



SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

[Docket No. SSA-2009-0027]

RIN 0960-AH02

Electronic Substitutions for SSA-538

AGENCY: Social Security Administration.

ACTION: Final Rules.

SUMMARY: This final rule adopts, without change, the final rule with request for comments we published in the Federal Register (76 FR 41685) on July 15, 2011. We are revising our regulations to reflect our use of electronic case processing at the initial and reconsideration levels of our administrative review process. We are not changing the requirement that State agency medical and psychological consultants must affirm the accuracy and completeness of their findings of fact and discussion of the supporting evidence, only the manner in which they may provide the required findings and affirmation. This revision will improve our efficiency by increasing our use of electronic resources.

DATES: These final rules are effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Cheryl Williams, Office of Medical Listings Improvement, Social Security Administration, 6401 Security Boulevard,

Baltimore, Maryland 21235-6401, (410) 965-1020. 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 are making final the rules for using electronic substitutions for the Childhood Disability Evaluation Form (SSA-538) we published as a final rule with request for comments in the Federal Register on July 15, 2011. We previously required adjudicators at the initial and reconsideration levels to complete Form SSA-538 in all cases of children alleging disability or continuing disability under title XVI of the Social Security Act. We now provide a Web-based tool that assists our adjudicators in making disability determinations at the initial and reconsideration levels. We use the new tool in electronic cases but do not use it for cases that we do not process electronically. The final rule permits our adjudicators to substitute the Web-based tool for Form SSA-538. If adjudicators do not use the Web-based tool, we still require them to complete Form SSA-538 to explain our findings in childhood disability determinations.

Public Comments

On July 15, 2011, we published a final rule with request for comments in the Federal Register at 76 FR 41685 and provided a 60-day public comment period. We received one comment. We carefully considered the concerns expressed in this comment, but did not make any changes to the final rule.

We have summarized the commenter's view and have responded to the significant issue raised by the commenter.

Comment: The commenter was concerned with the consistency between claims that are filed on paper and those filed electronically, and suggested that Form SSA-538 be available for electronic claims to ensure that all children's claims receive the same considerations.

Response: We did not adopt this comment. While we believe that consistency in adjudication is important, we do not agree that Form SSA-538 should be available on the Web-based tool that adjudicators currently use in evaluating childhood disability claims. As we noted in the preamble to our July 2011 final rule with request for comments (76 FR 41686), although the Web-based tool does not include an exact copy of Form SSA-538, the tool does include all of the major elements of the form for explaining our findings in these claims. That is, the consultant with overall responsibility must affirm that he or she considered the factors and evidence, as we require, in determining whether a child's impairment(s) is severe, meets or medically equals a listing, or functionally equals the listings.

REGULATORY PROCEDURES

Executive Order 12866, as Supplemented by Executive Order 13563

We 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 supplemented by Executive Order 13563. Therefore, OMB did not reviewed it.

Regulatory Flexibility Act

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

Paperwork Reduction Act

These rules do not create any new or affect any existing collections and, therefore, do not require OMB approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Program No. 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

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

Dated: June 19, 2014.

Carolyn W. Colvin,
Acting Commissioner of Social Security.

Accordingly, the final rule with request for comments amending 20 CFR chapter III, part 416, subpart I that was published at 76 FR 41685 on July 15, 2011, is adopted as a final rule without change.

[FR Doc. 2014-14914 Filed 06/25/2014 at 8:45 am; Publication Date: 06/26/2014]