

beneficiary has unpaid housing debts which put him or her at high risk of homelessness. We consider an individual to be at high risk of homelessness if continued nonpayment of housing expenses is likely to result in the individual losing a place to live. We also consider an individual who is already homeless to be among those at high risk of homelessness.

Section 404.902 is revised to expand the list of administrative actions that are initial determinations to include determinations about drug addiction or alcoholism.

Sections 404.1535 and 416.935 explain the process by which a determination is made that drug addiction or alcoholism is a contributing factor material to the determination of disability.

Sections 404.1536 and 416.936 explain the treatment requirements and the consequences of noncompliance with these requirements for individuals disabled based on DAA. For consistency between programs, especially for individuals who receive concurrent title II and SSI benefits, we extend to title II beneficiaries the current SSI policy that individuals referred for treatment generally are not expected to pay for the treatment.

Sections 404.1537 and 416.937 explain what we mean by appropriate treatment for these individuals and give examples of appropriate treatment modalities.

Sections 404.1538 and 416.938 explain what we mean by approved institutions or facilities for providing the appropriate treatment.

Sections 404.1539 and 416.939 describe the factors we will consider in determining the availability of treatment.

Sections 404.1540 and 416.940 explain how we intend to assess compliance with prescribed treatment, including measuring progress with the treatment.

Based upon our contact with treatment professionals and administrators, we deemed it best that our regulations not attempt to provide exhaustive guidelines for determining what constitutes appropriate treatment and definitive methods of measuring progress. These particular concepts are inherent parts of the treatment program, which must be developed by the treatment professional for each individual. Thus, in these regulatory sections, we have provided broad rather than narrow guidelines in these areas.

Sections 404.1541 and 416.941 delineate the functions and responsibilities of the RMAs. The RMAs' duties include making treatment

referrals and monitoring compliance with prescribed treatment. The contractual agreements with the RMAs will set forth their functions and responsibilities in much more detail.

In carrying out their functions and responsibilities, the RMAs will work closely with State alcohol and other drug abuse agencies, which often are the focal point for the delivery of publicly funded services to SSI beneficiaries.

Section 416.202 has been revised to reflect the new provision that an individual disabled based on DAA is not eligible for SSI benefits if he or she has previously received 36 months of Social Security benefits when treatment was available or 36 months of SSI benefits based on DAA.

Section 416.213 is revised to state that an individual disabled based on DAA who refuses or does not follow available and appropriate treatment for drug addiction or alcoholism will not receive SSI benefits until he or she has demonstrated compliance with treatment requirements for the period specified in the revised rules in §416.1326. The section also explains in detail the eligibility requirement that an individual cannot receive SSI benefits on the basis of disability based on DAA if he or she has already received 36 months of SSI or Social Security benefits on the same basis. The section contains references to other SSI and Social Security regulatory sections which explain how the 36 months are calculated for each of those programs.

Sections 416.262 and 416.265 have been revised to explain that individuals who are disabled based on DAA may be eligible for SSI payments, including special SSI cash benefits, and special SSI eligibility status for a total of 36 months.

Section 416.535 is revised to include cross-references to the SSI regulatory sections which state the rules on the installment payment of past-due benefits for individuals who are disabled based on DAA.

Section 416.542 is revised to explain that, if an underpaid recipient disabled based on DAA is alive, the amount of any underpayments due the recipient will be paid to his or her representative payee. No underpayments may be paid to the recipient.

Section 416.558 is revised by adding to paragraph (a) a reference to the new §416.544, and by adding a new paragraph (c) to explain that, whenever a decision is made about the amount of any benefits due for a past period that should be paid in installments, the written notice which is sent to the individual and the individual's representative payee will also explain

the amount of the installment payment and when an increased initial installment payment may be made.

The last sentence of paragraph (b)(1) of §416.601 and paragraph (a)(3) of §416.610 are revised to update the language referring to an individual "medically determined to be a drug addict or an alcoholic." We now refer to individuals for whom "drug addiction or alcoholism is a contributing factor material to the determination of disability." This does not change the meaning in any way; it merely makes the terminology consistent with that used throughout these regulations.

Paragraph (d) of §416.1123, which discusses how we count retroactive monthly Social Security benefits as unearned income, is revised to address the counting of such benefits when they are paid in installments. New installment requirements for past-due benefits for individuals disabled based on DAA are explained in §416.544. Because of those requirements, SSA generally will be precluded from paying at one time all past-due benefits remaining after reimbursing a State for interim assistance (when appropriate). Paragraph (d)(2) explains that the total of retroactive Social Security benefits paid in installments to individuals disabled based on DAA which is countable income after the rules in paragraph (d)(1) are applied will be counted as unearned income only in the first month they are paid.

In enacting section 201 of Pub. L. 103-296, Congress evidenced no intent to change the manner in which past-due Social Security benefits are counted for SSI purposes, but instead intended to reduce the likelihood that the past-due benefits would be used by the beneficiary in a way that would support continuing substance abuse. By counting retroactive benefits paid in installments as if received in a lump sum in the first month of payment, the SSI recipient will be at risk of losing SSI (and possibly Medicaid) eligibility for at most 1 month because of the receipt of those benefits, as is now the case. The alternative method of counting these past-due benefits—month by month as the installments are received—would result, in many cases, in the loss of eligibility for both SSI and Medicaid for the entire period during which the installments are paid. A loss of eligibility for Medicaid could severely limit the accessibility of treatment for drug addiction or alcoholism and thus undermine the intent of the legislation. Accordingly, these regulations make no change in the way past-due benefits are counted for SSI purposes; past-due benefits will continue to be counted as