

Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 3790.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 29, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 31st day of March 2000.

For the Nuclear Regulatory Commission.

**William O. Long,**

*Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 00–8434 Filed 4–5–00; 8:45 am]

**BILLING CODE 7590–01–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Proposed Collection; Comment Request for Review of a New Information Collection; OPM Form 1644

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a new information collection. OPM Form 1644, Child Care Provider Information: Care Tuition Assistance Program for Federal Employees, is used to verify that child care providers are licensed and/or regulated by local and/or State authorities. Agencies need to know that child care providers to whom they make disbursements in the form of tuition assistance subsidies, are licensed and/or regulated by local and/or State authorities.

Pub. L. 106–58, passed by Congress on September 29, 1999, permits Federal

agencies to use appropriated funds to help their lower income employees with their costs for child care. It is up to the agencies to decide on whether to implement this law. This is a new law and the extent to which it will be implemented, including the number of providers that will be involved, cannot be easily predicted. The form will take approximately 10 minutes to complete by each provider. The annual estimated burden is 83.5 hours.

Comments are particularly invited on:

- Whether the form adequately captures the information needed to verify child care provider State and/or local licensure and regulation.
- Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and
- Ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey on 202–606–8358, or e-mail to [mbtoomey@opm.gov](mailto:mbtoomey@opm.gov).

**DATES:** Comments on this proposal should be received on or before April 16, 2000.

**ADDRESSES:** Send or deliver comments to:

Anice V. Nelson, Director, Family-Friendly Workplace Advocacy Office, U.S. Office of Personnel Management, 1900 E St. NW, Washington, DC 20415.

And

Joseph Lackey, Agency Desk Officer, Office of Management and Budget, 725 17th St. NW Room 10235, Washington, DC 20503.

#### FOR INFORMATION REGARDING

**ADMINISTRATION COORDINATION CONTACT:**  
**PAT KINNEY, WORK/LIFE TEAM LEADER,**  
**FAMILY-FRIENDLY WORKPLACE ADVOCACY OFFICE, (202) 606–1313.**

U.S. Office of Personnel Management.

**Janice R. Lachance,**  
*Director.*

[FR Doc. 00–8399 Filed 4–5–00; 8:45 am]

**BILLING CODE 6325–01–P**

## SOCIAL SECURITY ADMINISTRATION

### Rescission of Social Security Acquiescence Ruling 88–1(11)

**AGENCY:** Social Security Administration.

**ACTION:** Notice of rescission of Social Security Acquiescence Ruling 88–

1(11)—*Patterson v. Bowen*, 799 F.2d 1455 (11th Cir. 1986), reh'g denied, (February 12, 1987).

**SUMMARY:** In accordance with 20 CFR 402.35(b)(2), 404.985(e) and 416.1485(e) the Commissioner of Social Security gives notice of the rescission of Social Security Acquiescence Ruling 88–1(11).

**EFFECTIVE DATE:** The rescission of the Acquiescence Ruling will be effective May 8, 2000.

**FOR FURTHER INFORMATION CONTACT:** Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1695.

**SUPPLEMENTARY INFORMATION:** A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of the case or is unsuccessful on further review.

As provided by 20 CFR 404.985(e)(4) and 416.1485(e)(4), a Social Security Acquiescence Ruling may be rescinded as obsolete if we subsequently clarify, modify or revoke the regulation or ruling that was the subject of the circuit court holding for which the Acquiescence Ruling was issued.

On January 29, 1988, we issued Acquiescence Ruling 88–1(11) to reflect the holding in *Patterson v. Bowen*, 799 F.2d 1455 (11th Cir. 1986), reh'g denied, (February 12, 1987), regarding the consideration of a claimant's age as a vocational factor at the last step of the sequential evaluation process for determining disability. Acquiescence Ruling 88–1(11), Social Security Rulings (Cumulative Edition 1988, p. 123). The Eleventh Circuit interpreted 20 CFR 404.1563 and 416.963 to permit a claimant to offer evidence of his or her physical or mental impairments as proof that his or her ability to adapt to other work in terms of age alone is less than the level established under the medical-vocational guidelines for claimants of that age. The court held that such evidence, which the Social Security Administration (SSA) <sup>1</sup> already considers in assessing a claimant's residual functional capacity, is relevant

<sup>1</sup> Under the Social Security Independence and Program Improvements Act of 1994, Pub. L. No. 103–296, effective March 31, 1995, SSA became an independent Agency in the Executive Branch of the United States Government and was provided ultimate responsibility for administering the Social Security and Supplemental Security Income programs under titles II and XVI of the Act. Prior to March 31, 1995, the Secretary of Health and Human Services had such responsibility.

to the question of a claimant's ability to adapt to a new work environment, and that SSA must reevaluate such evidence when considering the effect of age on a claimant's ability to adapt to a new work environment.

We indicated in the Acquiescence Ruling that we intended to clarify the regulations at issue in this case through the rulemaking process and that the Ruling would continue to apply until such clarification was made. On August 4, 1999, we published proposed rules with a notice of proposed rulemaking in the **Federal Register** (64 FR 42310) to clarify our regulations on the consideration of age as a vocational factor. We are now publishing final rules in this issue of the **Federal Register**.

We are publishing this notice of rescission of Acquiescence Ruling 88-1(11) concurrently with our publication of final rules which revise 20 CFR 404.1563 and 416.963. The final rules remove the provision contained in existing sections 404.1563(a) and 416.963(a) that states, in part, that "Age refers to how old you are \* \* \* and the extent to which your age affects your ability to adapt to a new work situation and to do work in competition with others." The final rules revise sections 404.1563(a) and 416.963(a) to state explicitly that "age" means a claimant's "chronological age." In addition, sections 404.1563(a) and 416.963(a) of the final rules explain that when we determine whether an individual is disabled at the last step of the sequential evaluation, we consider the individual's chronological age in combination with his or her residual functional capacity, education, and work experience to determine whether the individual is able to adjust to other work. The final rules will go into effect May 8, 2000.

Because the final rules clarify the regulations at issue in Patterson and explain that "age" means a claimant's "chronological age," we are rescinding Acquiescence Ruling 88-1(11) effective May 8, 2000, the date the final rules go into effect. By revising our regulations and rescinding the Acquiescence Ruling, we are restoring uniformity to our nationwide system of rules in accordance with our commitment to the goal of administering our programs through uniform national standards as discussed in the preamble to the 1998 acquiescence regulations, 63 FR 24927 (May 6, 1998).

(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; 96.005 Special Benefits for Disabled

Coal Miners; 96.006 Supplemental Security Income.)

Dated: March 17, 2000.

**Kenneth S. Apfel,**

*Commissioner of Social Security.*

[FR Doc. 00-8358 Filed 4-5-00; 8:45 am]

BILLING CODE 4191-02-U

## SOCIAL SECURITY ADMINISTRATION

### Rescission of Social Security Acquiescence Rulings 95-1(6), 99-2(8) and 99-3(5)

**AGENCY:** Social Security Administration.

**ACTION:** Notice of rescission of Social Security Acquiescence Rulings 95-1(6)—*Preslar v. Secretary of Health and Human Services*, 14 F.3d 1107 (6th Cir. 1994); 99-2(8)—*Kerns v. Apfel*, 160 F.3d 464 (8th Cir. 1998); 99-3(5)—*McQueen v. Apfel*, 168 F.3d 152 (5th Cir. 1999).

**SUMMARY:** In accordance with 20 CFR 402.35(b)(2), 404.985(e) and 416.1485(e) the Commissioner of Social Security gives notice of the rescission of Social Security Acquiescence Rulings 95-1(6), 99-2(8) and 99-3(5).

**EFFECTIVE DATE:** The rescission of these Acquiescence Rulings will be effective May 8, 2000.

**FOR FURTHER INFORMATION CONTACT:** Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1695.

**SUPPLEMENTARY INFORMATION:** A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of the case or is unsuccessful on further review.

As provided by 20 CFR 404.985(e)(4) and 416.1485(e)(4), a Social Security Acquiescence Ruling may be rescinded as obsolete if we subsequently clarify, modify or revoke the regulation or ruling that was the subject of the circuit court holding for which the Acquiescence Ruling was issued.

On May 4, 1995, we issued Acquiescence Ruling 95-1(6) (60 FR 22091) to reflect the holding in *Preslar v. Secretary of Health and Human Services*, 14 F.3d 1107 (6th Cir. 1994). On March 11, 1999, we issued Acquiescence Ruling 99-2(8) (64 FR 12205) to reflect the holding in *Kerns v. Apfel*, 160 F.3d 464 (8th Cir. 1998). On May 27, 1999, we issued Acquiescence Ruling 99-3(5) (64 FR 28853) to reflect the holding in *McQueen v. Apfel*, 168

F.3d 152 (5th Cir. 1999). These circuit court holdings interpreted 20 CFR 404.1563(d) to require the Social Security Administration (SSA) <sup>1</sup> to make an additional finding regarding the marketability of a claimant's skills in order to determine whether the skills of a claimant close to retirement age (age 60-64) are transferable to sedentary or light work. These courts held that in the absence of a finding by SSA that the skills of such an individual are "highly marketable," SSA may not conclude that the claimant possesses transferable skills and is not disabled.

We indicated in each of the Acquiescence Rulings that we intended to clarify the regulations at issue in the court decisions, 20 CFR 404.1563 and 416.963, through the rulemaking process, and that we may rescind the Acquiescence Rulings once we revise the regulations. On August 4, 1999, we published proposed rules with a notice of proposed rulemaking in the **Federal Register** (64 FR 42310) to clarify the regulations that were the subject of the circuit court holdings. We are now publishing final rules in this issue of the **Federal Register**.

We are publishing this notice of rescission of the Acquiescence Rulings concurrently with our publication of final rules which revise 20 CFR 404.1563 and 416.963. The final rules remove the reference to "highly marketable" skills contained in existing sections 404.1563(d) and 416.963(d). The final rules also add new sections 404.1568(d)(4) and 416.968(d)(4) to clarify our original intent to apply the standard in sections 201.00(f) and 202.00(f) of the medical-vocational guidelines (20 CFR part 404, subpart P, appendix 2) to determine whether an individual who is age 60-64 and limited to sedentary or light work possesses transferable skills and, therefore, is able to make an adjustment to other work. The final rules will go into effect May 8, 2000.

Because the final rules eliminate the regulatory provision upon which the holdings in *Preslar*, *Kerns* and *McQueen* are based and clarify how we evaluate the transferability of skills for older workers, including those close to retirement age (age 60-64), we are rescinding Acquiescence Rulings 95-1(6), 99-2(8) and 99-3(5). We are

<sup>1</sup> Under the Social Security Independence and Program Improvements Act of 1994, Pub. L. No. 103-296, effective March 31, 1995, SSA became an independent Agency in the Executive Branch of the United States Government and was provided ultimate responsibility for administering the Social Security and Supplemental Security Income programs under titles II and XVI of the Act. Prior to March 31, 1995, the Secretary of Health and Human Services had such responsibility.