



SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Docket No. SSA-2015-0018]

RIN 0960-AH85

Extension of the Workers' Compensation Offset from Age 65 to Full Retirement Age – Achieving a Better Life Experience (ABLE) Act.

AGENCY: Social Security Administration.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: We propose to amend our regulations to incorporate changes made by the ABLE Act to section 224(a) of the Social Security Act. The ABLE Act amends section 224(a) by changing the age at which disability insurance benefits (DIB) are no longer subject to reduction (offset) based on receipt of workers' compensation or public disability benefits (WC/PDB), from age 65 to the day the individual attains full retirement age. This change will make our rules consistent with the provisions of the Act, as amended by the ABLE Act.

DATES: To ensure that we consider your comments, we must receive them by no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA-2015-0018 so that we may associate your comments with the correct regulation.

CAUTION: You should be careful to include in your comments only information you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. Internet: We strongly recommend this method for submitting your comments. Visit the Federal eRulemaking portal at <http://www.regulations.gov>. Use the webpage's Search function to find docket number SSA-2015-0018. Once you submit your comment, the system will issue you a tracking number to confirm your submission. You will not be able to view your comment immediately because we post each comment manually. It may take up to a week for your comment to be viewable.

2. Fax: Fax comments to (410) 966–2830.

3. Mail: Address your comments to the Office of Regulations and Reports Clearance, Social Security Administration, 3100 West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at <http://www.regulations.gov> or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Dean Dwight, Office of Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 966-7161. 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 propose amending our regulations to incorporate changes made to section 224(a) of the Social Security Act by the ABLE Act<sup>1</sup>. The ABLE Act extends the WC/PDB offset to full retirement age (i.e. “retirement age” as defined in section 216(l)(1) of the Social Security Act and “full retirement age” as discussed in 20 CFR 404.409). As a result of the changes made by the ABLE act, we will no longer terminate the WC/PDB offset at age 65. The provision applies to any individual whose DIB payment is offset for WC/PDB and who attains age 65 on December 19, 2015 or later.

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<sup>1</sup> Pub. L. 113-295, § 201, 128 Stat. 4010, 4064.

### Explanation of Changes

We propose amending section 404.408 of our rules to reflect the changes mandated by section 201 of the ABLE Act. We also propose to make a conforming change to section 404.401(a)(4) of our rules. We are not making any other changes to our rules.

### Workers' Compensation/Public Disability Benefit

Before the ABLE Act, WC/PDB offset ended at age 65. Under the ABLE Act, the WC/PDB offset will apply until a beneficiary attains full retirement age.

### Clarity of This Proposed Rule

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make them easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rules clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?

- What else could we do to make the rules easier to understand?
- Do the rules contain technical language or jargon that is not clear?
- Would a different format make the rules easier to understand, e.g. grouping and order of sections, use of headings, paragraphing?

## REGULATORY PROCEDURES

### Executive Order 12866 as supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that these proposed rules do not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB did not review them.

### Regulatory Flexibility Act

We certify that these proposed rules will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

### Paperwork Reduction Act

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

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

List of Subjects in 20 CFR Part 404

Administrative practice and procedure; Blind; Disability benefits; Government employees; Old-age, Survivors and Disability Insurance; Reporting and recordkeeping requirements; Social security.

Dated: December 23, 2015.

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Carolyn W. Colvin,  
Acting Commissioner of Social Security.

For the reasons stated in the preamble, we propose to amend subpart E of Part 404 of title 20 of the Code of Federal Regulations as set forth below:

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

Subpart E – [Amended]

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

AUTHORITY: Secs. 202, 203, 204(a) and (e), 205(a) and (c), 216(l), 222(c), 223(e), 224, 225, 702(a)(5), and 1129A of the Social Security Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 416(l), 422(c), 423(e), 424a, 425, 902(a)(5), and 1320a-8a); 48 U.S.C. 1801.

2. In § 404.401, revise paragraph (a)(4) to read as follows:

§ 404.401 Deduction, reduction, and nonpayment of monthly benefits or lump-sum death payments.

\* \* \* \* \*

(a) \* \* \*

(4) An individual under full retirement age (see § 404.409) is concurrently entitled to disability insurance benefits and to certain public disability benefits (see §404.408);

\* \* \* \* \*

3. In § 404.408, revise paragraph (a)(2)(ii) to read as follows:

§ 404.408 Reduction of benefits based on disability on account of receipt of certain other disability benefits provided under Federal, State, or local laws or plans.

\* \* \* \* \*

(a) \* \* \*

(2) \* \* \*

(ii) The individual has not attained full retirement age as defined in 20 CFR 404.409.

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[FR Doc. 2015-33036 Filed: 12/31/2015 8:45 am; Publication Date: 1/4/2016]