

unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II of Pub. L. 104-121, 110 Stat. 847), EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2) of the APA as amended.

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

Dated: July 30, 1996.

Daniel M. Barolo,

*Director, Office of Pesticide Programs.*

Therefore, 40 CFR Part 180 is amended as follows:

#### **PART 180—[AMENDED]**

1. The authority citation for part 180 continues to read as follows:  
Authority: 21 U.S.C. 346a and 371.

2. In subpart D, by adding new § 180.1173, to read as follows:

#### **§ 180.1173 *Bacillus thuringiensis* CryIA(b) delta-endotoxin and the genetic material necessary for its production in all plants.**

*Bacillus thuringiensis* CryIA(b) delta-endotoxin and the genetic material necessary for its production in all plants are exempt from the requirement of a tolerance when used as plant pesticides in all plant raw agricultural

commodities. "Genetic material necessary for its production" means the genetic material which comprise genetic material encoding the CryIA(b) delta-endotoxin and its regulatory regions. "Regulatory regions" are the genetic material that control the expression of the genetic material encoding the CryIA(b) delta-endotoxin, such as promoters, terminators, and enhancers.

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

#### **Health Care Financing Administration**

#### **42 CFR Parts 406, 407, 408, and 416**

[BPD-752-FC]

RIN 0938-AH33

#### **Medicare Program: Special Enrollment Periods and Waiting Period**

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Final rules with comment period.

**SUMMARY:** These rules provide an additional way for certain disabled individuals under age 65 to qualify for special enrollment periods (SEPs); extend from 1991 through 1998 the period during which certain disabled individuals under age 65 who are covered under large group health plans (LGHPs) may qualify for SEPs; and make clear that a second 24-month waiting period is not required for disability-based reentitlement if the current impairment is the same as, or directly related to, the impairment on which the previous period of entitlement was based.

The changes made by these rules conform the HCFA regulations to certain provisions of the Omnibus Budget Reconciliation Acts of 1987, 1989, 1990, and 1993 (commonly referred to as OBRA '87, OBRA '89, OBRA '90, and OBRA '93, respectively), and the Social Security Act (SSA) Amendments of 1994 (Pub. L. 103-432).

In OBRA '93, Congress amended section 1862(b) of the Social Security Act (the Act), to extend through September 30, 1998 the Medicare Secondary Payer (MSP) provisions for disabled beneficiaries. Congress did not make a conforming amendment to section 1837(i) of the Act, which authorizes SEPs for disabled beneficiaries who stop working. However, the SSA Amendments of 1994 made the conforming change to section

1837(i), retroactive to the OBRA '93 effective date.

The purpose of the special enrollment period amendments is to ensure that a disabled individual under age 65 who meets the conditions for enrollment in Medicare Part B will be able to enroll as soon as his or her group health plan coverage based on current employment ends; and to extend until September 30, 1998 the protection afforded by the special enrollment periods to disabled individuals covered under LGHPs.

**DATES:** *Effective date:* These rules are effective on September 3, 1996.

*Comment date:* We will consider comments received by October 1, 1996.

**ADDRESSES:** Please mail original and 3 copies of your comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD-752-FC, P.O. Box 26688, Baltimore, Maryland 21207.

If you prefer, you may deliver original and 3 copies of your comments to either of the following addresses:

Room 309-G, 200 Independence Avenue, S.W., Washington, DC 20201,  
Room C5-09-26, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD-752-FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Avenue, SW., Washington, DC on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Phone: (202) 690-7890).

Although we cannot respond to individual comments, if we revise these rules as a result of comments, we will discuss all timely comments in the preamble to the revised rules.

**FOR FURTHER INFORMATION CONTACT:** Margaret Jefferson, (410) 786-4482.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

##### **A. Amendments to the Statute: Special Enrollment Periods and Waiting Period**

1. Section 4033 of OBRA '87 (Pub. L. 100-203) amended section 226(f) of the Act to provide that, effective as of March 1988, a second 24-month waiting period is not required for disability-based reentitlement if the current impairment is the same as, or directly related to, the impairment on which the

previous period of entitlement was based.

2. Section 6202(c) of OBRA '89 (Pub. L. 101-239) amended section 1837(i) of the Act to provide, effective July 1, 1990, an additional way for certain disabled individuals under age 65 to qualify for a SEP. Before enactment of this amendment, a disabled "active individual" could qualify for a SEP only if he or she was covered (directly or as part of the family of another covered individual) under a large group health plan (LGHP). (The statute defined "active individual" as "an employee (as may be defined in regulations), the employer, self-employed individual (such as the employer) an individual associated with the employer in a business relationship, or a member of the family of any such person"). An LGHP is a plan of an employer of 100 or more employees or of a group of employers at least one of which has 100 or more employees. Under the amendment, a disabled individual can also qualify for a SEP under the rules that previously applied only to an individual age 65 or over, that is, by having been covered under a group health plan (GHP) on the basis of his or her own employment or that of a spouse. This rule applies regardless of the number of employees an employer has. However, since the SEP qualification provisions for individuals age 65 or over refer specifically to the plan of the individual or the individual's spouse, this additional way of qualifying for a SEP is not available to a child or other family member who is disabled. Those individuals qualify for SEPs only if covered under an LGHP.

3. Section 4203(b) of OBRA '90 (Public Law 101-508) and section 13561(b) of OBRA '93 (Public Law 103-66) amended section 1862(b)(1)(B)(iii) of the Act to change, first from December 31, 1991 to September 30, 1995, and then to September 30, 1998, the termination date of the MSP provisions for the disabled. Moreover, sections 13561(e)(1)(E) and (e)(1)(F) of OBRA '93 amended section 1862(b)(1)(B)(i) of the Act to eliminate the "active individual" language. Before this amendment, "active individual" identified the beneficiaries to whom the MSP provisions applied. Because of this change to the "current employment" criterion, Medicare is secondary payer for a disabled beneficiary who is under age 65 and who is covered under an LGHP—

- Through August 9, 1993, as a disabled "active individual"; and
- From August 10, 1993 through September 1998, "by virtue of the

individual's current employment status with an employer".

Section 1862(b)(1)(B) of the Act establishes October 1, 1998 as the sunset date of the MSP provisions for disabled individuals. As noted above, section 1837(i) of the Act, which pertains to SEPs, was amended by the SSA Amendments of 1994 to conform to section 1862(b)(1)(B) of the Act. Since the availability of SEPs to disabled individuals depends upon the existence of section 1862(b)(1)(B) of the Act, we have interpreted that the October 1, 1998 sunset date in that section applies also to those SEP provisions. (The MSP provisions for the aged, set forth at section 1862(b)(1)(A) of the Act have no sunset date.)

4. Section 147(f) of the Social Security Amendments of 1994 (Pub. L. 103-432).

- Amended section 1837(i)(3) of the Act so that a SEP may begin earlier and last longer; and
- Amended section 1838(e) of the Act to provide options for the beginning of Medicare coverage that is based on enrollment during specified months of a SEP.

Under the section 1837 amendment—

- Instead of beginning on the first day of the first month during which the individual is no longer enrolled in a GHP or LGHP on the basis of current employment status, the SEP may include each month during any part of which the individual is so enrolled; and
- Instead of ending "seven months later", the SEP ends on the last day of the eighth consecutive month in which the individual is no longer so enrolled.

Under the section 1838 amendment, with respect to the beginning of coverage—

- For one who enrolls in Medicare in a month during any part of which he or she is enrolled in a GHP or LGHP on the basis of current employment status, or the first full month when not so enrolled, Medicare coverage begins on the first day of the month of enrollment or, at the option of the individual, on the first day of any of the following three months.
- For one who enrolls in any other month of the SEP, there is no change: Medicare coverage begins on the first day of the month following the month of enrollment.

#### *B. Conforming Changes in the Regulations: Special Enrollment Periods and Waiting Period*

1. To reflect the statutory changes discussed above, we have made the following changes:

- Added a new paragraph (b)(3) to § 406.12, to specify that a second 24-month waiting period is not required for

reentitlement to hospital insurance benefits if the previous period of entitlement ended on or after March 1, 1988 and the current impairment is the same as, or directly related to, the impairment on which the previous period of entitlement was based.

- Revised § 407.20(d) to set forth the new rule under which a disabled individual may qualify for a SEP if he or she had GHP coverage on the basis of the current employment of the individual or the individual's spouse, and to restate the rule for those who must qualify on the basis of LGHP coverage.

- Revised § 407.20(f) to specify the beginning date of a SEP for a disabled individual who had GHP coverage on the basis of current employment.

- Revised § 408.24(a)(8)(i) to change "January 1992" to "October 1998" and add a new paragraph (a)(9) to specify the months excluded in computing Medicare Part B premium increases (for late enrollment or reenrollment) for disabled individuals who had GHP coverage on the basis of current employment. The revisions to § 408.24(a)(8)(i) reflect the extension of the MSP provisions for the disabled. The new paragraph 408.24 (a)(9) is needed because the OBRA '89 amendment that extended the SEP provisions to disabled beneficiaries covered under a GHP (as distinguished from an LGHP) was effective July 1990.

#### *C. Technical and Clarifying Changes*

1. In § 406.6, we have amended paragraph (b) to clarify that an individual who is under age 65 and has been entitled, for more than 24 months, to monthly social security or railroad retirement benefits based on disability is also (in addition to those currently identified in the paragraph) automatically entitled to Medicare Part A without filing an application. This provision is part of section 226(b) of the Act and, through an oversight, this provision had not been reflected in our regulations.

2. Paragraph (e) of § 406.21, revised to reflect the statutory changes that affect SEPs, is redesignated as a new § 406.24.

3. In § 407.20(a), we have made the following changes:

- Removed the definitions and replaced them with reference to the definitions in Part 411 of the HCFA rules.

- Used the initials "GHP" and "LGHP" wherever appropriate.

- Explained, under paragraph (a)(1) why the "former employee" language of the § 411.101 definitions of GHP and LGHP does not apply with respect to SEPs.

4. In § 407.25, we have revised paragraph (c) to remove the current outdated content on beginning of entitlement and referenced new § 406.24. This new section incorporates the statutory changes that pertain to SEPs and apply to Medicare Part B as well as Medicare Part A.

5. In § 408.24(a), we have—

- Corrected the cross-reference to § 405.340, which has been redesignated as § 411.170.

- Used the initials “GHP” and “LGHP” wherever appropriate.

- Referenced the definitions in §§ 411.101, 411.104, and 411.201 of the HCFA regulations, which incorporate the Internal Revenue Code language.

- Removed references to Public Laws because reference to the implementing rules provides more precise guidance and is sufficient.

6. We have also taken advantage of this opportunity to make minor technical and editorial changes that we overlooked when § 416.35, which pertains to ambulatory surgical centers, was amended.

## II. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the Federal Register and invite public comment. The Notice describes the terms and substance of the proposed rules and references the legal authority under which they are proposed. However, this procedure may be waived if the agency finds that notice and public comment rulemaking is impracticable, unnecessary, or contrary to the public interest.

These rules conform HCFA regulations to statutory amendments that are already in effect. Publication of these conforming amendments will ensure better understanding of beneficiary rights, but will have no fiscal or program impact. The technical and clarifying amendments make no substantive changes in the rules. For these reasons, we find that notice and opportunity for comment are unnecessary and that there is good cause to waive notice of proposed rulemaking procedures.

However, as indicated above under DATES, we will consider timely comments from anyone who believes that the conforming changes go beyond what the statute requires or permits, or that any of the technical amendments affect the substance of the rules.

## III. Regulatory Impact Statement

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare a regulatory flexibility analysis for each rule unless

the Secretary certifies that it will not have a significant economic impact on a substantial number of small entities. States and individuals are not included in the definition of small entities.

In addition, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

These rules conform the HCFA regulations to certain provisions of OBRA '87, OBRA '89, OBRA '90, OBRA '93, and the Social Security Act Amendments of 1994. The statutory effective dates of these provisions have already passed and the changes are already in effect.

These amendments to the regulations will have no fiscal or program impact. We are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and the Secretary certifies, that these rules will not have a significant economic impact on a substantial number of small entities or a significant impact on the operation of a substantial number of small rural hospitals.

We have reviewed these rules and determined that, under the provisions of Public Law 104-121, they are not major rules.

In accordance with the provisions of Executive Order 12866, these final rules with comment period were not reviewed by the Office of Management and Budget.

## IV. Paperwork Reduction Act

These rules contain no information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

### List of Subjects

#### 42 CFR Part 406

Health Facilities, Kidney diseases, Medicare.

#### 42 CFR Part 407

Medicare.

#### 42 CFR Part 408

Medicare.

#### 42 CFR Part 416

Health facilities, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Chapter IV is amended as follows:

A. Part 406 is amended as set forth below:

### **PART 406—HOSPITAL INSURANCE ELIGIBILITY AND ENTITLEMENT**

1. The authority citation for Part 406 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh), unless otherwise noted.

2. Section 406.6 is amended to revise paragraph (b) to read as follows:

#### **§ 406.6 Application or enrollment for hospital insurance.**

\* \* \* \* \*

(b) *Individuals who need not file an application for hospital insurance.* An individual who meets any of the following conditions need not file an application for hospital insurance:

(1) Is under age 65 and has been entitled, for more than 24 months, to monthly social security or railroad retirement benefits based on disability.

(2) At the time of attainment of age 65, is entitled to monthly social security or railroad retirement benefits.

(3) Establishes entitlement to monthly social security or railroad retirement benefits at any time after attaining age 65.

3. Section 406.12(b) is amended to remove footnote “1”, revise the introductory text, remove the semicolon and the word “or” from the end of paragraph (b)(1) and insert a period in its place, and add a new paragraph (b)(3), to read as follows:

#### **§ 406.12 Individual under age 65 who is entitled to social security or railroad retirement disability benefits.**

\* \* \* \* \*

(b) *Previous periods of disability benefits entitlement.* Months of a previous period of entitlement or deemed entitlement to disability benefits count toward the 25-month requirement if any of the following conditions is met:

\* \* \* \* \*

(3) The previous period ended on or after March 1, 1988 and the current impairment is the same as, or directly related to, the impairment on which the previous period of entitlement was based.

\* \* \* \* \*

4. In § 406.21, paragraph (e) is removed and reserved.

5. A new § 406.24 is added, to read as follows:

**§ 406.24 Special enrollment period.<sup>1</sup>**

(a) *Terminology.* As used in this subpart, the following terms have the indicated meanings.

(1) *Current employment status* has the meaning given this term in § 411.104 of this chapter.

(2) *Family member* has the meaning given this term in § 411.201 of this chapter.

(3) *Group health plan (GHP)* and *large group health plan (LGHP)* have the meanings given those terms in § 411.101 of this chapter, except that the "former employee" language of those definitions does not apply with respect to SEPs because—

(i) Section 1837(i)(1)(A) of the Act explicitly requires that GHP coverage of an individual age 65 or older, be by reason of the individual's (or the individual's spouse's) current employment status; and

(ii) The sentence following section 1837(i)(1)(B), of the Act refers to "large group health plan". Under section 1862(b)(1)(B)(i), as amended by OBRA '93, LGHP coverage of a disabled individual must be "by virtue of the individual's or a family member's current employment status with an employer".

(4) *Special enrollment period (SEP)* is a period provided by statute to enable certain individuals to enroll in Medicare without having to wait for the general enrollment period.

(b) *Duration of SEP.*<sup>2</sup> (1) The SEP includes any month during any part of which—

(i) An individual over age 65 is enrolled in a GHP by reason of the current employment status of the individual or the individual's spouse; or

(ii) An individual under age 65 and disabled—

(A) Is enrolled in a GHP by reason of the current employment status of the individual or the individual's spouse; or  
(B) Is enrolled in an LGHP by reason of the current employment status of the individual or a member of the individual's family.

(2) The SEP ends on the last day of the eighth consecutive month during which the individual is at no time enrolled in a GHP or an LGHP by reason of current employment status.

(c) *Conditions for use of a SEP.*<sup>3</sup> In order to use a SEP, the individual must meet the following conditions:

(1) When first eligible to enroll for premium hospital insurance under § 406.20(b) or (c), the individual was—  
(i) Age 65 or over and covered under a GHP by reason of the current employment status of the individual or the individual's spouse;

(ii) Under age 65 and covered under an LGHP by reason of the current employment status of the individual or a member of the individual's family; or  
(iii) Under age 65 and covered under a GHP by reason of the current employment status of the individual or the individual's spouse.

(2) For all the months thereafter, the individual has maintained coverage either under hospital insurance or a GHP or LGHP.

(d) *Special rule: Additional SEPs.* (1) Generally, if an individual fails to enroll during any available SEP, he or she is not entitled to any additional SEPs.

(2) However, if an individual fails to enroll during a SEP, because coverage under the same or a different GHP or LGHP was restored before the end of that particular SEP, that failure to enroll does not preclude additional SEPs.

(e) *Effective date of coverage.* (1) If the individual enrolls in a month during any part of which he or she is covered under a GHP or LGHP on the basis of current employment status, or in the first full month when no longer so covered, coverage begins on the first day of the month of enrollment or, at the individual's option, on the first day of any of the three following months.

(2) If the individual enrolls in any month of the SEP other than the months specified in paragraph (e)(1) of this section, coverage begins on the first day of the month following the month of enrollment.

B. Part 407 is amended as set forth below.

## **PART 407—SUPPLEMENTARY MEDICAL INSURANCE (SMI) ENROLLMENT AND ENTITLEMENT**

1. The authority citation for part 407 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 407.20 is revised to read as follows:

### **§ 407.20 Special enrollment period related to coverage under group health plans.**

(a) *Terminology.*—(1) *Group health plan (GHP)* and *large group health plan*

LGHP coverage as an "active individual", which the statute defined as "an employee, employer, self-employed individual (such as the employer), individual associated with the employer in a business relationship, or as a member of the family of any of those persons".

(LGHP). These terms have the meanings given them in § 411.101 of this chapter except that the "former employee" language of those definitions does not apply with respect to SEPs for the reasons specified in § 406.24(a)(3) of this chapter.

(2) *Special enrollment period (SEP).* This term has the meaning set forth in § 406.24(a)(4) of this chapter. In order to use a SEP, an individual must meet the conditions of paragraph (b) and of paragraph (c) or (d) of this section, as appropriate.

(b) *General rule.* All individuals must meet the following conditions:

(1) They are eligible to enroll for SMI on the basis of age or disability, but not on the basis of end-stage renal disease.

(2) When first eligible for SMI coverage (4th month of their initial enrollment period), they were covered under a GHP or LGHP on the basis of current employment status or, if not so covered, they enrolled in SMI during their initial enrollment period; and

(3) For all months thereafter, they maintained coverage under either SMI or a GHP or LGHP. (Generally, if an individual fails to enroll in SMI during any available SEP, he or she is not entitled to any additional SEPs. However, if an individual fails to enroll during a SEP because coverage under the same or a different GHP or LGHP was restored before the end of that particular SEP, that failure to enroll does not preclude additional SEPs.)

(c) *Special rule: Individual age 65 or over.* For an individual who is or was covered under a GHP, coverage must be by reason of the current employment status of the individual or the individual's spouse.

(d) *Special rules: Disabled individual.*<sup>4</sup> Individuals entitled on the basis of disability (but not on the basis of end-stage renal disease) must meet conditions that vary depending on whether they were covered under a GHP or an LGHP.

(1) For a disabled individual who is or was covered under a GHP, coverage must be on the basis of the current employment status of the individual or the individual's spouse.

(2) For a disabled individual who is or was covered under an LGHP, coverage must be as follows:

(i) Before August 10, 1993, as an "active individual", that is, as an employee, employer, self-employed individual (such as the employer), individual associated with the employer

<sup>1</sup> Before August 1986, SEPs were available only for enrollment in supplementary medical insurance, not for enrollment in premium hospital insurance.

<sup>2</sup> Before March 1995, SEPs began on the first day of the first month the individual was no longer covered under a GHP or LGHP by reason of current employment status.

<sup>3</sup> Before August 10, 1993, an individual under age 65 could qualify for a SEP only if he or she had

<sup>4</sup> Under the current statute, the SEP provision applicable to disabled individuals covered under an LGHP expires on September 1998. Unless Congress changes that date, the last SEP available under those provisions will begin with June 1998.

in a business relationship, or as a member of the family of any of those persons.

(ii) On or after August 10, 1993, by reason of current employment status of the individual or a member of the individual's family.

(e) *Effective date of coverage.* The rule set forth in § 406.24(d) for Medicare Part A applies equally to Medicare Part B.

3. In § 407.25, paragraph (c) is revised to read as follows:

**§ 407.25 Beginning of entitlement: Individual enrollment.**

\* \* \* \* \*

(c) *Enrollment or reenrollment during a SEP.* The rules set forth in § 406.24(d) of this chapter apply.

C. Part 408 is amended as set forth below:

**PART 408—SUPPLEMENTARY MEDICAL INSURANCE PREMIUMS**

1. The authority citation for Part 408 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 408.24 is amended to republish the introductory text of paragraph (a), to revise paragraphs (a)(6), (a)(7), and (a)(8), to add a new paragraph (a)(9), and to revise paragraph (b)(2)(i), to read as follows:

**§ 408.24 Individuals who enrolled or reenrolled before April 1, 1981 or after September 30, 1981.**

(a) *Enrollment.* For an individual who first enrolled before April 1, 1981 or after September 30, 1981, the period includes the number of months elapsed between the close of the individual's initial enrollment period and the close of the enrollment period in which he or she first enrolled, and excludes the following:

\* \* \* \* \*

(6) For premiums due for months beginning with September 1984 and ending with May 1986, the following:

(i) Any months after December 1982 during which the individual was—

(A) Age 65 to 69;

(B) Entitled to hospital insurance (Medicare Part A); and

(C) Covered under a group health plan (GHP) by reason of current employment status.

(ii) Any months of SMI coverage for which the individual enrolled during a special enrollment period as provided in § 407.20 of this chapter.

(7) For premiums due for months beginning with June 1986, the following:

(i) Any months after December 1982 during which the individual was:

(A) Age 65 or over; and

(B) Covered under a GHP by reason of current employment status.

(ii) Any months of SMI coverage for which the individual enrolled during a special enrollment period as provided in § 407.20 of this chapter.

(8) For premiums due for months beginning with January 1987, the following:

(i) Any months after December 1986 and before October 1998 during which the individual was:

(A) A disabled Medicare beneficiary under age 65;

(B) Not eligible for Medicare on the basis of end stage renal disease, under § 406.13 of this chapter; and

(C) Covered under an LGHP as described in § 407.20 of this chapter.

(ii) Any months of SMI coverage for which the individual enrolled during a special enrollment period as provided in § 407.20 of this chapter.

(9) For premiums due for months beginning with July 1990, the following:

(i) Any months after December 1986 during which the individual met the conditions of paragraphs (a)(8)(i)(A) and (a)(8)(i)(B) of this section, and was covered under a GHP by reason of the current employment status of the individual or the individual's spouse.

(ii) Any months of SMI coverage for which the individual enrolled during a special enrollment period as provided in § 407.20 of this chapter.

(b) \* \* \*

(2) \* \* \*

(i) The periods specified in paragraphs (a)(1) through (a)(9) of this section; and

\* \* \* \* \*

D. Part 416 is amended as set forth below.

**PART 416—AMBULATORY SURGICAL SERVICES**

1. The authority citation for part 416 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

**§ 416.35 [Amended]**

2. In § 416.35, the following changes are made:

a. In paragraph (b)(1)(i), “§ 416.39” is revised to read “§ 416.26”.

b. In the introductory text of paragraph (d), “shall be given” is revised to read “is given”.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance and No. 93.774, Medicare—Supplementary Medical Insurance)

Dated: July 26, 1996.

Bruce C. Vladeck,

*Administrator, Health Care Financing Administration.*

[FR Doc. 96-19558 Filed 8-1-96; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Office of the Secretary**

**43 CFR Part 4**

**Department Hearings and Appeals Procedures**

**AGENCY:** Office of Hearings and Appeals, Office of the Secretary, Interior.

**ACTION:** Final rule.

**SUMMARY:** This document updates addresses for the Office of the Solicitor. **EFFECTIVE DATE:** August 2, 1996.

**FOR FURTHER INFORMATION CONTACT:** Will A. Irwin, Administrative Judge, Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Blvd., Arlington, VA 22203. Telephone: 703-235-3750.

**SUPPLEMENTARY INFORMATION:** Because this action reflects agency management in announcing a change of address, the Department has determined that the provisions of the Administrative Procedure Act, 5 U.S.C. 553 (b) and (d), allowing for public notice and comment and a 30-day delay in the effective date of a rule, are unnecessary and impracticable.

**List of Subjects in 43 CFR Part 4**

Administrative practice and procedure, Mines, Public lands, Surface mining.

Therefore, part 4 of title 43 of the Code of Federal Regulations, is amended as follows:

**PART 4—[AMENDED]**

**Subpart E—Special Procedures Applicable to Public Land Hearings and Appeals**

1. The authority citation for subpart E of part 4 continues to read as follows:

Authority: Sections 4.470 to 4.478 also issued under authority of sec. 2, 48 Stat. 1270; 43 U.S.C. 315a.

2. Section 4.413 is amended by revising the address in paragraph (c)(2)(iv) to read as follows:

**§ 4.413 Service of notice of appeal and of other documents.**

\* \* \* \* \*

(c) \* \* \*