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SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2010–0025]

RIN 0960–AH21

Revisions to Direct Fee Payment Rules

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are adopting, with two revisions, our interim final rules that implemented amendments to the Social Security Act (Act) made by the Social Security Disability Applicants' Access to Professional Representation Act of 2010 (PRA). The interim final rules made permanent the direct fee payment rules for eligible non-attorney representatives under titles II and XVI of the Act and for attorney representatives under title XVI of the Act. They also revised some of our eligibility policies for non-attorney representatives under titles II and XVI of the Act. Based on public comment and subsequent inquiries, we are revising our rules to clarify that an eligible non-attorney representative's liability insurance policy must include malpractice coverage. We are also reaffirming that a business entity legally permitted to provide the required insurance in the States in which the non-attorney representative conducts business must underwrite the policies.

DATES: These rules are effective February 5, 2015.

FOR FURTHER INFORMATION CONTACT: Eric Ice, Office of Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–3233. 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:

Background

We published the interim final rules ''Revisions to Direct Fee Payment Rules'' on July 28, 2011 (76 FR 45184), and the rules became effective on August 29, 2011.[1] In the preamble to the interim final rules, we explained how we would implement the revisions made to the Act by the PRA.[2]

The PRA established five requirements that non-attorney representatives must meet to be eligible for direct fee payment. A representative must:

(1) Have a bachelor's degree from an accredited institution of higher education or have been determined by us to have equivalent qualifications derived from training and work experience;

(2) Pass an examination that we write and administer, which tests knowledge of the relevant provisions of the Act and the most recent developments in Social Security Administration (SSA) and court decisions affecting titles II and XVI of the Act;

(3) Secure professional liability insurance, or equivalent insurance, which we determine to be adequate to protect claimants in the event of malpractice by the representative;

(4) Undergo a criminal background check to ensure the representative's fitness to practice before us; and

(5) Demonstrate ongoing completion of qualified courses of continuing education, including education regarding ethics and professional conduct, which are designed to enhance professional knowledge in matters related to entitlement to, or eligibility for, benefits based on disability under titles II and XVI of the Act. The continuing education courses, and the instructors providing the education courses, must meet our prescribed standards.

Revision to and Clarification of the Liability Insurance Coverage Requirement

To fulfill the third requirement described above, the interim final rules required an eligible non-attorney representative to provide proof of and maintain continuous liability insurance coverage in an amount we prescribe (20 CFR 404.1717(a)(6) and 416.1517(a)(6)). We explained in the preamble that we would accept either business liability and professional liability insurance to meet this requirement.[3] In response to a comment, we are clarifying in the final rule that eligible non-attorney representatives must provide proof of and maintain continuous liability insurance that includes coverage for malpractice claims against the representative in an amount we prescribe.

We are also clarifying our requirement that insurance policies be underwritten by a business entity that is legally permitted to provide the insurance we require in the States in which the non-attorney representative conducts business. When we first established the demonstration project, we required that insurance policies be underwritten by firms that are licensed to provide insurance in the States where the individuals practice. On August 16, 2007, we published a **Federal Register** notice [4] explaining our decision that the insurance requirement would be met if the representative's insurance policy was underwritten by a business entity that is legally permitted to provide professional liability insurance in the States in which the representative conducts business. After we published our interim final rules on July 28, 2011, some representatives asked us whether we were continuing the August 2007 policy or whether we were returning to the original requirement that the insurance policies be underwritten by firms that are licensed to provide insurance in the States where the individual practices. We did not intend to change the requirement we explained in August 2007, and therefore clarified final sections 404.1717(a)(6) and 416.1517(a)(6) to make this point clearer.

Other Changes

We also made minor changes to correct punctuation and wording to the following sections:

- Corrected final sections *404.903(z)* and *416.1403(a)(24)* by deleting ''and'' after the semicolon.
- Corrected final sections *404.903(aa)* and *416.1403(a)(25)* by deleting the

[1] 76 FR 45184.

[2] Public Law 111–142, as codified at 42 U.S.C. 406(e).

[3] 76 FR 45184, 45187–45188.

[4] 72 FR 46121.

period and adding a semicolon and the word ''and.''

- Corrected final sections *404.1717(d)(1)(ii)* and *416.1517(d)(1)(ii)* by adding a semicolon after the word ''section.''
- Corrected final section *416.1517(f)(1) to read* ''. . . paragraphs (a)(1), (a)(2), (a)(3), or (a)(5) of this section'' to correspond to the text in 20 CFR *404.1717(f)(1).*

Public Comments

The 60-day public comment period closed on September 26, 2011. We received comments from three individuals and two organizations (the National Association of Disability Representatives (NADR) and the National Organization of Social Security Claimants' Representatives (NOSSCR).[5] We carefully considered the comments. We have condensed, summarized, and paraphrased some of the comments due to their length. We tried to summarize the commenters' views accurately and respond to the significant issues raised by the commenters that were within the scope of these rules.

Education and Experience

The Social Security Protection Act of 2004 (SSPA) included a requirement that we determine whether a non-attorney representative has ''equivalent qualifications derived from training and work experience'' if the representative does not have ''a bachelor's degree from an accredited institution of higher education.'' [6] In 2005, we published a notice in the **Federal Register** in which we explained that we would use a formula that balanced the applicant's years of education and his or her relevant professional experience when we determined whether an applicant met the ''equivalent qualifications'' requirement.[7] In the 5 years that followed, we found the balancing formula difficult to administer and revised this requirement in the interim final rules.[8] As we explained in the preamble to the interim final rules, we required applicants to demonstrate that they have either a bachelor's degree from an accredited institution of higher learning or at least 4 years of relevant professional experience and either a high school diploma or GED certificate.[9]

Comment: We received a comment from NADR indicating that it concurred that relevant professional experience is essential for representatives who have not completed a bachelor's degree. However, NADR noted that the SSPA demonstration project included a formula that balanced undergraduate education and work experience. NADR encouraged us to allow for some flexibility in evaluating relevant work experience for individuals who have received credit for undergraduate course work, but who have not earned a bachelor's degree.

Response: It is not practicable for us to evaluate relevant work experience for individuals who have received credit for undergraduate course work but who have not earned a bachelor's degree. As we stated above and in the preamble to the interim final rule, we found the balancing formula that considered various combinations of education and work experience difficult to administer and we therefore streamlined the process and simplified our administration of this requirement. We believe requiring a person without a bachelor's degree to have at least 4 years of relevant professional experience is appropriate because a bachelor's degree generally requires 4 years of study. We believe this requirement appropriately ensures that the representatives possess the qualifications called for in the Act.

Comment: NADR asked us to clarify what constitutes ''relevant work experience.'' NADR was concerned that applicants might lose their application fee because we will now evaluate their education or equivalent qualifications after they pay the application fee and pass the examination.

Response: In the preamble to the interim final rules, we stated that

> We will continue to consider relevant professional experience to be work through which the applicant demonstrates familiarity with medical reports and the ability to describe and assess mental or physical limitations. As in the past, an applicant may gain this kind of experience in fields such as teaching, counseling or guidance, social work, personnel management, public employment service, nursing, or health care professions. We will also continue to consider relevant professional experience to include work involving claims for benefits under title II or XVI of the Act.[10]

We believe that this description provides sufficient detail for applicants to determine if their prior experience qualifies as relevant work experience. It would not be feasible for us, and potentially limiting for applicants, if we attempted to include an exhaustive list of all qualifying experience in our regulations. Given the changing job market and the wide variety of work experience that may qualify as ''relevant professional experience,'' any list we could develop would necessarily be under-inclusive. Accordingly, we will continue to determine on a case-by-case basis whether an applicant has relevant professional experience, rather than attempting to include in our regulations a list of jobs that would qualify.

Comment: One individual asked how we will determine equivalent qualifications derived from training and work experience when a non-attorney representative is self-employed and has begun, but has not yet completed, a bachelor's degree. This commenter also asked what documentation we would request in this circumstance to show the non-attorney representative has 4 years of relevant professional experience.

Response: A self-employed non-attorney representative who does not have a bachelor's degree must have at least 4 years of relevant professional experience and either a high school diploma or GED certificate. This professional experience may be from relevant self-employment work. In this situation, we may require copies of the representative's tax returns and a description of job duties that would enable us to evaluate the applicant's relevant professional experience.

Comment: One individual asked how we will consider a paralegal certificate.

Response: If a non-attorney representative has a high school diploma or GED certificate and a paralegal certificate but not a bachelor's degree, he or she must have 4 years of relevant professional experience, as described above.

Written Examination

Comment: NADR suggested that we provide sample test materials. NOSSCR suggested that we make actual questions from past examinations available. NOSSCR asserted that without these materials there was no way for the public to assess whether our examination met the statutory requirements of testing a representative's knowledge of the relevant provisions of the Act and the most recent developments in SSA and court decisions affecting titles II and XVI of the Act.[11]

Response: We provide several sample examination questions for the public to view. They are currently accessible through the Direct Payment to Eligible Non-Attorney Representatives Web page at *http://www.ssa.gov/representation/nonattyrep.htm* by selecting the link to the contractor's Web site.

[5] The comments are available for public viewing at *www.regulations.gov* under docket ''SSA–2010–0025.''

[6] Public Law 108–203, section 303(b)(1) .

[7] 70 FR 2447, 2448–49.

[8] 42 U.S.C. 406(e)(2)(A).

[9] 76 FR 45184, 45186, 45187.

[10] 76 FR 45184, 45187.

[11] 42 U.S.C. 406(e)(2)(B).

However, we do not plan to make any of our actual tests available to the public. We have taken a number of measures to ensure the validity of the examination and to make sure that it tests knowledge of the relevant provisions of the Act and the most recent developments in agency and court decisions affecting title II and title XVI of the Act. Our employees, including some of our administrative law judges and other subject matter experts, develop the scope and content of the examination questions to ensure that our test is comprehensive. The contractor that proctors the examination has in-depth knowledge in testing services, including test research and development; test validation; test scoring; test logistics and administration; statistical analysis; and the design, development, and administration of assessment centers and performance examinations. We are confident these measures ensure that our test complies with the statutory requirements cited by the commenter.

Comment: NADR acknowledged our current budgetary constraints, but suggested that we administer the examination electronically using computers in secure locations, such as in our field or hearing offices, when such technological improvements and enhancements become available. The commenter believed that this approach would allow us to offer the examinations at least twice a year in more locations.

Response: We are not adopting these suggestions at this time. As the commenter recognized, we currently do not have separate facilities at field and hearing offices or designated computer equipment to administer examinations, nor do we have funds available to adopt this comment. We are also concerned that proctoring examinations at field and hearing offices could disrupt our service to the public. However, we may consider offering additional examinations if demand warrants, and we have the resources available to do so.

Comment: NADR wanted us to raise the minimum passing score from 70 to 75 because we discontinued the requirement that an applicant show he or she has represented at least five claimants within a 24-month period.

Response: We are not adopting this suggestion. We continue to believe that a representative who attains a score of at least 70 has demonstrated that he or she has sufficient knowledge of the Act, our regulations, and related court decisions to meet the statutory testing requirement.

Comment: NOSSCR wanted us to assess advocacy skills in the examination.

Response: We are not adopting this suggestion. The Act does not require that we assess a representative's advocacy skills and we believe the current examination and other criteria are sufficient measures of a non-attorney representative's knowledge.

Liability Insurance

Comment: NADR asked us to require non-attorney representatives to ask their insurance companies to notify us when the non-attorney representative modifies or terminates his or her insurance coverage.

Response: We are not adopting this suggestion. Implementing this proposal could result in an additional workload for us to follow up with insurance companies and to analyze more correspondence than necessary. It would be unnecessary and would impose a significant burden on our scarce administrative resources to review these policies every time there is a slight modification. We believe the representative should remain responsible for providing us with proper proof of current liability insurance coverage.

Comment: NOSSCR asserted that our rules allowing non-attorney representatives to maintain business liability insurance was not consistent with the Act's requirement that non-attorney representatives have ''professional liability insurance, or equivalent insurance, which the Commissioner has determined to be adequate to protect claimants in the event of malpractice by the representative.'' [12] NOSSCR asserted that most business liability insurance contracts do not include errors and omissions coverage for malpractice and are therefore not equivalent to professional liability insurance coverage. NOSSCR asked us to revise our rules to require eligible non-attorney representatives to maintain only professional liability insurance contracts that include malpractice coverage.

Response: We agree with NOSSCR that our rules should specify that all liability insurance policies must include malpractice coverage and that our current regulations do not clearly state this requirement. Therefore, we are revising final sections 404.1717(a)(6) and 416.1517(a)(6) to require that each eligible non-attorney representative provide proof of and maintain continuous liability insurance that includes coverage for malpractice claims against the representative and be in an amount we prescribe.

Criminal Background Check

Comment: NADR asked which types of information within a criminal background check could disqualify a non-attorney representative from being eligible to receive direct fee payment.

Response: We explained in sections 20 CFR 404.1717(a) and 416.1517(a) of the interim final rules that

A non-attorney representative is eligible to receive direct payment of his or her fee out of your past due benefits if he or she:

(4) Passes our criminal background investigation (including checks of our administrative records), and attests under penalty of perjury that he or she:

(i) Has not been suspended or disqualified from practice before us and is not suspended or disbarred from the practice of law in any jurisdiction;

(ii) Has not had a judgment or lien assessed against him or her by a civil court for malpractice or fraud;

(iii) Has not had a felony conviction; and

(iv) Has not misrepresented information provided on his or her application or supporting materials for the application.

We will reject the application if the applicant fails to meet any of these criteria. In addition, we list the factors we consider under this requirement at the Direct Payment to Eligible Non-Attorney Representatives Web page *http://www.ssa.gov/representation/nonattyrep.htm* and selecting the link to the contractor's Web site. As we note on that Web site, we will also reject an application if the applicant fails to pass our administrative records check or fails to provide documentation requested by the contractor to perform the criminal background investigation.

Continuing Education

The SSPA included a requirement that eligible non-attorney representatives demonstrate ongoing completion of qualified courses of continuing education. In 2005, we published a notice in the **Federal Register** under which we required the non-attorney representative to complete certain hours of continuing education requirements during certain time periods, depending on how long the representative participated in the demonstration project and whether the representative was a course instructor.[13] We found that framework unnecessarily complex and burdensome to administer.

[12] 42 U.S.C. 406(e)(2)(C).

[13] See 70 FR 41250.

As a result, in sections 404.1717(a)(7) and 416.1517(a)(7) of the interim final rules, we required the non-attorney representative to complete and provide proof that he or she has completed all continuing education courses that we prescribe by the deadline we prescribe in order to meet the PRA's continuing education requirement.

Comment: NADR disagreed with our decision to end our prior framework of balancing the continuing education requirement with the representative's length of participation in the demonstration project.

Response: We do not agree with this comment. The framework we set out in the 2005 **Federal Register** notice was confusing to many representatives and unnecessarily complex and burdensome for us to administer. As a result, a number of representatives had difficulty understanding our requirements and contacted us for guidance throughout the reporting period. We anticipate that the streamlined and uniform approach that we established in the interim final rules and are making final in these rules will benefit representatives.

Comment: NADR suggested that the educational opportunities that will satisfy the continuing education requirement should be widely available.

Response: We agree that the courses, whether our own or from vendors, should be widely available. We plan to prescribe courses that will satisfy the continuing education requirement. These courses may include a variety of electronic presentations. We will inform eligible non-attorney representatives of the deadline for completing the courses, and how they should report to us that they have completed the courses through alternate methods, *e.g.* through our Web site: *http://www.socialsecurity.gov/representation.*

Comment: NADR suggested that we create a process through which we would pre-approve vendor courses if the vendor supplied us with certain information. The commenter asked us to provide written approval of these courses so that the vendors can state in marketing materials that the courses meet our criteria.

Response: It would be administratively burdensome to pre-approve all potential courses that meet our standards for satisfying the statutory requirement for continuing education.[14] We will identify either our own courses or general types of courses and will provide sufficient information so that the representative can individually identify vendors' courses that meet our standards and satisfy this requirement. We will identify these courses through alternate methods, *e.g.* through our Web site: *http://www.socialsecurity.gov/representation.*

Comment: NADR asked us to include links on our Web site to vendors that have approved courses.

Response: We will include links on our Web site or our contractor's Web site to our own courses. As noted above, we will also provide sufficient information to allow representatives to identify vendors' courses that meet our requirements.

Comment: NADR suggested that we require non-attorney representatives to keep proof of course attendance for up to 3 years so we could conduct audits of attendance.

Response: We are not adopting this suggestion because we revised this criterion to make it less complex and less burdensome.

Representational Experience

As we discussed in the preamble to the interim final rule, under the procedures we followed for the demonstration project, we required a non-attorney representative to show that he or she had specific minimum representational experience.[15] We required a non-attorney representative to show that he or she represented at least five claimants before us within a 24-month period within the 60 months before the month in which the applicant filed the application. We eliminated this requirement in the interim final rules because we found it complicated the application process without adding significant benefit.

Comment: NOSSCR disagreed with this decision and asked us to add that at least two of the five required cases take place at the hearing level.

Response: In our experience administering the demonstration project, we found that passing the written examination is a better barometer of a representative's knowledge and skills than the representational experience requirement. The representational requirement is not one of the statutory prerequisites to the direct payment of fees to non-attorney representatives and, therefore, we have decided to exercise our discretion not to include it in our current process.

Protest Procedures

Both the SSPA and the PRA require that a non-attorney representative meet the statutory requirements before we determine that he or she is eligible to receive direct fee payment. Once we determine that a non-attorney representative is eligible to receive direct fee payment, he or she must continue to meet all of the requirements. The **Federal Register** notice we published to explain the demonstration project set out protest procedures that we followed for that project. In the interim final rules, we also included rules that explained how we would handle protests when we determine that a non-attorney representative is not eligible to receive direct fee payment. We explained that the protest procedures in the interim final rules were easier to understand, follow, and administer than the procedures we followed under the demonstration project.

Comment: NADR asked us to state that we would refund an applicant's application fee for failing to arrive for an examination due to weather or travel disruptions because they are ''circumstances beyond an applicant's control.''

Response: The interim final rules provided we would refund the application fee if ''[c]ircumstances beyond the applicant's control that could not have been reasonably anticipated and planned for prevent an applicant from taking a scheduled examination.'' [16] We believe it is inappropriate to include in our regulations the examples the commenter cited. In our experience, we have found that including examples in our regulations inappropriately limits the application of the rule to the specific examples cited in a manner that we do not intend. In addition, it is unclear that all weather or travel disruptions would be both beyond the applicant's control and constitute circumstances that the applicant could not have reasonably anticipated and planned for, as the regulation requires. If an applicant requests a refund because he or she did not take the examination, we will consider the reasons presented and make a decision based on the facts of each individual case. The applicant retains the responsibility to submit documentation to support his or her request.

Comment: One individual and one organization wanted us to give non-attorney representatives more than 10 calendar days to file a protest. NADR wanted us to give 10 business days to file a protest, in addition to 5 days for mailing. NADR also wanted us to allow a representative to file a request for an extension of time to protest when extenuating circumstances existed. The individual wanted us to give

[14] 42 U.S.C. 406(e)(2)(E).

[15] 76 FR 45184, 45189.

[16] 20 CFR 404.1717(c)(1)(ii) and 416.1517(c)(1)(ii).

representatives at least 15 days to file a protest, or, ideally, to provide 30 days to protest, as we do in our sanctions procedures.

Response: The definition of the phrase ''Date we notify him or her'' in sections 404.1703 and 416.1503 of the interim final rules makes it clear that we begin counting the 10 calendar days to file a protest 5 days after the date on the notice. We add 5 days to account for mail time, although a representative may show us that he or she received it after this 5-day period. Therefore, we do give representatives 15 days to protest our finding that he or she is ineligible to receive direct fee payment for the reasons set out in sections 404.1717(d) and 416.1517(d) of the rules, as the second commenter suggested.

We disagree with the comment to revise the deadline in our protest rules from 10 calendar days to 10 business days for two reasons. The majority of our other rules use calendar days instead of business days as a basis for calculating action deadlines.[17] Further, our rules clearly explain how to calculate a deadline that falls on a non-work day.[18]

We also disagree with the comment to allow for an extension of time to file a protest based on extenuating circumstances. We inform non-attorney representatives who apply for direct fee payment eligibility about our requirements and timeframes in the application materials, on our Web site or our contractor's Web site, and in other correspondence, we send to them. When there is evidence that a representative may not meet our eligibility prerequisites, we will request the missing documentation from him or her. It is the representative's responsibility to respond to our requests in a timely manner.

Finally, we disagree with the comment to extend the time in which to protest our finding that a non-attorney representative is ineligible to receive direct fee payment from 10 to 30 calendar days, to match our sanctions rules. An adverse decision from a sanctions proceeding results in the representative being unable to practice before us. In contrast, a non-attorney representative may continue to practice before us and be paid for his or her services directly by the claimant even if we determine he or she is ineligible to receive direct fee payment from us. For that reason, a shorter time frame to file a protest in the direct pay context is appropriate.

[17] See *e.g.* 20 CFR 404.521(b), 404.1512(d)(1), 405.5, and 411.435(c)(2).

[18] 20 CFR 404.3(b) and 416.120(d).

Terminology

Comment: One individual asked us to change the title of ''non-attorney representative'' to something ''more dignified.'' NOSSCR asked us to specify what designation a non-attorney representative may use after he or she is found eligible for direct fee payment. NOSSCR also asked us to revise our regulations to clarify that a non-attorney representative who is eligible for direct fee payment is not certified or licensed by us.

Response: We began using the term ''non-attorney representative'' in 2004 because this is the term used by Congress in the SSPA, and again in the PRA. We believe it works well and are not changing it at this time.

We agree with NOSSCR that being eligible for direct pay does not mean that the representative is certified or licensed by us. Our current rules clearly state that we only pay fees directly to non-attorney representatives who successfully meet the eligibility requirements in 20 CFR 404.1717(a) and 416.1517(a). This eligibility to receive direct fee payment does not confer our certification, license, accreditation, or endorsement of the individual to be a representative. Therefore, eligible non-attorney representatives may not advertise themselves in any way that may create the appearance that we have approved or endorsed them as representatives. Further, a representative who performs an action to deceive or knowingly mislead a claimant or prospective claimant or beneficiary may violate our rules of conduct and standards of responsibility for representatives in 20 CFR 404.1740 and 416.1540. Because we believe that the purpose of the direct pay application process is clear and that the current rules of conduct and standards of responsibility are sufficient to discipline any representative who portrays his or her credentials deceptively, we are not adopting the suggestion to revise our rules in this manner.

Regulatory Procedures

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that these final rules meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB reviewed them.

Regulatory Flexibility Act

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

Paperwork Reduction Act

This rule does not create any new or affect any existing collections and, therefore, does not require OMB approval under the Paperwork Reduction Act.

(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; and 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

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

20 CFR Part 416

Administrative practice and procedure, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Carolyn W. Colvin,

Acting Commissioner of Social Security.

For the reasons stated in the preamble, we are adopting the interim rule with request for comments amending 20 CFR chapter III, part 404, subparts J and R, and part 416 subparts N and O that we published on July 28, 2011 at 76 FR 45184 as final with the following changes:

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

Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

■ 1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a)–(b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a)–(b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. Amend § 404.903 by revising paragraphs (z) and (aa) to read as follows:

§ 404.903 Administrative actions that are not initial determinations.

* * * * *

(z) Starting or discontinuing a continuing disability review;

(aa) Issuing a receipt in response to your report of a change in your work activity; and

* * * * *

Subpart R—Representation of Parties

■ 3. The authority citation for subpart R of part 404 continues to read as follows:

Authority: Secs. 205(a), 206, 702(a)(5), and 1127 of the Social Security Act (42 U.S.C. 405(a), 406, 902(a)(5), and 1320a–6).

■ 4. Amend § 404.1717 by revising paragraphs (a)(6) and (d)(1)(ii) to read as follows:

§ 404.1717 Direct payment of fees to eligible non-attorney representatives.

(a) * * *

(6) Provides proof of and maintains continuous liability insurance coverage that is underwritten by an entity that is legally permitted to provide professional liability insurance in the States in which the representative conducts business. The policy must include coverage for malpractice claims against the representative and be in an amount we prescribe; and

* * * * *

(d) * * *

(1) * * *

(ii) Meet at all times the criminal background investigation criteria, as described in paragraph (a)(4) of this section;

* * * * *

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

Subpart N—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

■ 5. The authority citation for subpart N of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 6. Revise § 416.1403 paragraphs (a)(24) and (25) to read as follows:

§ 416.1403 Administrative actions that are not initial determinations.

(a) * * *

(24) Starting or discontinuing a continuing disability review;

(25) Issuing a receipt in response to your report of a change in your earned income; and

* * * * *

Subpart O—Representation of Parties

■ 7. The authority citation for subpart O of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1127, and 1631(d) of the Social Security Act (42 U.S.C. 902(a)(5), 1320a–6, and 1383(d)).

■ 8. Amend § 416.1517 by revising paragraphs (a)(6), (d)(1)(ii), and (f)(1) to read as follows:

§ 416.1517 Direct payment of fees to eligible non-attorney representatives.

(a) * * *

(6) Provides proof of and maintains continuous liability insurance coverage that is underwritten by an entity that is legally permitted to provide professional liability insurance in the States in which the representative conducts business. The policy must include coverage for malpractice claims against the representative and be in an amount we prescribe; and

* * * * *

(d) * * *

(1) * * *

(ii) Meet at all times the criminal background investigation criteria, as described in paragraph (a)(4) of this section;

* * * * *

(f) * * *

(1) Did not meet the initial criteria for eligibility in paragraph (a)(1), (2), (3), or (5) of this section in a prior application period; or

* * * * *

[FR Doc. 2014–30921 Filed 1–5–15; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2014–0005; T.D. TTB–126; Ref: Notice No. 143]

RIN 1513–AC07

Expansion of the Fair Play Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) is expanding the approximately 33-square mile ''Fair Play'' viticultural area in El Dorado County, California, by 1,200 acres (approximately 2 square miles). The established viticultural area and the expansion area are both located entirely within the larger El Dorado and Sierra Foothills viticultural areas. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective February 5, 2015.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01 (Revised), dated December 10, 2013, to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

Part 4 of the TTB regulations (27 CFR part 4) authorizes the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth the standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name