

Regulatory authority to offer it as a service option is not needed.

Comment: We received several comments regarding claimant due process rights and the possibility that they could be compromised by some of the models.

Response: None of the models we intend to test will compromise or diminish the claimant's due process rights. In fact, the disability claim manager model we now intend to test provides a process that is committed to keeping the claimant more informed regarding his or her rights and allows the claimant to obtain information and assistance more easily. Also, in the context of ensuring a fair and correct initial determination of disability, the predecision interview model provides the claimant an opportunity to have an interview with the decisionmaker(s) and to submit additional evidence before an initial determination denying the claim is made or when the evidence in file is insufficient to make a fully favorable determination.

Comment: Several commenters were interested in having us test the models that involved face-to-face contact with the decisionmaker(s) prior to the initial disability determination in combination with the reconsideration elimination model.

Response: These final rules provide us with the flexibility to test models individually or in combination with other models. Therefore, we may test model(s) involving the opportunity for face-to-face contact between the claimant and the decisionmaker(s) with the reconsideration elimination model.

Comment: Several commenters were concerned with the fact that the face-to-face predecision interview model only provided direct appeal of disability issues involved in the initial determination to the ALJ.

Response: These final rules have been revised to allow appeal of both disability and nondisability factors to the ALJ whenever any of the first three models are tested in combination with the reconsideration elimination model. As stated earlier, the face-to-face predecision interview model with limited direct appeal rights to the administrative law judge has been changed in the final rule to a less formal predecision interview model. The predecision interview model does not place conditions on a claimant's appeal rights, but still provides the claimant with the opportunity for a face-to-face interview with the decisionmaker(s) when the decisionmaker finds that the evidence in the file is insufficient to make a fully favorable determination or requires an initial determination

denying the claim. The reconsideration elimination model has also been modified to allow appeal to the ALJ if the claimant is dissatisfied with the initial determination made on his or her claim, based upon either medical or nonmedical factors.

Comment: Several commenters were concerned that there was no specific indication as to whether children's claims would be included in the tests.

Response: As stated previously, the summary section of the NPRM and these final rules state that all other regulations related to the disability determination procedures remain unchanged unless specified. That includes the rules for determinations of disability in children. We have no plans to exclude claims filed by or behalf of children from the tests. As stated previously, the decisionmaker will make reasonable efforts to ensure that a qualified pediatrician or other appropriate specialist evaluates the claim whenever a determination of disability is required in claims filed by or on behalf of children under age 18 claiming SSI benefits based on disability. We have no intention of compromising any of the safeguards currently in place to protect the rights of children in the disability determination process.

Comment: Several commenters were concerned that the models would generate increased workload demands (particularly the elimination of the reconsideration model and its predicted effect of increasing ALJ workloads) and some felt that some of the models would be too costly.

Response: These types of concerns are one of the reasons why we proposed testing, rather than implementing changes to our current rules. If the model process or combination of processes we test proves to be prohibitively costly or to create unmanageable workloads or both, we will either drop the model from consideration or revise the model process to address the problem.

Regulatory Procedures

Executive Order 12866

The Office of Management and Budget (OMB) has reviewed these final rules and determined they do not meet the criteria for a significant regulatory action under E.O. 12866.

Paperwork Reduction Act

Data collection involved in the evaluation of any of the models may necessitate new reporting or recordkeeping requirements which may need clearance by OMB. These requirements are still being developed.

When specifics have been determined, any necessary request for clearance will be forwarded to OMB as required by the Paperwork Reduction Act.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security-Disability Insurance; 93.807, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Reporting and recordkeeping requirements, Survivors and Disability insurance.

20 CFR Part 416

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

Dated: February 15, 1995.

Shirley Chater,

Commissioner of Social Security.

Approved: March 30, 1995.

Donna E. Shalala,

Secretary of Health and Human Services.

For the reasons set out in the preamble, parts 404 and 416 of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below.

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

Subpart J is amended as follows:

1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 205 (a), (b), (d)–(h), and (j), 221(d), and 1102 of the Social Security Act; 31 U.S.C. 3720A; 42 U.S.C. 401(j), 405(a), (b), (d)–(h), and (j), 421(d), and 1302, sec. 5 of Pub. L. 97-455, 96 Stat. 2500; sec. 6 of Pub. L. 98-460, 98 Stat. 1802.

2. Section 404.906 is revised to read as follows:

§ 404.906 Testing modifications to the disability determination procedures.

(a) *Applicability and scope.* Notwithstanding any other provision in this part or part 422 of this chapter, we are establishing the procedures set out