

traditional classroom. It is a situation similar to those students who are in school-approved work-study programs that extend the educational setting.

We therefore propose to revise § 404.367 to include students enrolled in home schooling or independent study programs authorized by State (or other jurisdiction) laws. The student must be carrying a course load considered to be full-time under the standards and practices used for day students who are in full-time attendance at traditional educational institutions. Students in these types of situations include a wide range of individuals. For example, home schooling students may be in that situation for religious reasons or because the parents do not agree with the local school curriculum.

Students in independent study programs may include those individuals who cannot take advantage of the traditional school setting, such as hard-to-keep-in-school students (unable to adjust or delinquents), single mothers, or expectant mothers. All students—those in traditional programs and those in alternative programs—who work are subject to the annual earnings test.

A home schooling program must meet the requirements set forth by the State (or other jurisdiction). An independent study program organized in accordance with the State (or other jurisdiction) requirements must be coordinated, evaluated and supervised by an employee of the school district or county office of education and must comply with the policies of the school district or county office of education. To be entitled to child's insurance benefits as a student, an individual enrolled in either type of program must meet both the Federal and the State (or other jurisdiction) full-time attendance (FTA) requirements.

When determining FTA, the home schooling teacher will be the certifying school official for FTA purposes. In independent study situations, the school teacher/official supervising the performance of the student under the written agreement between the school and the student will be the certifying official for FTA.

When determining the number of hours spent in school attendance for an approved independent study program, we will combine the number of agreed upon hours spent in independent study with the number of hours in actual school attendance. The course load must be equivalent to that of a student in the school's full-time day program.

We will continue to exclude from eligibility those individuals who are enrolled solely in correspondence courses. We do not believe that such

courses satisfy the definition of an elementary or secondary school in the Act, and usually they would not meet State (or other jurisdiction) requirements.

We also propose to revise § 404.367 to clearly show that section 202(x) of the Act, regarding nonpayment of benefits to certain prisoners and certain other inmates of publicly funded institutions, applies to those individuals who otherwise meet student benefit requirements. Section 202(x) is applicable to those who otherwise would qualify for benefits under section 202(d)(7)(A) of the Act.

Further, we propose to remove § 404.369 since it applies only to child's benefits for full-time students for months before August 1982. This section has not been applicable for over 10 years and there is no longer a need to retain it. Sections that refer to § 404.369 (i.e., §§ 404.350–404.353) will be revised to remove such references.

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Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this proposed rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review.

Regulatory Flexibility Act

We certify that this proposed rule will not have a significant economic impact on a substantial number of small entities since it affects only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

This proposed rule imposes no additional reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

(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)

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: November 27, 1995.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, subpart D of part 404 of chapter III of title 20 of the Code of Federal Regulations is proposed to be amended as follows:

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

Subpart D—[Amended]

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

Authority: Secs. 202, 203 (a) and (b), 205(a), 216, 223, 225, 228(a)–(e), and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403 (a) and (b), 405(a), 416, 423, 425, 428(a)–(e), and 902(a)(5)).

2. Section 404.350 is amended by revising paragraph (a)(5) to read as follows:

§ 404.350 Who is entitled to child's benefits.

(a) * * *
(5) You are under age 18; you are 18 years old or older and have a disability that began before you became 22 years old; or you are 18 years or older and qualify for benefits as a full-time student as described in § 404.367.

* * * * *

3. Section 404.351 is amended by revising paragraph (a) to read as follows:

§ 404.351 Who may be reentitled to child's benefits.

* * * * *

(a) The first month in which you qualify as a full-time student. (See § 404.367.)

* * * * *

4. Section 404.352 is amended by revising the fourth sentence of paragraph (b)(1) to read as follows:

§ 404.352 When child's benefits begin and end.

* * * * *

(b) * * *

(1) * * * If you become 18 years old and you qualify as a full-time student who is not disabled, your entitlement ends with the last month you are a full-time student or, if earlier, the month before the month you become age 19.

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