

Cutoff Time, if the institution should fail on that day, the FDIC would recognize that sweep transaction as completed for claims and receivership purposes.);

(iii) For repurchase agreement sweep accounts, where, as a result of the sweep transaction, the customer becomes either the legal owner of identified assets subject to repurchase or obtains a perfected security interest in those assets, the FDIC will recognize, for receivership purposes, the customer's ownership interest or security interest in the assets.

(4) For deposit insurance and receivership purposes in connection with the failure of an insured depository institution, the FDIC will determine the rights of the depositor or other liability holder as of the point the *Close-of-Business Account Balance* is calculated.

(e) *Disclosure requirements.* Beginning July 1, 2009, in all new sweep account contracts, in renewals of existing sweep account contracts and within sixty days after July 1, 2009, and no less than annually thereafter, institutions must prominently disclose in writing to sweep account customers whether their swept funds are deposits within the meaning of 12 U.S.C. 1813(l). If the funds are not deposits, the institution must further disclose the status such funds would have if the institution failed—for example, general creditor status or secured creditor status. Such disclosures must be consistent with how the institution reports such funds on its quarterly Consolidated Reports of Condition and Income or Thrift Financial Reports. The disclosure requirements imposed under this provision do not apply to sweep accounts where: The transfers are within a single account, or a sub-account; or the sweep account involves only deposit-to-deposit sweeps, such as zero-balance accounts, unless the sweep results in a change in the customer's insurance coverage.

By order of the Board of Directors.

Dated at Washington, DC, this 27th day of January, 2009.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. E9-2113 Filed 1-30-09; 8:45 am]

**BILLING CODE 6714-01-P**

## **SOCIAL SECURITY ADMINISTRATION**

### **20 CFR Part 404**

[Docket No. SSA-2008-0070]

**RIN 0960-AG93**

### **Expiration Date Extension for Musculoskeletal Body System Listings**

**AGENCY:** Social Security Administration.

**ACTION:** Final rule.

**SUMMARY:** This final rule extends for 2 years the date on which the Musculoskeletal System Listing of Impairments will no longer be effective. We use the body system listings at the third step of the sequential evaluation process when we evaluate your claim for benefits based on disability under title II and title XVI of the Social Security Act. Other than extending the effective date of the listings, we have not revised the musculoskeletal listings. This extension will ensure that we continue to have the medical evaluation criteria in the listings to adjudicate disability claims involving disorders of the musculoskeletal body system at the third step of the sequential evaluation process.

**DATES:** This final rule is effective on February 2, 2009.

**FOR FURTHER INFORMATION CONTACT:** Cheryl A. Williams, Acting Director, Office of Medical Listings Improvements, 6401 Security Boulevard, Baltimore, MD 21235-6401. Call (410) 966-4163 for further information about this final rule. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

#### **SUPPLEMENTARY INFORMATION:**

##### **Electronic Version**

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>.

##### **Background**

We use the Listing of Impairments (the listings) at the third step of the sequential evaluation process to evaluate claims filed by adults and children for benefits based on disability under the title II and title XVI programs. We divide the listings into two parts: Part A for adults and part B for children. If you are age 18 or over, we apply the listings in part A when we assess your claim. If you are under age 18, we first use the criteria in part B of the listings.

If the criteria in part B do not apply, we may use the criteria in part A when those criteria give appropriate consideration to the effects of the impairment(s) in children. (See §§ 404.1525 and 416.925.)

##### **Explanation of Changes**

In this final rule, we are extending until February 18, 2011, the date on which the Musculoskeletal System (1.00 and 101.00) listings will no longer be effective. We periodically review and update the listings in light of medical advances in disability evaluation and treatment and our program experience. We last updated the medical criteria for the Musculoskeletal System listings on November 19, 2001. 66 FR 58010. While we intend to publish proposed and final rules to update the Musculoskeletal System listings as quickly as possible, we cannot publish final rules revising these listings by February 19, 2009, the current expiration date.

##### **Regulatory Procedures**

###### *Justification for Final Rule*

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when developing regulations. 42 U.S.C. 902(a)(5). The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures for this rule. Good cause exists because this final rule only extends the date on which the musculoskeletal body system listings will no longer be effective. It makes no substantive changes to the listings. The current regulations expressly provide that we may extend, revise, or re-promulgate the listings. Therefore, we have determined that opportunity for prior comment is unnecessary, and we are issuing this regulation as a final rule.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule provided by 5 U.S.C. 553(d)(3). As explained above, we are not making any substantive changes in the body system listings. Without an extension of the expiration dates for these listings, we will lack the medical evaluation criteria needed for assessing impairments in this body system at the third step of the sequential evaluation process. In order to ensure that we continue to have these listings in our rules, we find that it is

in the public interest to make this final rule effective on the date of publication.

#### *Executive Order 12866*

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as amended. Thus, OMB did not review it. We have also determined that this final rule meets the plain language requirement of Executive Order 12866, as amended.

#### *Regulatory Flexibility Act*

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

#### *Paperwork Reduction Act*

This final rule imposes no reporting/recordkeeping requirements necessitating clearance by OMB.

(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 in 20 CFR Part 404**

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

Dated: January 22, 2009.

**Michael J. Astrue,**

*Commissioner of Social Security.*

■ For the reasons set forth in the preamble, we amend part 404, subpart P, 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 continues to read as follows:

**Authority:** Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 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) and (i), 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. Amend appendix 1 to subpart P of part 404 by revising item 2 of the

introductory text before part A to read as follows:

#### **Appendix 1 to Subpart P of Part 404—Listing of Impairments**

\* \* \* \* \*

2. Musculoskeletal System (1.00 and 101.00): February 18, 2011.

\* \* \* \* \*

[FR Doc. E9–2109 Filed 1–30–09; 8:45 am]

**BILLING CODE 4191–02–P**

### **AGENCY FOR INTERNATIONAL DEVELOPMENT**

#### **22 CFR Part 215**

**RIN 0412–AA61**

#### **Privacy Act of 1974, Implementation of Exemptions**

**AGENCY:** United States Agency for International Development.

**ACTION:** Final rule; delay of effective date and addition of comment period.

**SUMMARY:** This document delays the effective date by 60 days and provides a 30-day public comment period to run concurrently for the final rule exempting portions of the Partner Vetting System from one or more provisions of the Privacy Act, as published in the **Federal Register** on January 2, 2009.

**DATES:** The effective date for the final rule published on January 2, 2009 (74 FR 9), is delayed until April 3, 2009. Written comments must be received on or before March 4, 2009.

**ADDRESSES:** Written comments may be submitted electronically through the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the instructions on the website for submitting comments.

Written comments may also be submitted by mail to Rhonda Turnbow, Deputy Chief Privacy Officer, United States Agency for International Development, 1300 Pennsylvania Avenue, NW., Office 2.12–003, Washington, DC 20523–2120.

**FOR FURTHER INFORMATION CONTACT:** For general questions, please contact Jeff Denale, Chief, Counterterrorism and Information Security Division, Office of Security, United States Agency for International Development, Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Washington, DC 20523.

**SUPPLEMENTARY INFORMATION:** The United States Agency for International Development published a Final Rule in the **Federal Register** on January 2, 2009 (74 FR 9), FR Doc. E8–31131. Pursuant to a January 20, 2009 White House

Memorandum on regulatory review, agencies are requested to consider extending for 60 days the effective date of regulations that have been published in the **Federal Register** but not yet taken effect, for the purpose of reviewing questions of law and policy raised by those regulations. Where such an extension is made, agencies are requested to immediately reopen the notice-and-comment period for 30 days to allow interested parties to provide comments about issues of law and policy raised by those regulations. As a result, USAID has delayed the effective date of the final rule from February 2, 2009 to April 3, 2009. USAID has also opened a 30-day public comment period.

Dated: January 28, 2009.

**Randy T. Streufert,**

*Director, Office of Security.*

[FR Doc. E9–2220 Filed 1–30–09; 8:45 am]

**BILLING CODE 6116–02–P**

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

#### **Centers for Medicare & Medicaid Services**

#### **42 CFR Part 440**

**[CMS–2232–IFC]**

**RIN 0938–A048**

#### **Medicaid Program; State Flexibility for Medicaid Benefit Packages: Delay of Effective Date**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Interim final rule with comment period; delay of effective date and reopening of the comment period.

**SUMMARY:** In accordance with the memorandum of January 20, 2009, from the Assistant to the President and Chief of Staff, entitled “Regulatory Review Plan,” this action temporarily delays for 60 days the effective date of the final rule entitled, Medicaid Program; State Flexibility for Medicaid Benefit Packages” published in the December 3, 2008 **Federal Register** (73 FR 73694). The temporary 60-day delay in effective date is necessary to give Department officials the opportunity for further review of the issues of law and policy raised by this rule. In addition, this action reopens the comment period on the policies set out in the December 3, 2008 final rule to allow interested parties to provide comments about issues of law and policy raised by the rule.