

faced with the prospect of making regulatory decisions in a dynamic market based on a less than robust, outdated rulemaking record.²

The Commission, therefore, has determined that it would be in the public interest not to amend the Rule at this time. Instead, the Commission will place the Rule on its regulatory review schedule for 2008 as part of the Commission's ongoing systematic review of Federal Trade Commission rules and guides. At that time, the Commission will solicit comments to garner a more robust, contemporary record from which to determine what, if any, amendments are appropriate to address associated channels in a multi-channel system as well as to gauge the economic impact of, and the continuing need for, the Rule as a whole.

Until the Commission provides further guidance regarding which channels need be associated for purposes of rating multichannel amplifiers, the Commission will not enforce the association requirement of Section 432.2 of the Rule as it relates to the continuous power output per channel ratings for multichannel amplifiers. The Commission, however, will continue to enforce the other provisions of the Rule with regard to multichannel amplifiers.

II. Conclusion

For the reasons described above, the Commission has determined not to amend the Rule at this time.

List of Subjects in 16 CFR Part 432

Amplifiers, Home entertainment products, Trade practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,
Secretary.

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SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA 2006–0109]

RIN 0960–AG41

Consultative Examination—Annual Onsite Review of Medical Providers

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to revise the threshold billing amount that triggers annual onsite reviews of medical providers who conduct consultative examinations (CEs) for our disability programs under titles II and XVI of the Social Security Act (the Act). The proposed revision would raise the threshold amount to reflect the increase in billing amounts since we first established the threshold amount in 1991. This proposed revision is intended to restore the level of oversight originally required by our rules.

DATES: To be sure that your comments are considered, we must receive them by May 21, 2007.

ADDRESSES: You may give us your comments by: Internet through the Federal eRulemaking Portal at <http://www.regulations.gov>; e-mail to regulations@ssa.gov; telefax to (410) 966–2830; or letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235–7703. You may also deliver them to the Office of Regulations, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on the Federal eRulemaking Portal, or you may inspect them on regular business days by making arrangements with the contact person shown in this preamble.

FOR FURTHER INFORMATION CONTACT: Charles M. Urban, Social Insurance Specialist, Social Security Administration, Office of Disability Programs, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–9029 or TTY 410–966–5609. 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>.

Why are we proposing to change our rules?

Since 1991, we have provided in §§ 404.1519s(d) and 416.919s(d) of our regulations that each State agency that makes disability determinations for us is responsible for comprehensive oversight management of its consultative examination program with special

emphasis on key providers. A consultative examination is a medical examination or test that we purchase at our expense when we need additional information to make a disability determination and we cannot obtain that information from existing medical sources. See §§ 404.1517, 404.1519, 416.917, and 416.919 of our regulations.

In §§ 404.1519s(e) and 416.919s(e) of our regulations, we explain that a “key consultative examination provider” is a provider that meets at least one of the following conditions:

(1) Any consultative examination provider with an estimated annual billing to the Social Security disability programs of at least \$100,000; or

(2) Any consultative examination provider with a practice directed primarily towards evaluation examinations rather than the treatment of patients; or

(3) Any consultative examination provider that does not meet the above criteria, but is one of the top five consultative examination providers in the State by dollar volume, as evidenced by prior year data.

We are proposing to change the threshold billing amount that triggers onsite review of medical providers in §§ 404.1519s(e)(1) and 416.919s(e)(1) in order to ensure that we annually review the largest providers of CEs. We have not changed the current threshold amount of \$100,000 in billings since we first published this provision in 1991. However, costs have risen in the more than 15 years since we first published this rule so that now many CE providers who perform relatively few CEs are subject to mandatory onsite reviews. This is contrary to the intent of the provision, which is to ensure that each State agency do periodic onsite reviews of the largest CE providers in its State. We believe that raising the amount to \$150,000 will continue to satisfy the intent to monitor our largest CE providers. We chose this amount by multiplying the \$100,000 threshold established in 1991 by the increase in the consumer price index for urban wage earners and clerical workers from 1991 (134.3) to November 2006 (196.8) and then, for administrative convenience, rounding the resulting amount (\$146,537.60) to \$150,000.

What rules are we proposing to revise?

We propose to revise §§ 404.1519s(e)(1) and 416.919s(e)(1). The revisions would specify a new threshold billing amount that will trigger the need for annual onsite review of CE providers.

² The dynamic nature of this marketplace is evidenced by the rapid disappearance of two multichannel formats cited in the SNPR, videotapes and laser discs, as well as by the increasing popularity of self-powered speakers containing amplifiers that do not share a common power supply.

What programs would these proposed regulations affect?

These proposed rules would affect disability determinations and decisions that we make under titles II and XVI of the Act.

What is our authority to make rules and set procedures for determining whether a person is disabled under the statutory definition?

Section 205(a) of the Act and, by reference to section 205(a), section 1631(d)(1) provide that:

The Commissioner of Social Security shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

What is our authority to require States to conduct onsite reviews of CE providers?

Section 221(a)(2) of the Act provides that the "Commissioner of Social Security shall promulgate regulations specifying, in such detail as the Commissioner deems appropriate, performance standards and administrative requirements and procedures to be followed" by State agencies that make disability determinations for us. In addition, with regard to the CE process, section 221(j)(3) of the Act provides that the "Commissioner of Social Security shall prescribe regulations which set forth, in detail * * * procedures by which the Commissioner of Social Security will monitor both the [CE] referral processes used and the product of professionals to whom cases are referred." These authorities are made applicable to title XVI as well by reference in section 1633(a) of the Act.

When will we start to use these rules?

We will not use these rules until we evaluate the public comments we receive on them, determine whether they should be issued as final rules, and issue final rules in the **Federal Register**. If we publish final rules, we will explain in the preamble how we will apply them and summarize and respond to the public comments. Until the effective date of any final rules, we will continue to use our current rules.

Clarity of These Proposed Rules

Executive Order 12866, as amended by Executive Order 13258, requires each

agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make them easier to understand.

For example:

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

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the requirements for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were subject to OMB review.

Regulatory Flexibility Act

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

Paperwork Reduction Act

These proposed regulations will impose no additional reporting or recordkeeping requirements requiring OMB clearance.

Federalism and the Unfunded Mandates Reform Act

We have reviewed the proposed rules under the threshold criteria of Executive Order 13132 (Federalism) and the Unfunded Mandates Reform Act of 1995. These proposed rules would change the threshold billing amount above which the State agencies that make determinations of disability for the Commissioner under titles II and XVI of the Act perform an annual onsite review of CE providers. Although the State agencies perform these reviews, they do so as part of a voluntary agreement with us, and the Social Security Administration fully funds the necessary costs of providing this

service. We have determined that these proposed rules would not have substantial direct effects on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

(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; 96.006, Supplemental Security Income.)

List of Subjects

20 CFR Part 404

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

20 CFR Part 416

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

Dated: January 8, 2007.

Jo Anne B. Barnhart,

Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend subpart P of part 404 and subpart I of part 416 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

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

Subpart P—[Amended]

1. The authority citation for subpart P of part 404 is revised to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)—(h), 216(i), 221(a), (i) and (j), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)—(h), 416(i), 421(a), (i) and (j), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

2. Revise paragraph (e)(1) of § 404.1519s to read as follows:

§ 404.1519s Authorizing and monitoring the consultative examination.

* * * * *

(e) * * *

(1) Any consultative examination provider with an estimated annual billing to the disability programs we administer of at least \$150,000; or

* * * * *

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

Subpart I—[Amended]

3. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 221(m), 702(a)(5), 1611, 1614, 1619, 1631(a), (c), (d)(1), and (p), and 1633 of the Social Security Act (42 U.S.C. 421(m), 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), (d)(1), and (p), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a), and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

4. Revise paragraph (e)(1) of § 416.919s to read as follows:

§ 416.919s Authorizing and monitoring the consultative examination.

* * * * *

(e) * * *

(1) Any consultative examination provider with an estimated annual billing to the disability programs we administer of at least \$150,000; or

* * * * *

[FR Doc. E7–4958 Filed 3–19–07; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–113365–04]

RIN 1545–BD19

Escrow Accounts, Trusts, and Other Funds Used During Deferred Exchanges of Like-Kind Property

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Proposed Rulemaking; Revised Initial Regulatory Flexibility Analysis.

SUMMARY: This document contains a revised initial regulatory flexibility analysis relating to proposed regulations under section 468B of the Internal Revenue Code on the taxation and reporting of income earned on escrow accounts, trusts, and other funds used during deferred exchanges of like-kind property, and proposed regulations under section 7872 regarding below-market loans to facilitators of these exchanges. The proposed regulations affect taxpayers that engage in deferred like-kind exchanges and escrow holders, trustees, qualified intermediaries, and others that hold funds during deferred like-kind exchanges.

DATES: Written or electronic comments must be received by May 4, 2007.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–113365–04), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–113365–04), courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS–REG–113365–04).

FOR FURTHER INFORMATION CONTACT: Concerning the revised initial regulatory flexibility analysis and the proposed regulations under section 468B, Jeffrey Rodrick, (202) 622–4930; concerning the proposed regulations under section 7872, David Silber, (202) 622–3930; concerning submission of comments, Kelly Banks, (202) 622–3628 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: On February 7, 2006, a partial withdrawal of notice of proposed rulemaking, notice of proposed rulemaking, and notice of public hearing was published in the **Federal Register** (71 FR 6231). The initial regulatory flexibility analysis included in that notice of proposed rulemaking concluded that the number of transactions involving small businesses that will be affected and the full extent of the economic impact on small businesses could not be precisely determined and requested additional comments. This notice revises the initial regulatory flexibility analysis included in that notice of proposed rulemaking in response to comments provided in writing and at a public hearing. These comments asserted that the analysis did not adequately define the industry, determine the number of small businesses affected, describe the economic impact of the proposed regulations on small businesses, or discuss alternatives to the proposed rules that were considered and the bases for conclusions reached. The IRS and the Department of the Treasury have worked closely with the Small Business Administration's (SBA) Office of Advocacy (Advocacy) to obtain additional information from the affected industry to identify and quantify the small businesses affected and to determine the likely economic impact of the proposed regulations on small businesses. In a letter dated August 3, 2006, the president of the leading industry association for qualified intermediaries (QI), wrote that the association “believes we have or can develop information that would be

helpful in this [impact-study] effort,” and volunteered to provide this information to the IRS. The industry association surveyed its members based on questions developed by the IRS and the Department of the Treasury, and submitted a summary of the survey responses for consideration. The association, which according to its Web site has over 300 member companies (not all of which are QIs), received approximately 130 responses. Seventy-one respondents indicated they engage in the QI business exclusively, which represents 22 percent of the estimated number of 325 full-time QIs in the industry (as discussed in this notice, not all of which are small businesses). The summary of the survey responses submitted did not address a substantial number of the issues important to evaluating the effect of the proposed regulations on small business. The summary of the survey responses is available at <http://www.irs.gov/regs>. This notice seeks additional comments and reiterates questions that will assist in assessing the economic impact of the proposed regulations on small businesses in the QI industry and in considering reasonable alternatives. The survey information provided is discussed in this revised initial regulatory flexibility analysis and will be considered further in the development of final regulations.

Revised Initial Regulatory Flexibility Analysis

Reasons for Action and Succinct Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The proposed regulations are issued under the authority of section 7805, section 468B(g) (which provides that nothing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax and that the Secretary shall prescribe regulations providing for the taxation of such accounts or funds whether as a grantor trust or otherwise), and section 7872.

Section 1.468B–6 of the Income Tax Regulations was included in proposed regulations issued in 1999 under section 468B(g) (the 1999 proposed regulations), and provided rules for the current taxation of income of a qualified escrow account or qualified trust used in a section 1031 deferred exchange of like-kind property. The 1999 proposed regulations included a facts and circumstances test to determine whether the taxpayer (the transferor or exchanger of the property), the QI, or a transferee is the owner of the assets in a qualified