service (IRS) for the tax year 2 years prior to the effective year of the income-related monthly adjustment amount determination we make.

However, an exception allows us to use your modified adjusted gross income for the tax year 3 years prior to the effective year of the income-related monthly adjustment amount determination.⁷ In addition, there are certain circumstances in which we may use a more recent taxable year than the taxable year we would otherwise use to determine modified adjusted gross income when your income for the more

recent year is significantly less than the income for the taxable year we normally would use. The situations that allow us to use data from a more recent taxable year are when you have experienced the death of your spouse, a marriage or divorce, or other major life-changing events that we specify in our regulations.⁸

The payment of the full amount of the income-related monthly adjustment amount will begin in January 2011.⁹ If you are enrolled in Medicare prescription drug coverage prior to January 1, 2011, and you will be required to pay an income-related monthly adjustment amount in 2011, we will notify you by sending you a letter at the end of 2010 about the additional income-related monthly adjustment amount. If you receive Social Security monthly benefits, we will also send a letter explaining how the income-related monthly adjustment amount will affect the amount of those benefits. If you receive Railroad Retirement or Civil Service annuity payments, you will receive a letter from the agency that pays your annuity explaining how the income-related monthly adjustment amount will affect the amount of those benefits.

If you enroll in Medicare prescription drug coverage after January 1, 2011, your Medicare prescription drug coverage premium may not initially include an income-related monthly adjustment amount. If we subsequently determine that you must pay an income-related monthly adjustment amount for your Medicare prescription drug coverage, we will notify you shortly after you enroll in Medicare prescription drug coverage. You will be responsible for your income-related monthly adjustment amounts for those months after December 2010 for which you are enrolled in Medicare prescription drug coverage. If you are enrolled in Medicare prescription drug coverage during 2011 or after, we will notify you prior to the start of each year if you must pay an income-related monthly adjustment amount in that year and how much it will be.

How We Determine Your Income-Related Monthly Adjustment Amount

The amount of your modified adjusted gross income for the applicable tax year will determine if you must pay an income-related monthly adjustment amount. The modified adjusted gross income threshold amount for 2011 through 2019 is \$85,000 for individuals who designated a filing status on their

³ § 1860D-13(a)(7)(C) of the Act.

⁴ § 1839(i)(4)(A) of the Act.

⁵ § 1839(i)(4)(B), (C) of the Act; § 1860D-13(a)(7)(C) of the Act.

⁶ § 1839(i)(4)(B) of the Act.

⁷ § 1839(i)(4)(B) of the Act.

⁸ § 1839(i)(4)(C) of the Act.

⁹ § 1860D-13(a)(7)(A) of the Act.

¹ Public Law 111-148 § 3308(a).

² *Id.*

Federal income tax return of single, married filing separately, head of household, or qualifying widow(er) with dependent child; and the corresponding threshold is \$170,000 for individuals who file a joint income tax return with their spouse.¹⁰ After 2019, these thresholds will resume adjustment for inflation as required by section 1839(i)(5) of the Act.

We will ask the IRS to send us Federal income tax return information about your modified adjusted gross income for the tax year 2 years before the effective year of our determination of whether an income-related monthly adjustment amount will apply. If modified adjusted gross income information is not available from the IRS for the tax year 2 years before the effective year of our determination, the IRS will send us modified adjusted gross income information for the tax year 3 years before the effective year, if it exceeds the threshold. The IRS will return modified adjusted gross income information only for those Medicare beneficiaries whose modified adjusted gross income exceeds the threshold for their income tax filing status.

We will not ask the IRS for information about your modified adjusted gross income if we have determined that you are participating in the Medicare prescription drug coverage low-income subsidy program described in subpart D of this part, if you receive Supplemental Security Income payments under title XVI of the Act, or if CMS has determined that you are deemed eligible for a full Medicare prescription drug coverage subsidy under section 1860D-14(a)(3)(B)(v) of the Act, as further explained in 42 CFR 423.773(c)(1).

We will use information for the tax year 3 years prior to the effective year of our determination to determine whether you must pay an income-related monthly adjustment amount only until we obtain information for the tax year 2 years prior to the effective year of our determination. When we use such information to make a determination, we will make retroactive corrections that will apply to all months that you paid an incorrect income-related monthly adjustment amount. If we use information from the IRS for the tax year 3 years before the effective year of our determination, you may request that we use information that you provide for the tax year 2 years before the effective year of our determination.

In some cases, you may pay a higher premium based on your information from the tax year 2 years prior to the

effective year of our determination. However, providing that information to us, rather than having us receive information later from the IRS, will help you avoid a retroactive correction. In order for us to make an initial determination based on such a request, you must provide a copy of your Federal income tax return for that year by providing us with either your retained copy of your Federal income tax return, a copy that you request from the IRS, or an IRS transcript of your return. If you provide your retained copy of your tax return, we will verify this information with the IRS.

If we receive information from the IRS that shows that you had modified adjusted gross income that exceeded the established threshold for a tax year for which you did not file a tax return, we will make a determination about your income-related monthly adjustment amount for that year. We will apply the highest applicable percentage adjustment based on that information, as required by statute.¹¹ Beginning in 2011, if the IRS provides information to us to indicate a change in your modified adjusted gross income for a prior tax year, we will use this information to establish corrections for the appropriate effective years, regardless of when we receive such information.

The Sliding Scale Formula and How It Applies to You

CMS will use a sliding scale formula to establish the four income-related monthly adjustment amounts annually beginning in 2011. The use of this sliding scale formula is prescribed in section 1839(i)(3) of the Act. CMS will provide each of the income-related monthly adjustment amounts to be used to SSA. The income-related monthly adjustment amount will be the adjustment from the approximately 25.5 percent base beneficiary premium multiplied by a specified percentage. The percentage used in the calculation changes as the amount of modified adjusted gross income increases within the ranges used to set the income-related monthly adjustment amount. We will use your modified adjusted gross income and your Federal income tax filing status (*e.g.*, single, married filing jointly, married filing separately) to determine whether you must pay an income-related monthly adjustment amount, and if so, what your income-related monthly adjustment amount will be.

The modified adjusted gross income ranges are contained in section 1839(i)(3)(C) of the Act as adjusted by

section 1839(i)(5) and by 1839(i)(6), as amended by the Affordable Care Act. The range amounts for individuals who are married filing jointly are double the range amounts for single income tax filers. The IRS recognizes three additional filing statuses: head of household, qualifying widow(er) with dependent child, and married filing separately. If you file as a head of household, a qualifying widow(er) with a dependent child, or married filing separately, we will apply the modified adjusted gross income range applicable to individuals who file their Federal income tax return with a filing status of single.

Individuals with a filing status of married, filing separately, who must pay an income-related monthly adjustment amount because their tax information reflects modified adjusted gross income under section 1839(i)(3)(C)(iii) of the Act and who lived with their spouse at any time during the year, will pay either the third or fourth range of income-related monthly adjustment amount as described in section 1839(i)(3)(C)(i) of the Act. Starting in 2010 for calendar year 2011, and annually thereafter for each following calendar year, CMS will publish the annual modified adjusted gross income ranges and income-related monthly adjustment amounts that are associated with each range. We will use this published information to determine which amount applies to you based on your tax filing status in the tax year we are using to determine your income-related monthly adjustment amount.

If you filed an amended tax return for the tax year we used to make a determination of your income-related monthly adjustment amount, you may request that we use your amended tax return for that year. You must provide us with proof that you filed an amended tax return with the IRS, including your retained copy of the amended tax return and a letter from the IRS verifying receipt of the return or an IRS transcript of your amended tax return.

If you believe that the IRS provided incorrect modified adjusted gross income information and we used that information to determine your income-related monthly adjustment amount, you may request that we make a new income-related monthly adjustment amount determination. You must provide proof of the error in the IRS data and evidence of your actual modified adjusted gross income, such as a copy of the return that you obtain from the IRS. When we use information from your amended or corrected Federal income tax return to make a determination, we will make retroactive adjustments that will apply to all

¹⁰ Section 1839(i)(2) of the Act.

¹¹ Section 1839(i)(4)(B)(iii) of the Act.

months that you paid an incorrect income-related monthly adjustment amount.

If you believe our determination that you must pay an income-related monthly adjustment amount for your Medicare prescription drug coverage is incorrect because you do not have that coverage, you must contact CMS to get your records corrected. We will use the corrected information we receive from CMS to correct our records and make all necessary adjustments. We will initiate a retroactive refund after we correct our records.

Inflation Adjustment of the Income-Related Monthly Adjustment Amount

The annual inflation adjustment of the thresholds and the modified adjusted gross income ranges used to determine whether you must pay an income-related monthly adjustment amount is temporarily set aside by section 3402 of the Affordable Care Act. From January 1, 2011 through December 31, 2019, the dollar amounts used for 2010 will be the thresholds used to determine if an income-related monthly adjustment amount will apply. The 2010 thresholds in effect until the end of 2019 will be modified adjusted gross income of \$170,000 for beneficiaries who file their Federal income taxes as married, filing jointly, and \$85,000 for beneficiaries who file their Federal income taxes with any other filing status. CMS will publish the amounts within each range of income in the sliding scale adjusted for inflation each year. After 2019, these thresholds will resume adjustment for inflation as required by section 1839(i)(5) of the Act.

Changes in Your Modified Adjusted Gross Income

In consultation with the Secretary of the Treasury, we are required to establish procedures for determining your modified adjusted gross income for a tax year more recent than the information ordinarily provided by the IRS.¹²

The statute requires that we grant your request to use a more recent tax year to determine your income-related monthly adjustment amount only when all of the following conditions are met:

- You experience a major life-changing event;
- That major life-changing event results in a significant reduction in your modified adjusted gross income;
- You request that we use a more recent tax year's modified adjusted gross income; and

- You provide evidence of the event and the reduction in your modified adjusted gross income.¹³

These rules also contain the requirements that you must meet in order for us to use a more recent tax year's modified adjusted gross income to determine whether you must pay an income-related monthly adjustment amount and what your income-related monthly adjustment amount will be. These rules define qualifying major life-changing events and explain what constitutes a significant reduction in your modified adjusted gross income by reference to the rules we follow under subpart B of this part. We also specify the evidence we will require to establish major life-changing events and the resulting reduction in your modified adjusted gross income by reference to the rules we follow under subpart B of this part.

Major life-changing events include marriage, divorce, and death of a spouse under section 1839(i)(4)(C)(ii)(II) of the Act. We have discretion to include in our regulations additional major life-changing events that would allow us to grant your request that we use information from a more recent tax year to determine your income-related monthly adjustment amount. As noted above, these rules include explanation of the situations when we will determine that you have experienced a major life-changing event for purposes of our rules in subpart B of part 418. The following are the categories of qualifying major life-changing events that we currently recognize:

- Death of a spouse;
- Marriage;
- Marriage ended by divorce or annulment;
- Partial or full work stoppage;
- You or your spouse experiences a loss of income-producing property, provided the loss is not at the direction of you or your spouse (e.g., due to the sale or transfer of the property) and is not a result of the ordinary risk of investment. Examples of the type of property loss include, but are not limited to: loss of real property within a Presidentially or Governorially-declared disaster area, destruction of livestock or crops by natural disaster or disease, loss from real property due to arson, or loss of investment property as a result of fraud or theft due to a criminal act by a third party;
- You or your spouse experiences a scheduled cessation, termination, or reorganization of an employer's pension plan;

- You or your spouse receives a settlement from an employer or former employer because of the employer's closure, bankruptcy, or reorganization.

In these rules, we determine what constitutes a significant reduction in your income by reference to the rules we follow under section 418.1215. Under those rules, we define a significant reduction in your modified adjusted gross income as any change that results in a reduction or elimination of your income-related monthly adjustment amount. Therefore, a significant reduction in your modified adjusted gross income is any change that lowers your income below the threshold amount or lowers the modified adjusted gross income range in which your income falls. We may grant your request to use a more recent tax year's modified adjusted gross income to determine your income-related monthly adjustment amount only if you provide us with a copy of a filed Federal income tax return or equivalent document.¹⁴

When we make an income-related monthly adjustment amount determination based on your request due to a qualifying major life-changing event, the determination will be effective generally on January 1 of the calendar year for which we make the determination. If you enrolled in Medicare prescription drug coverage after January 1 of the year for which we make an income-related monthly adjustment amount determination based on your request due to a major life-changing event, the determination will be effective the month your Medicare prescription drug coverage enrollment becomes effective.

When we make an income-related monthly adjustment amount determination following a major life-changing event using your more recent tax-year's modified adjusted gross income, we will continue trying to get IRS data for that tax year. When we receive modified adjusted gross income information from the IRS for that tax year, we will use the information from the IRS to determine the correct income-related monthly adjustment amount for the year or years for which we used information that you provided, and we will make retroactive corrections, if necessary. Retroactive corrections will apply to all months for which you paid an incorrect income-related monthly adjustment amount.

¹² Section 1839(i)(4)(C) of the Act.

¹³ Section 1839(i)(4)(C) of the Act.

¹⁴ Section 1839(i)(4)(C)(ii) of the Act.

If You Disagree With Our Determination of Your Income-Related Monthly Adjustment Amount

We will determine whether you must pay an income-related monthly adjustment, and the amount of any adjustment, based on information we receive from the IRS or you. We will send you a notice of our initial determination of your income-related monthly adjustment amount and the basis for our determination. The notice will explain that, if you disagree with our determination, you may request that we reconsider it within 60 days after the date you receive notice of our initial determination. The notice will also explain that you may request a new initial determination, rather than a reconsideration, if you believe the information we used in our initial determination was correct, but you want us to use different information about your modified adjusted gross income. If you have Medicare Part B without Medicare prescription drug coverage, and you enroll later that same year in Medicare prescription drug coverage, we will apply our income-related monthly adjustment amount determination for Medicare Part B to determine your corresponding income-related monthly adjustment amount for your Medicare prescription drug coverage. When this subsequent action results in increased deductions and a change in the net amount of benefits payable, you will get a letter notifying you of the change in your benefits and information on your appeal rights.

For purposes of this subpart, in making initial determinations and reconsiderations, we will use the rules for the administrative review process that we use for determinations of your rights regarding nonmedical issues under title II of the Act. However, in order to expedite the processing of requests for reconsideration under these rules, we may accept requests for reconsideration that are filed by electronic or other means that we determine to be appropriate, other than a request in writing, as our title II regulations provide.

If you are dissatisfied with our reconsidered determination, you may request further review, including a hearing before an administrative law judge (ALJ) from the Office of Medicare Hearings and Appeals (OMHA) at the Department of Health and Human Services (HHS), review by the Medicare Appeals Council (MAC) in HHS, and judicial review, consistent with the CMS regulations at 42 CFR part 423.

You may request that we use a modified adjusted gross income for a

more recent tax year if you have had a major life-changing event that significantly reduces your income, or if the IRS has provided to us modified adjusted gross income information from 3 years prior to the premium effective year. You may also request that we make a new initial determination when you have amended your Federal income tax return or when you can furnish proof that the IRS has provided incorrect information about your modified adjusted gross income for the year that we used to determine your income-related monthly adjustment amount. These additional options do not affect your right to appeal an initial determination that we make that you must pay an income-related monthly adjustment amount, but allow you to choose an alternative or additional method to request that we use other information to make a new initial determination.

Explanation of the New Subpart

We are adding a new subpart C, Medicare Prescription Drug Coverage Income-Related Monthly Adjustment Amount, to part 418 of our rules. Subpart C contains the rules that we will use to determine when you will be required to pay an income-related monthly adjustment amount in addition to your Medicare prescription drug coverage monthly premium plus any applicable premium increase for late enrollment or reenrollment. Following is a description of each section for subpart C.

Introduction, General Provisions, and Definitions

- Section 418.2001 describes what provisions subpart C contains, lists the groups of sections in the subpart, and the subject of each group.
- Section 418.2005 explains the purpose of the income-related monthly adjustment amount and how we will administer the income-related monthly adjustment amount.
- Section 418.2010 contains definitions of terms used throughout this subpart.

Determination of the Income-Related Monthly Adjustment Amount

- Section 418.2101 explains what the income-related monthly adjustment amount is and when it is applied.
- Section 418.2105 defines the modified adjusted gross income thresholds and what the modified adjusted gross income threshold amounts will be in the years 2011–2019. It also describes how threshold amounts will change in later years.

- Section 418.2110 describes the effective date of our initial determination about the income-related monthly adjustment amount.

- Section 418.2112 describes how you will pay your income-related monthly adjustment amount.

- Section 418.2115 defines modified adjusted gross income ranges and explains how we will use those ranges and your tax filing status to determine the amount of your income-related monthly adjustment amount when applicable, and what effect Federal income tax filing status has on the ranges.

- Section 418.2120 explains how we will determine your income-related monthly adjustment amount.

- Section 418.2125 explains how the income-related monthly adjustment amount will affect what you pay for Medicare prescription drug coverage.

- Section 418.2135 describes what modified adjusted gross income information we will use to determine your income-related monthly adjustment amount by reference to our rules in section 418.1135.

- Section 418.2140 describes what will happen if the modified adjusted gross income that we later receive from the IRS is different from the information that we previously used to make a determination of your income-related monthly adjustment amount by reference to our rules in section 418.1140.

- Section 418.2145 describes how we will determine the income-related monthly adjustment amount if the IRS does not provide your modified adjusted gross income information by reference to our rules in section 418.1145.

- Section 418.2150 describes when we will use a copy of your amended Federal income tax return filed with the IRS to determine the income-related monthly adjustment amount by reference to our rules in section 418.1150.

Determinations Using a More Recent Tax Year's Modified Adjusted Gross Income

- Section 418.2201 explains when we will use modified adjusted gross income information for a more recent tax year to determine your income-related monthly adjustment amount by reference to our rules in section 418.1201.

- Section 418.2205 describes what is considered a major life-changing event that would justify using information from a more recent tax year by reference to our rules in section 418.1205.

- Section 418.2210 explains what is not considered a major life-changing event that would justify using information from a more recent tax year by reference to our rules in section 418.1210.

- Section 418.2215 explains what we consider a significant reduction in your income for the purpose of these rules by reference to our rules in section 418.1215.

- Section 418.2220 explains what we do not consider a significant reduction in your income for the purpose of these rules by reference to our rules in section 418.1220.

- Section 418.2225 explains which more recent tax years we may use to determine whether you must pay an income-related monthly adjustment amount and the amount of that adjustment by reference to our rules in section 418.1225.

- Section 418.2230 explains the effective date of our income-related monthly adjustment amount determination based on your request to use a more recent tax year by reference to our rules in section 418.1230.

- Section 418.2235 explains when we will stop using your modified adjusted gross income from a more recent tax year for income-related monthly adjustment amount determinations by reference to our rules in section 418.1235.

- Section 418.2240 explains what you should do if your modified adjusted gross income for the more recent tax year changes by reference to our rules in section 418.1240.

- Section 418.2245 explains what will happen if you notify us of a change in your modified adjusted gross income for the more recent tax year.

- Section 418.2250 explains what evidence you will need to support your request for us to use a more recent tax year to determine your income-related monthly adjustment amount by reference to our rules in section 418.1250.

- Section 418.2255 describes what evidence of a major life-changing event you will need to provide to support your request to use a more recent tax year by reference to our rules in section 418.1255.

- Section 418.2260 describes the types of evidence of a major life-changing event that we will not accept by reference to our rules in section 418.1260.

- Section 418.2265 describes what evidence of a significant reduction in your modified adjusted gross income you will need to provide to support your request to use a more recent tax

year by reference to our rules in section 418.1265.

- Section 418.2270 explains what evidence we will not accept of a significant reduction in your modified adjusted gross income by reference to our rules in section 418.1270.

Determinations and the Administrative Review Process

- Section 418.2301 explains what is an initial determination regarding your income-related monthly adjustment, and provides examples of determinations that are initial determinations for the purposes of these rules by reference to our rules in section 418.1301.

- Section 418.2305 explains that administrative actions that are not initial determinations are not subject to the administrative review process by reference to our rules in section 418.1305.

- Section 418.2310 explains when you may request that we make a new initial determination by reference to our rules in section 418.1310.

- Section 418.2315 explains how we will notify you when we make an initial determination, and what information the notice will contain by reference to our rules in section 418.1315.

- Section 418.2320 explains the effect of an initial determination.

- Section 418.2322 explains how a Medicare Part B income-related monthly adjustment amount determination will apply to your Medicare prescription drug coverage.

- Section 418.2325 explains when you may request a reconsideration by reference to our rules in section 418.1325.

- Section 418.2330 explains what will happen if you request a reconsideration because you believe that the IRS information we used to make an initial determination about your income-related monthly adjustment amount is incorrect.

- Section 418.2332 explains what you can do if you believe that the CMS information we used is incorrect.

- Section 418.2335 explains what to do if you believe that we based our initial determination on incorrect modified adjusted gross income information by reference to our rules in section 418.1335.

- Section 418.2340 tells you the rules for the administrative review process by reference to our rules in section 418.1340.

- Section 418.2345 tells you the rules we will use to decide if reopening a prior initial or reconsidered determination made by us is appropriate

by reference to our rules in section 418.1345.

- Section 418.2350 explains that the HHS rules will apply for review of a reconsidered determination, an ALJ decision, or a decision by the MAC.

- Section 418.2355 explains that the rules for reopening a prior decision made by an ALJ of the OMHA or by the MAC will follow the HHS rules governing reopening.

Change to Medicare Part B Income-Related Monthly Adjustment Amounts

We are also amending our rules on the Medicare Part B (supplementary medical insurance) income-related monthly adjustment amounts to add section 418.1322. In order to provide consistency with the rules at final section 418.2322, this new section explains that if we make an income-related monthly adjustment amount determination for you for the effective year for purposes of the Medicare prescription drug coverage program, we will apply that income-related monthly adjustment amount determination for purposes of determining your income-related monthly adjustment amount for Medicare Part B for the same effective year. As a result, if you have Medicare prescription drug coverage without Medicare Part B and you enroll later that same year in Medicare Part B, the income-related monthly adjustment amount determination for your Medicare prescription drug coverage will also apply to your Medicare Part B.

If we were to delay our determination when you enroll in Medicare Part B later in that year, the delay could cause confusion and larger retroactive corrections. Conveying your income-related monthly adjustment amount determination for Medicare prescription drug coverage or Medicare Part B to the other program when enrollment occurs later in that year will simplify processing and minimize delays in collections of adjustments.

The new rule will facilitate applying the administrative review decision or new initial determination to both programs sooner, because this change will eliminate delays in applying the income-related monthly adjustment amount determination to both Medicare prescription drug coverage and Medicare Part B when you enroll in one of these programs later in the year than the other program. We will not request information from the IRS about your modified adjusted gross income under the following circumstances: if you are eligible for the low-income subsidy for your Medicare prescription drug coverage described in Subpart D of this Part, if you receive supplemental

security income payments, or CMS has determined that you are deemed full Medicare prescription drug coverage subsidy eligible under § 1860D–14(a)(3)(B)(v) of the Act as further explained in 42 CFR 423.773(c)(1).

Clarity of These Rules

Executive Order 12866 requires each agency to write all rules in plain language. In addition to your substantive comments on this proposed rule, we invite your comments on how to make rules easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rule clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format make the rule easier to understand, e.g. grouping and order of sections, use of headings, paragraphing?

When will we start to use this rule?

We will start to use these rules on the date shown under the “Effective Date” section earlier in this preamble. However, we are also inviting public comments on the changes made by these rules. We will consider any relevant comments we receive, and plan to publish another final rule document to respond to any such comments we receive, and to make any changes to the rules as appropriate based on the comments.

Regulatory Procedures

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when we develop regulations. Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final regulation. The APA provides exceptions to its notice and public comment procedures when an agency finds good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.¹⁵

With respect to the new rules we are adding under subpart C of part 418 of our rules, we must begin to administer the income-related monthly adjustment

amounts to Medicare prescription drug coverage on January 1, 2011, in accordance with section 3308(a) of the Affordable Care Act. In light of the March 23, 2010, enactment date of the Affordable Care Act and our need to have authority in place to make and issue notices of determinations to start collecting income-related monthly adjustment amounts for Medicare prescription drug coverage beginning January 1, 2011, we do not have sufficient time to provide a notice and comment period before promulgating final rules in order to begin administering the program in a timely manner. Thus, we find that the use of the APA’s notice and comment rulemaking procedures would be impracticable in this situation.

With respect to the addition of § 418.1322, we find that good cause exists for proceeding without prior public notice and comment because these changes allow us to avoid delay in making a second income-related monthly adjustment amount determination for Medicare Part B when a Medicare prescription drug coverage beneficiary enrolls in Medicare Part B later in the effective year. Avoiding such delay by applying an income-related monthly adjustment amount determination that is based on the same income threshold and ranges simplifies processing and minimizes the need for us to make unnecessary retroactive corrections. Accordingly, we find that prior public comment would be contrary to the public interest with respect to the changes we are making to our rules in subpart B of part 418.

Although we are issuing this rule as an interim final rule, we are inviting public comment on the rule, and we will consider any responsive comments we receive within 60 days of the publication of the rule.

In addition, for the reasons cited above, we also find good cause for dispensing with the 30-day delay in the effective date of this rule.¹⁶ Because we find that it is impracticable to delay the effective date of our rule changes in order to begin administering the program by the statutory deadline, we are making this rule effective upon publication.

Executive Order 12866

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

Regulatory Flexibility Act

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

Paperwork Reduction Act

We solicited public comment and received OMB approval for the public reporting burdens contained in these rules in a separate Information Collection Request.

(Catalog of Federal Domestic Assistance Program Nos. 93.774 Medicare Supplementary Medical Insurance; 96.002 Social Security—Retirement Insurance.)

List of Subjects in 20 CFR Part 418

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

Dated: November 23, 2010.

Michael J. Astrue,
Commissioner of Social Security.

■ For the reasons set out in the preamble, we amend 20 CFR chapter III, part 418 as set forth below:

■ 1. The authority citation for subpart B of part 418 continues to read as follows:

Authority: Secs. 702(a)(5) and 1839(i) of the Social Security Act (42 U.S.C. 902(a)(5) and 1395r(i)).

■ 2. Add § 418.1322 to read as follows:

§ 418.1322 How will a Medicare prescription drug coverage income-related monthly adjustment amount determination for the effective year affect your Medicare Part B?

If we make an income-related monthly adjustment amount determination for you for the effective year under subpart C of this part (Medicare Prescription Drug Coverage Income-Related Monthly Adjustment Amount), we will apply that income-related monthly adjustment amount determination under this subpart to determine your Part D income-related monthly adjustment amount for the same effective year. Therefore, if you become enrolled in Medicare Part B in the effective year after we make an income-related monthly adjustment amount determination about your Medicare prescription drug coverage, the income-related monthly adjustment amount determination for your Medicare prescription drug coverage will also be used to determine your Medicare Part B income-related monthly adjustment amount. Any change in your

¹⁵ 5 U.S.C. 553(b)(1).

¹⁶ See 5 U.S.C. 553(d)(3).

net benefit due will be accompanied by a letter explaining the change in your net benefit and your right to appeal the change.

■ 3. Add subpart C to Part 418 to read as follows:

Subpart C—Income-Related Monthly Adjustments to Medicare Prescription Drug Coverage Premiums

Sec.

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418.2120 How do we determine your income-related monthly adjustment amount?
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418.2345 Is reopening of an initial or reconsidered determination made by us ever appropriate?
418.2350 What are the rules for review of a reconsidered determination or an ALJ decision?
418.2355 What are the rules for reopening a decision by an ALJ of the Office of Medicare Hearings and Appeals (OMHA) or by the Medicare Appeals Council (MAC)?

Authority: Secs. 702(a)(5), 1860D–13(a) and (c) of the Social Security Act (42 U.S.C. 902(a)(5), 1395w–113(a) and (c)).

Introduction, General Provisions, and Definitions

§ 418.2001 What is this subpart about?

This subpart implements sections 1860D–13(a)(7) and 1860D–13(c)(4) of the Social Security Act (the Act), as added by section 3308 of the Affordable Care Act (Pub. L. 111–148). Section 3308(a) establishes an income-related monthly adjustment to Medicare prescription drug coverage premiums. Persons enrolled in Medicare prescription drug plans, Medicare Advantage plans with prescription drug coverage, Programs of All-Inclusive Care for the Elderly plans, and cost plans offering prescription drug coverage who have modified adjusted gross income over a threshold amount established in the statute will pay an income-related monthly adjustment amount in addition to their Medicare prescription drug coverage plan's monthly premium and any applicable premium increases as described in 42 CFR 423.286. The regulations in this subpart explain how we determine whether you are required to pay an income-related monthly adjustment amount, and if you are, the amount of your adjustment. We have divided the rules into the following groups of sections:

(a) Sections 418.2001 through 418.2010 contain the introduction, a statement of the general purpose of the income-related monthly adjustment amount, general provisions that apply to the income-related monthly adjustment amount, and definitions of terms that we use in this subpart.

(b) Sections 418.2101 through 418.2150 describe what information about your modified adjusted gross income we will use to determine if you are required to pay an income-related monthly adjustment amount. In these sections, we also describe how the income-related monthly adjustment amount will affect your total Medicare prescription drug coverage premium.

(c) Sections 418.2201 through 418.2270 contain an explanation of the standards that you must meet for us to grant your request to use modified adjusted gross income information that you provide for a more recent tax year rather than the information described in paragraph (b) of this section. These sections explain when we may consider such a request, and the evidence that you will be required to provide. These sections also explain when an income-related monthly adjustment amount determination based on information you provide will be effective, and how long

it will remain in effect. Additionally, these sections describe how we make retroactive adjustments of the income-related monthly adjustment amount based on information you provide, updated information you provide, and information we later receive from the Internal Revenue Service.

(d) Sections 418.2301 through 418.2355 explain how we will notify you of our determination regarding your income-related monthly adjustment amount and contain the rules that we will apply when you disagree with our determination. These sections explain your appeal rights and the circumstances under which you may request that we make a new initial determination of your income-related monthly adjustment amount.

§ 418.2005 Purpose and administration.

(a) The purpose of the income-related monthly adjustment amount is for beneficiaries who have modified adjusted gross income above an established threshold to reimburse the Federal Government for a portion of the Federal subsidy of the Medicare prescription drug coverage. Persons who have modified adjusted gross income above the thresholds described in § 418.2105 will pay an income-related monthly adjustment amount in addition to the premium for their prescription drug coverage. The income-related monthly adjustment amount due will be determined based on the base beneficiary premium amount that represents 25.5 percent of the cost of the basic Medicare prescription drug coverage. The application of an income-related monthly adjustment amount results in an increase in the total amount that those who are affected pay for Medicare prescription drug coverage plans. A person who has modified adjusted gross income above the threshold amount will pay:

(1) The Medicare prescription drug coverage plan monthly premium; plus

(2) Any applicable increase for late enrollment or reenrollment;

(3) An income-related monthly adjustment amount; and

(b) The Centers for Medicare & Medicaid Services in the Department of Health and Human Services establishes rules for eligibility for Medicare prescription drug coverage and enrollment in Medicare prescription drug coverage plans, as well as premium penalties for late enrollment or reenrollment (42 CFR 423.30 through 423.56).

(c) We use information from CMS about enrollment in Medicare prescription drug coverage plans to

determine the records that we must send to the IRS.

(d) We use information that we get from the IRS to determine if persons enrolled in Medicare prescription drug coverage plans are required to pay an income-related monthly adjustment amount. We also change income-related monthly adjustment amount determinations using information you provide under certain circumstances. In addition, we notify beneficiaries when the social security benefit amounts they receive will change based on our income-related monthly adjustment amount determination.

§ 418.2010 Definitions.

(a) *Terms relating to the Act and regulations.* For the purposes of this subpart:

(1) *Administrator* means the Administrator of CMS in HHS.

(2) *ALJ* means administrative law judge.

(3) *CMS* means the Centers for Medicare & Medicaid Services in HHS.

(4) *Commissioner* means the Commissioner of Social Security.

(5) *HHS* means the Department of Health and Human Services, which oversees the Centers for Medicare & Medicaid Services (CMS), the Office of Medicare Hearings and Appeals (OMHA) and the Medicare Appeals Council (MAC)

(6) *IRS* means the Internal Revenue Service in the Department of the Treasury.

(7) *MAC* means the Medicare Appeals Council in HHS.

(8) *Medicare Prescription Drug Coverage Plan* means a Medicare prescription drug plan, a Medicare Advantage plan with prescription drug coverage, a Program for All-inclusive Care for the Elderly plan offering qualified prescription drug coverage, or a cost plan offering qualified prescription drug coverage.

(9) *OMHA* means the Office of Medicare Hearings and Appeals in HHS.

(10) *Section* means a section of the regulations in this part unless the context indicates otherwise.

(11) *The Act* means the Social Security Act, as amended.

(12) *Title* means a title of the Act.

(13) *We, our, or us* means the Social Security Administration (SSA).

(b) *Miscellaneous.* For the purposes of this subpart:

(1) *Amended tax return* means a Federal income tax return for which an individual or couple has filed an amended tax return that has been accepted by the IRS.

(2) *Effective year* means the calendar year for which we make an income-

related monthly adjustment amount determination.

(3) *Federal premium subsidy* is the portion of the cost of providing Medicare prescription drug coverage that is paid by the Federal Government. The Federal Government pays this amount to Medicare Prescription Drug coverage Plans from payments made into the Medicare Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund.

(4) *Income-related monthly adjustment amount* is an additional amount of premium that you will pay for Medicare prescription drug coverage if you have modified adjusted gross income above the threshold described in 418.2105.

(5) *Modified Adjusted Gross Income* is your adjusted gross income as defined by the Internal Revenue Code, plus the following forms of tax-exempt income:

(i) Tax-exempt interest income;

(ii) Income from United States savings bonds used to pay higher education tuition and fees;

(iii) Foreign earned income;

(iv) Income derived from sources within Guam, American Samoa, or the Northern Mariana Islands; and

(v) Income from sources within Puerto Rico.

(6) *Modified adjusted gross income ranges* are the groupings of modified adjusted gross income above the threshold. There are four ranges for most individuals, based on their tax filing status. There are two ranges for those with a tax filing status of married, filing separately, who also lived with their spouse for part of the year. The dollar amounts of the modified adjusted gross income ranges are specified in § 418.2115.

(7) *Premium* is a payment that an enrolled beneficiary pays for Medicare prescription drug coverage to a Medicare prescription drug plan, a Medicare Advantage plan with prescription drug coverage, a Program of All-Inclusive Care for the Elderly Plan offering qualified prescription drug coverage, or a cost plan offering qualified prescription drug coverage. The rules that CMS use annually to establish premium amounts for Medicare prescription drug coverage are contained in 42 CFR 423.286.

(8) *Representative* means, for the purposes of the initial determination and reconsidered determination, an individual as defined in § 404.1703 of this chapter, and for purposes of an ALJ hearing or review by the MAC, an individual as defined in 42 CFR 423.560.

(9) *Tax filing status* means the filing status shown on your individual income

tax return. It may be single, married filing jointly, married filing separately, head of household, or qualifying widow(er) with dependent child.

(10) *Tax year* means the year for which you have filed or will file your Federal income tax return with the IRS.

(11) *Threshold* means a modified adjusted gross income amount above which you will have to pay an income-related monthly adjustment amount described in paragraph (b)(4) of this section. The dollar amount of the threshold is specified in § 418.2105.

(12) *You or your* means the person or representative of the person who is subject to the income-related monthly adjustment amount.

Determination of the Income-Related Monthly Adjustment Amount

§ 418.2101 What is the income-related monthly adjustment amount?

(a) The income-related monthly adjustment amount is an amount that you will pay in addition to the Medicare prescription drug coverage plan monthly premium, plus any applicable increase in that premium as described in 42 CFR 423.286, for your Medicare prescription drug coverage plan when your modified adjusted gross income is above the threshold described in § 418.2105.

(b) Your income-related monthly adjustment amount is based on your applicable modified adjusted gross income as described in § 418.2115 and your tax filing status.

(c) We will determine your income-related monthly adjustment amount using the method described in § 418.2120.

§ 418.2105 What is the threshold?

(a) The threshold is a level of modified adjusted gross income above which you will have to pay the income-related monthly adjustment amount.

(b) For calendar years 2011 through and including 2019, the modified adjusted gross income threshold is \$85,000 for individuals with a Federal income tax filing status of single, married filing separately, head of household, and qualifying widow(er) with dependent child. The threshold is \$170,000 for individuals with a Federal income tax filing status of married filing jointly.

(c) Starting at the end of calendar year 2019 and for each calendar year thereafter, CMS will set the threshold amounts for the following year. CMS will publish the threshold amounts annually in the **Federal Register**. Published threshold amounts will be effective January 1 of the next calendar

year, and remain unchanged for the full calendar year.

§ 418.2110 What is the effective date of our initial determination about your income-related monthly adjustment amount?

(a) Generally, an income-related monthly adjustment amount determination will be effective for all months that you are enrolled in a prescription drug coverage plan during the year for which we determine you must pay an income-related monthly adjustment amount.

(b) When we have used modified adjusted gross income information from the IRS for the tax year 3 years prior to the effective year to determine your income-related monthly adjustment amount, and modified adjusted gross income information for the tax year 2 years prior later becomes available from the IRS, we will review the new information to determine if we should revise our initial determination concerning the income-related monthly adjustment amount. If we revise our initial determination, the effective date of the new initial determination will be January 1 of the effective year, or the first month your enrollment or re-enrollment in a Medicare prescription drug coverage plan became effective if later than January.

(c) When we use your amended tax return, as described in § 418.2150, the effective date will be January 1 of the year(s) that is affected, or the first month in that year that your enrollment or re-enrollment in a Medicare prescription drug coverage plan became effective if later than January.

Example: You are enrolled in Medicare prescription drug coverage throughout 2011. We use your 2009 modified adjusted gross income as reported to us by the IRS to determine your 2011 income-related monthly adjustment amount. In 2012, you submit to us a copy of your 2009 amended tax return that you filed with the IRS. The modified adjusted gross income reported on your 2009 amended tax return is significantly less than originally reported to the IRS. We use the modified adjusted gross income reported on your 2009 amended tax return to determine your income-related monthly adjustment amount. That income-related monthly adjustment amount is effective January 1, 2011. We will retroactively correct any differences between the amount paid in 2011 and the amount you should have paid based on the amended tax return.

(d) When we use evidence that you provide to prove the IRS modified adjusted gross income information we used was incorrect, as described in § 418.2335, the effective date will be January of the year(s) that is affected or the first month in that year that your enrollment or re-enrollment in a

Medicare prescription drug coverage plan became effective if later than January.

(e) When we use information from a more recent tax year that you provide due to a major life-changing event, as described in § 418.2201, the effective date is described in § 418.2230.

§ 418.2112 Paying your income-related monthly adjustment amount.

(a) We will deduct the income-related monthly adjustment amount from your Social Security benefits if they are sufficient to cover the amount owed. If the amount of your Social Security benefits is not sufficient to pay the full amount of your income-related monthly adjustment amount, CMS will bill you for the full amount owed.

(b) If you do not receive Social Security or Railroad Retirement Board benefits, but you receive benefits from the Office of Personnel Management, the Office of Personnel Management will deduct the income-related monthly adjustment amount from your benefits if they are sufficient to cover the amount owed. If the amount of your Office of Personnel Management benefits is not sufficient to pay the full amount of your income-related monthly adjustment amount, CMS will bill you for the full amount owed.

(c) If you do not receive Social Security, Railroad Retirement Board, or Office of Personnel Management benefits, CMS will bill you for your income-related monthly adjustment amount.

§ 418.2115 What are the modified adjusted gross income ranges?

(a) We list the modified adjusted gross income ranges for the calendar years 2011 through and including 2019 for each Federal tax filing category in paragraphs (b), (c) and (d) of this section. We will use your modified adjusted gross income amount together with your tax filing status to determine the amount of your income-related monthly adjustment for these calendar years.

(b) For calendar years 2011 through and including 2019, the modified adjusted gross income ranges for individuals with a Federal tax filing status of single, head of household, qualifying widow(er) with dependent child, and married filing separately when the individual has lived apart from his/her spouse for the entire tax year for the year we use to make our income-related monthly adjustment amount determination are as follows:

- (1) Greater than \$85,000 and less than or equal to \$107,000;
- (2) Greater than \$107,000 and less than or equal to \$160,000;

(3) Greater than \$160,000 and less than or equal to \$214,000; and
 (4) Greater than \$214,000.

(c) For calendar years 2011 through and including 2019, the modified adjusted gross income ranges for individuals who are married and filed a joint tax return for the tax year we use to make the income-related monthly adjustment amount determination are as follows:

(1) Greater than \$170,000 and less than or equal to \$214,000;

(2) Greater than \$214,000 and less than or equal to \$320,000;

(3) Greater than \$320,000 and less than or equal to \$428,000; and

(4) Greater than \$428,000.

(d) For calendar years 2011 through and including 2019, the modified adjusted gross income ranges for married individuals who file a separate return and have lived with their spouse at any time during the tax year we use to make the income-related monthly adjustment amount determination are as follows:

(1) Greater than \$85,000 and less than or equal to \$129,000; and

(2) Greater than \$129,000.

(e) In 2019, CMS will set all modified adjusted gross income ranges for 2020 and publish them in the **Federal Register**. In each year thereafter, CMS will set all modified adjusted gross income ranges and publish the amounts for each range prior to the beginning of each subsequent year.

§ 418.2120 How do we determine your income-related monthly adjustment amount?

(a) We will determine your income-related monthly adjustment amount by using your tax filing status and modified adjusted gross income.

(b) *Tables of applicable percentage.* The tables in paragraphs (b)(1) through (b)(3) of this section contain the modified adjusted gross income ranges for calendar years 2011 through and including 2019, and the corresponding percentage of the cost of basic Medicare prescription drug coverage that individuals with modified adjusted gross incomes that fall within each of the ranges will pay. The monthly dollar amounts will be determined by CMS using the formula in § 1860D-13(a)(7)(B) of the Act. Based on your tax filing status for the tax year we use to make a determination about your income-related monthly adjustment amount, we will determine which table is applicable to you. We will use your modified adjusted gross income to determine which income-related monthly adjustment amount to apply to you. The dollar amounts used for each of the

ranges of income-related monthly adjustment will be set annually after 2019 as described in paragraph (c) of this section. The modified adjusted gross income ranges will be adjusted annually after 2019 as described in § 418.2115(e).

(1) *General table of applicable percentages.* If your filing status for your Federal income taxes for the tax year we use is single; head of household; qualifying widow(er) with dependent child; or married filing separately and you lived apart from your spouse for the entire tax year, we will use the general table of applicable percentages. When your modified adjusted gross income for the year we use is in the range listed in the left column in the following table, you will pay an amount based on the percentage listed in the right column, which represents a percentage of the cost of basic Medicare prescription drug coverage.

Modified adjusted gross income effective in 2011–2019	Beneficiary percentage (percent)
More than \$85,000 but less than or equal to \$107,000	35
More than \$107,000 but less than or equal to \$160,000	50
More than \$160,000 but less than or equal to \$214,000	65
More than \$214,000	80

(2) *Table of applicable percentages for joint returns.* If your Federal tax filing status is married filing jointly for the tax year we use and your modified adjusted gross income for that tax year is in the range listed in the left column in the following table, you will pay an amount based on the percentage listed in the right column, which represents a percentage of the cost of basic Medicare prescription drug coverage.

Modified adjusted gross income effective in 2011–2019	Beneficiary percentage (percent)
More than \$170,000 but less than or equal to \$214,000	35
More than \$214,000 but less than or equal to \$320,000	50
More than \$320,000 but less than or equal to \$428,000	65
More than \$428,000	80

(3) *Table of applicable percentages for married individuals filing separate returns.* If, for the tax year we use, your Federal tax filing status is married filing separately, you lived with your spouse at some time during that tax year, and your modified adjusted gross income is in the range listed in the left column in the following table, you will pay an amount based on the percentage listed

in the right column, which represents a percentage of the cost of basic Medicare prescription drug coverage.

Modified adjusted gross income effective in 2011–2019	Beneficiary percentage (percent)
More than \$85,000 but less than or equal to \$129,000	65
More than \$129,000	80

(c) For each year after 2019, CMS will announce the modified adjusted gross income ranges for the income-related monthly adjustment amount described in paragraph (b) of this section.

§ 418.2125 How will the income-related monthly adjustment amount affect your total Medicare prescription drug coverage premium?

(a) If you must pay an income-related monthly adjustment amount, your total Medicare prescription drug coverage premium will be the sum of:

(1) Your prescription drug coverage monthly premium, as determined by your plan; plus

(2) Any applicable increase in the prescription drug coverage monthly premium as described in 42 CFR 423.286; plus

(3) Your income-related monthly adjustment amount.

(b) Regardless of the method you use to pay your Medicare prescription drug coverage premiums to your Medicare prescription drug coverage plan, you will pay any income-related monthly adjustment amount you owe using the method described in 418.2112.

§ 418.2135 What modified adjusted gross income information will we use to determine your income-related monthly adjustment amount?

We will follow the rules in § 418.1135, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2140 What will happen if the modified adjusted gross income information from the IRS is different from the modified adjusted gross income information we used to determine your income-related monthly adjustment amount?

We will follow the rules in § 418.1140, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2145 How do we determine your income-related monthly adjustment amount if the IRS does not provide information about your modified adjusted gross income?

We will follow the rules in § 418.1145, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2150 When will we use your amended tax return filed with the IRS?

We will follow the rules in § 418.1150, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

Determinations Using a More Recent Tax Year's Modified Adjusted Gross Income**§ 418.2201 When will we determine your income-related monthly adjustment amount based on the modified adjusted gross income information that you provide for a more recent tax year?**

We will follow the rules in § 418.1201, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2205 What is a major life-changing event?

We will follow the rules in § 418.1205, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2210 What is not a major life-changing event?

We will follow the rules in § 418.1210, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2215 What is a significant reduction in your income?

We will follow the rules in § 418.1215, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2220 What is not a significant reduction in your income?

We will follow the rules in § 418.1220, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2225 Which more recent tax year will we use?

We will follow the rules in § 418.1225, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2230 What is the effective date of an income-related monthly adjustment amount initial determination based on a more recent tax year?

We will follow the rules in § 418.1230, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2235 When will we stop using your more recent tax year's modified adjusted gross income to determine your income-related monthly adjustment amount?

We will follow the rules in § 418.1235, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2240 Should you notify us if the information you gave us about your modified adjusted gross income for the more recent tax year changes?

We will follow the rules in § 418.1240, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2245 What will happen if you notify us that your modified adjusted gross income for the more recent tax year changes?

(a) If you notify us that your modified adjusted gross income for the more recent tax year has changed from what is in our records, we may make a new initial determination for each effective year involved. To make a new initial determination(s) we will take into account:

(1) The new modified adjusted gross income information for the more recent tax year you provide; and

(2) Any modified adjusted gross income information from the IRS, as described in § 418.2135, that we have available for each effective year; and

(3) Any modified adjusted gross income information from you, as described in § 418.2135, that we have available for each effective year.

(b) For each new initial determination that results in a change in your income-related monthly adjustment amount, we will make retroactive corrections that will apply to all enrolled months of the effective year.

(c) We will continue to use a new initial determination described in paragraph (a) of this section to determine additional yearly income-related monthly adjustment amount(s) until an event described in § 418.2235 occurs.

(d) We will make a new determination about your income-related monthly adjustment amount when we receive modified adjusted gross income for the effective year from the IRS, as described in § 418.1140(d).

§ 418.2250 What evidence will you need to support your request that we use a more recent tax year?

We will follow the rules in § 418.1250, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2255 What kind of evidence of a major life-changing event will you need to support your request for us to use a more recent tax year?

We will follow the rules in § 418.1255, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2260 What major life-changing event evidence will we not accept?

We will follow the rules in § 418.1260, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2265 What kind of evidence of a significant modified adjusted gross income reduction will you need to support your request?

We will follow the rules in § 418.1265, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2270 What modified adjusted gross income evidence will we not accept?

We will follow the rules in § 418.1270, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

Determinations and the Administrative Review Process**§ 418.2301 What is an initial determination regarding your income-related monthly adjustment amount?**

We will follow the rules in § 418.1301, except that any references in

that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2305 What is not an initial determination regarding your income-related monthly adjustment amount?

We will follow the rules in § 418.1305, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2310 When may you request that we make a new initial determination?

We will follow the rules in § 418.1310, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2315 How will we notify you and what information will we provide about our initial determination?

We will follow the rules in § 418.1315, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2320 What is the effect of an initial determination?

We will follow the rules in § 418.1320, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2322 How will a Medicare Part B income-related monthly adjustment amount determination for the effective year affect your Medicare prescription drug coverage?

If we make an income-related monthly adjustment amount determination for you for the effective year under subpart B of this part (Medicare Part B Income-Related Monthly Adjustment Amount), we will apply that income-related monthly adjustment amount determination under this subpart to determine your Part D income-related monthly adjustment amount for the same effective year. Therefore, if you obtain Medicare prescription drug coverage in the effective year after we make an income-related monthly adjustment amount determination about your Medicare Part B, the income-related monthly adjustment amount determination we made for your Medicare Part B will also apply to your Medicare prescription drug coverage. Any change in your net benefit due will be accompanied by a letter explaining the change in your net

benefit and your right to appeal the change.

§ 418.2325 When may you request a reconsideration?

We will follow the rules in § 418.1325, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2330 Can you request a reconsideration when you believe that the IRS information we used is incorrect?

If you request a reconsideration solely because you believe that the information that the IRS gave us is incorrect, we will dismiss your request for a reconsideration and notify you to obtain proof of a correction from the IRS and request a new initial determination (§ 418.2335). Our dismissal of your request for reconsideration is not an initial determination subject to further administrative or judicial review.

§ 418.2332 Can you request a reconsideration when you believe that the CMS information we used is incorrect?

If you request a reconsideration solely because you believe that the information that CMS gave us about your participation in a Medicare prescription drug coverage plan is incorrect, we will dismiss your request for a reconsideration and notify you that you must contact CMS to get your records corrected. Our dismissal of your request for reconsideration is not an initial determination subject to further administrative or judicial review.

§ 418.2335 What should you do if we base our initial determination on modified adjusted gross income information you believe to be incorrect?

We will follow the rules in § 418.1335, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2340 What are the rules for our administrative review process?

We will follow the rules in § 418.1340, except that any references in that section to regulations in subpart B of this part shall be treated as references to the corresponding regulation in this subpart.

§ 418.2345 Is reopening of an initial or reconsidered determination made by us ever appropriate?

We will follow the rules in § 418.1345, except that any references in that section to regulations in subpart B of this part shall be treated as references

to the corresponding regulation in this subpart.

§ 418.2350 What are the rules for review of a reconsidered determination or an ALJ decision?

You may request a hearing before an OMHA administrative law judge consistent with HHS' regulations at 42 CFR part 423. You may seek further review of the administrative law judge's decision by requesting MAC review and judicial review in accordance with HHS' regulations.

§ 418.2355 What are the rules for reopening a decision by an ALJ of the Office of Medicare Hearings and Appeals (OMHA) or by the Medicare Appeals Council (MAC)?

The rules in 42 CFR 423.1980 through 423.1986 govern reopenings of decisions by an administrative law judge of the OMHA and decisions by the MAC. A decision by an administrative law judge of the OMHA may be reopened by the administrative law judge or the MAC. A decision by the MAC may be reopened only by the MAC.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR 1

[TD 9504]

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Basis Reporting by Securities Brokers and Basis Determination for Stock

Correction

In rule document 2010–25504 beginning on page 64072 in the issue of Monday, October 18, 2010, make the following corrections:

§ 1.6054–1 [Corrected]

1. On page 64093, in the third column, in § 1.6045–1(d)(6)(i), in the first line “(j)” should read “(i)”.
2. On the same page, in the same column, in § 1.604–1(d)(6)(ii)(A), in the first line “(A)” should read “(A)”.
3. On page 64094, in the first column, in § 1.604–1(d)(6)(ii)(B)(2), in the first line “(2)”; should read “(2)”.
4. On the same page, in the same column, in § 1.604–1(d)(6)(iii)(A), in the first line “(A)” should read “(A)”.

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