



SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404, 416, and 422

[Docket No. SSA-2023-0018]

RIN 0960-AI22

Changes to the Administrative Rules for Claimant Representation and Provisions for Direct Payment to Entities

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are revising our regulations to enable us to directly pay entities fees we may authorize to their employees, as required by the decision of the United States Court of Appeals for the First Circuit (First Circuit) in *Marasco & Nesselbush, LLP v. Collins*. To make direct payments, issue the necessary tax documents, and properly administer these rules, we are requiring all entities that want to be assigned direct payment of authorized fees and all representatives who want to be appointed on a claim, matter, or issue to register with us. We also are standardizing the registration, appointment, and payment processes. This rule will help us implement the changes required by the *Marasco* decision, increase accessibility to our electronic services, reduce delays, and help us prepare for more automation, thereby improving our program efficiencies.

DATES: *Effective date:* [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Implementation: For information on implementation dates, see

SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: Mary Quatroche, Director, Office of Disability Policy, Office of Vocational Evaluation and Process Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 966-4794.

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 <https://www.ssa.gov>.

SUPPLEMENTARY INFORMATION:

Implementation

We will implement this final rule in two phases as follows:

Implementation Phase 1: registration of representatives and entities.

1. We will implement the following regulation sections on September 30, 2024:

§ 404.1703 Definitions.

§ 404.1705 Who may be your representative.

§ 404.1740 Rules of conduct and standards of responsibility for representatives.

§ 416.1503 Definitions.

§ 416.1505 Who may be your representative.

§ 416.1540 Rules of conduct and standards of responsibility for representatives.

Implementation Phase 2: appointment of a representative, assignment of direct payment of a representative's fee, and direct payment of representative fees to entities.

2. We will implement the following regulation sections on December 9, 2024:

§ 404.1707 Appointing a representative.

§ 404.1720 Fee for a representative's services.

§ 404.1730 Payment of fees.

§ 404.1735 Entity eligible for direct payment of fees.

§ 416.1507 Appointing a representative.

§ 416.1520 Fee for a representative's services.

§ 416.1530 Payment of fees.

§ 416.1535 Entity eligible for direct payment of fees.

§ 422.515 Forms used for withdrawal, reconsideration and other appeals,

appointment of representative, and representative registration.

Background

On August 4, 2023, we published a notice of proposed rulemaking (NPRM), *Changes to the Administrative Rules for Claimant Representation and Provisions for Direct Payment to Entities*,¹ which proposed to update our regulations to enable us to directly pay to entities fees that we may authorize to their employees, as required by the decision of the First Circuit in *Marasco & Nesselbush, LLP v. Collins*, 6 F.4th 150 (1st Cir. 2021). This final rule adopts these proposed changes, with modifications.

Generally, we must authorize fees that a representative² wants to charge or collect for services they provide to a claimant in assistance with their claim.³ If we authorize a fee to the representative, we may also pay that fee directly out of the claimant's past-due benefits, if certain conditions are met.⁴ Previously, our regulations did not allow a representative to assign direct payment of authorized fees to the entity⁵ that employs the representative. With the publication of this final rule, we will no longer prevent entities from directly receiving fees associated with a representative's work on a claim. Instead, we are establishing rules and procedures that will allow a representative to assign⁶ direct

¹ 88 FR 51747.

² *Representative* means an attorney who meets all the requirements of 20 CFR 404.1705(a) and 416.1505(a), or a person other than an attorney who meets all the requirements of 20 CFR 404.1705(b) and 416.1505(b), and whom a claimant appoints to represent them in dealings with us. For purposes of our Rules of conduct and standards of responsibility for representatives in 404.1740-404.1799 and 416.1540-416.1599, "representative" also includes an individual who provides representational services and an individual who is listed as a point of contact (POC) for an entity, as applicable to their identified role. This defined term is used in changes to 20 CFR 404.1703, 404.1720, 404.1740, 416.1503, 416.1520, and 416.1540. Representational services are defined in 20 CFR 404.1703 and 416.1503. For additional information, please see our instructions under our Program Operations Manual System (POMS) GN 03910.020, available at: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203910020>.

³ Any person who claims a benefit under our programs may appoint a representative(s) to assist with their claim, and representatives may seek a fee for the services they provide.

⁴ Generally, we will pay the fee directly if the representative is registered and eligible for direct payment, did not waive the fee or direct payment of the fee, and there are past-due benefits.

⁵ *Entity* means any business, firm, or other association, including but not limited to partnerships, corporations, for-profit organizations, and not-for-profit organizations. See 20 CFR 404.1703 and 416.1503.

⁶ *Assignment* means the transfer of the right to receive direct payment of an authorized fee to an entity as described in sections 404.1730(e) and 416.1530(e). This defined term is used in changes to 20 CFR 404.1703, 404.1730, 416.1503, and 416.1530.

payment of authorized fees to an eligible entity with which the representative affiliates⁷ through registration,⁸ if certain criteria are met.⁹ To comply with the First Circuit's decision, we are establishing or revising several processes in our rules, including: (1) registration of representatives and entities; (2) assignment of direct payment of representational fees to entities, as well as rescission of the assignment; (3) point of contact (POC)¹⁰ requirements for the entity; and (4) direct payment to entities by electronic funds transfer (EFT).

How SSA works with the representative community

While the *Marasco* case involved a single employment relationship where the entity's employment contract reflected that its salaried employees represent claimants only within the context of their employment, in practice, not all representatives work as employees of a single entity or with similar restrictions. Some are independent contractors who affiliate with more than one entity during their registration process and let us know on a case-by-case basis who they affiliate with on each specific case. Others may work primarily with one entity, but in a capacity that would permit them to continue to represent claimants who hire them regardless of the representative's employment status. We respect representatives' ability to structure their employment relationships as they see fit and do not limit representatives to affiliating with only one entity in our systems. As the First Circuit acknowledged, there are multiple ways to structure a process to directly pay entities. If we were to implement a process that only considers or works

⁷ *Affiliate* means to associate with an entity through our prescribed registration process. See 20 CFR 404.1703 and 416.1503.

⁸ We allow representatives to affiliate with the entity of their choice through registration using the Form SSA-1699, Representative Registration.

⁹ If all the conditions are met, we will accept an assignment and certify payment of the authorized fee to the entity. We are making these changes to 20 CFR 404.1720 and 416.1520.

¹⁰ *Point of Contact* means an individual who registers as a representative in the manner we prescribe and is selected by an entity to speak and act on the entity's behalf and who assumes the affirmative duties and obligations we prescribe. This defined term is used in changes to 20 CFR 404.1703, 404.1735, 404.1740, 416.1503, 416.1535, and 416.1540. The POC's role is to assist us in the resolution of fees or fee errors.

for the type of employment relationship at issue in *Marasco*, though, we would be imposing rules on representatives at large where those rules may not be appropriate or efficient in all cases.¹¹

We intentionally developed a process broad enough to accommodate a variety of employment relationships. For example, some representatives are independent contractors who affiliate with more than one entity and let us know which entity, if any, they are affiliated with in a specific case. Other representatives affiliate with no entity at all and operate as solo practitioners. Also, some representatives enter into employment contracts that limit them to representing claimants solely within the confines of that employment relationship, while others may continue to represent individual claimants after they leave the employment of the firm. These rules do not prevent entities from structuring their own employment contracts to include stricter terms, such as limiting their employees' ability to rescind assignments, if doing so is appropriate for their particular employment relationship. We think the process we are adopting serves the entire representative community and the public.

This approach is also necessary given certain limitations surrounding information technology systems and resource constraints which the agency faces as we work to leverage existing systems to comply with the court's order without further delay.¹²

Transitioning to a system that pays entities directly, without tethering such payments to

¹¹ For example, a limited review of the agency's available data shows that there are currently more than 31,000 registered representatives who are affiliated with more than one entity in our systems, while approximately 6,350 are affiliated with just one entity. This data does not capture representatives who are not affiliated with any entity, nor do we have data on representatives who have chosen not to register with us as registration is currently voluntary. These numbers suggest that a substantial portion of the representative community may structure their employment relationships differently than the *Marasco* plaintiffs. As described more fully below, the clear need to accommodate a variety of employment relationships necessitated the approach which we finalize in this rule. In addition, approaching the registration, appointment, and fee assignment process in a manner more consistent with that desired by commenters would require a complex overhaul of legacy systems that the agency currently relies on to manage the appointment and payment of claimant representatives, including significant changes to multiple aspects of downstream systems. See *infra* at 6–7. This would increase technical debt and preclude the agency from prioritizing using available resources for modernization.

¹² See *supra* n.11.

individual representatives, would require a significant overhaul of our *Registration, Appointment and Services for Representatives* (RASR) system and other legacy systems which are currently critical to how we register, assign, and pay fees to representatives. Within the constraints of our existing systems, the approach in this rule effectively accommodates the variety of employment relationships between entities and individuals who represent claimants before us.

Registration

All representatives must register¹³ with us by completing and submitting Form SSA-1699 (OMB No. 0960-0732), which is currently called “Registration for Appointed Representative Services and Direct Payment” and is being changed to “Representative Registration,” prior to being appointed on any claim.¹⁴ Registration will be a one-time process unless the representative’s information changes. If there are changes, registration information must be kept current by submitting an updated Form SSA-1699. We will also require any unregistered individual to register as a representative before being named as a POC for an entity. We are making these changes in 20 CFR 404.1703, 404.1705, 404.1735, 416.1503, 416.1505, and 416.1535.

During the registration process, representatives may affiliate with one or more entities, which allows us to issue a copy of Form IRS 1099 to their employer to assist the parties in their accounting and tax reporting duties. Before a representative can assign direct payment of any fee that may be authorized on a claim to an entity, the

¹³ We define *Registration* as a process by which an individual or entity provides the information we require to conduct business with us. This defined term is used in changes to 20 CFR 404.1703, 404.1705, 404.1735, 416.1503, 416.1505, and 416.1535.

¹⁴ We are not changing the process by which individual representatives register. Detailed instructions about the process can be found in our subregulatory instructions under our POMS Subchapter GN 03913, available at: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203913000>. Representatives do not have to be appointed to be registered, but we will require individuals who want to become appointed as representatives to be registered first. Therefore, we recommend individuals who may wish to be appointed as representatives at any time to register as early as possible.

representative must affiliate with the entity through registration. The entity must also register with us and name a POC before we will accept a representative's assignment of direct payment to that entity. To collect this new information from an entity, we revised the standard Form SSA-1694 (OMB No. 0960-0731), which is currently called "Request for Business Entity Taxpayer Information" and is being changed to "Entity Registration and Taxpayer Information" to collect the entity's name, POC information, and address, so that we may meet our obligation to provide entities with a Form IRS 1099 for their tax reporting responsibilities.¹⁵

Under this rule, registration for entities that do not want to receive direct payment of assigned fees will continue to be voluntary. Like representative registration, entity registration will be a one-time transaction unless the entity needs to update its information by submitting an updated Form SSA-1694. In addition, any entity that registered with us under our prior process and now wants to receive direct payment of assigned fees will have to register again to provide the additional information we do not currently have.¹⁶ Entities will be responsible, through their POC, for keeping their information accurate and current. We are making these changes in 20 CFR 404.1735 and 416.1535.

Appointment

To appoint a representative, we will require a claimant and their chosen representative to complete and submit our appointment Form SSA-1696 (OMB No. 0960-0527), "Claimant's Appointment of a Representative."¹⁷ When submitting an

¹⁵ To enable direct payments to entities and meet our mandatory tax reporting obligations to the Internal Revenue Service (IRS), we also collect information such as tax identification numbers, addresses, and banking institutions from entities using our revised Form SSA-1694.

¹⁶ New information we will collect during entity registration includes banking information for direct payment and information regarding a designated POC.

¹⁷ A new selection is available on the revised form for a representative to assign direct payment of any authorized fee for a specific claim to an eligible entity. All assignments must be submitted using this standard form. However, a representative may assign direct payment of a fee any time before the date we notify the claimant of our first favorable determination or decision.

appointment, both the claimant and the representative, whether an attorney or non-attorney, must sign the Form SSA-1696.

We are making these changes in 20 CFR 404.1707 and 416.1507.

Payment Method

We will pay entities to whom direct payment of fees has been assigned exclusively through EFT. We will continue applying a waiver¹⁸ to allow individual representatives who have not assigned direct payment of their fees to receive payment by check; however, we will not apply the waiver to entity payments. This rule will not change our current payment process or options for individual representatives. We are making these changes in 20 CFR 404.1735 and 416.1535.

Assignment

To assign direct payment of an authorized fee, the representative must: 1) be eligible¹⁹ for and seek direct payment; 2) be affiliated through our registration²⁰ process with an entity that is eligible for direct payment; and 3) make the assignment timely and in the manner we prescribe.²¹ Where all these conditions are satisfied, we can honor an assignment.²²

¹⁸ EFT is required by law for Federal nontax payments, with limited exceptions. One of those exceptions allows agencies to waive the EFT requirement when the agency does not anticipate making payments to the same recipient on a regular, recurring basis within a one-year period and the recipient's financial institution does not make remittance data explaining the purpose of the payment readily available. *See* 31 CFR 208.4 (enumerating certain exceptions to the requirement that all non-tax payments made by Federal agencies be made by EFT). As the Department of the Treasury explained in a 2010 rulemaking proceeding, this exception arose to address the needs of individual representatives seeking fee payments from us who claimed that their banks were not able or willing to provide all the information needed to identify the client on whose account the deposit was made and who were precluded from electronically depositing their fee payments into their employer/firm's bank account. However, we had already taken steps to begin transmitting information to banks to enable representatives to link payments to clients, and we encouraged those banks to pass that information on to their account holders as quickly as possible, thus addressing the issue of the availability of information tying payments to specific clients. *See* 31 CFR 208.4(a)(6); 75 FR 80315, 80325. And with this final rule, we will directly pay entities, eliminating individual representatives' concerns about the difficulty of transferring payments from their own accounts to their employers' accounts.

¹⁹ We will check eligibility at the time we process the assignment and at the time we certify the direct payment.

²⁰ Currently this is done using Form SSA-1699.

²¹ Representatives must make the assignment using Form SSA-1696.

²² An invalid assignment would not affect the processing of an otherwise valid notice of appointment.

Representatives may assign direct payment of fees at any time prior to the date we notify the claimant of the first favorable determination or decision in their claim.²³ A representative may also rescind a previously established assignment prior to the date we notify the claimant of the first favorable determination or decision in their claim.²⁴ To ensure operational efficiency and accuracy, we cannot accept assignments or rescission of assignments filed after the date we notify the claimant of our first favorable determination or decision. This rule will apply to claims pending when the regulations in 20 CFR 404.1720, 404.1730, 404.1735, 416.1520, 416.1530, and 416.1535 become effective.

We will reject an assignment if either the representative or the entity does not properly register prior to filing the assignment, or if the representative does not properly identify the entity by providing the entity's name and Employer Identification Number (EIN) on the Form SSA-1696 when making the assignment. We will also reject any assignment that is made to an entity that is ineligible for direct payment, that is made by a representative who is not eligible for or requesting direct payment of an authorized fee, or that is not filed before the date that we notify the claimant of our first favorable determination or decision. We will notify the representative if we reject an assignment. The rejection of an assignment will not affect the processing of an otherwise valid appointment or the representative's own eligibility for direct payment.

An assignment may be invalidated if the entity or representative become ineligible for direct payment. As discussed later in this preamble, a change in a representative's relationship with the entity would not, on its own, invalidate an assignment. For instance, previously, our rules did not allow a representative to receive direct payment if their appointment was withdrawn or revoked prior to a favorable

²³ Throughout this preamble, "favorable determination or decision" refers to either a fully or partially favorable determination or decision.

²⁴ We will allow a representative to rescind an assignment by submitting an updated version of our prescribed form.

determination or decision. Now, however, a representative will be able to withdraw from the appointment without losing their eligibility for direct payment. As a result, if that representative withdraws from the appointment when they leave the employment of an entity, neither their withdrawal nor their change in employment would, on their own, impact the validity of an assignment or their former employer's eligibility to receive direct payment of the authorized fee, even if they were the only representative for the relevant claimant affiliated with that entity.²⁵ However, as is the case with individual representatives, to receive direct payment of an assigned fee, whether that fee was authorized to a current or former employee, the entity must ensure that it does not otherwise lose eligibility for direct payment, such as by violating our rules by retaining unauthorized fees or fees that exceed the amount we authorized.

Payments to entities will still be subject to all our other rules governing payment of fees.²⁶ If, at the time we calculate the fee, the assignment meets all the criteria for a valid assignment, we will certify payment of the authorized fee to the entity. However, we will not charge claimants with an overpayment in order to make direct payment to an entity in situations where, through no error of our own, we did not withhold funds from past-due benefits; where we were not timely informed of an assignment of direct payment of fees; where the entity was, at the time of payment, ineligible for direct payment but later became eligible; or where the representative waived the fee (or direct payment of the fee), even if the representative withdrew the waiver, if that withdrawal occurred after we already made all other payments and released the past-due benefits.

²⁵ Also, in the event an appointed representative dies, if the representative was eligible for direct payment, made a timely assignment, and other criteria are met (e.g., there are past-due benefits, we authorize a fee, the entity is eligible to receive direct payment), we will honor the assignment and make direct payment to the selected entity. At the time we pay the fee, we will honor the assignment unless certain invalidating actions occur, such as the representative timely rescinds the assignment, waives the right to a fee (or direct payment of a fee), is sanctioned, or becomes ineligible for direct payment, or the entity becomes ineligible for direct payment.

²⁶ This includes the requirement that past-due benefits are available and that we have withheld them.

We will allow only one assignment per representative per case. This restriction means a representative cannot assign direct payment to multiple entities in a single case. However, if multiple representatives involved in a case are affiliated with and assign direct payment to different entities, we will make fee payments following our existing rules for payments to multiple representatives and apply the rules herein to each separate assignment. If all other conditions for a valid assignment are met, we will honor the most recently updated (and timely filed) assignment of direct payment of a fee, which will supersede all prior assignment requests made by that representative. We are making these changes in 20 CFR 404.1730, 404.1735, 416.1530, and 416.1535.

Resolution of Fee Issues

To facilitate resolution of fee discrepancies and other fee-related issues, such as correcting a Form IRS-1099, we will require an entity to name a POC during the entity's registration. Each entity will name a single POC. This POC will need to register as a representative and must not currently be suspended or disqualified from practicing before us. However, a POC is not required to be an attorney, appointed on any individual claim, or eligible for direct payment. We will collect the POC's information, including the POC's name, Rep ID,²⁷ and phone number, during the entity's registration. We will reject any registration that is missing this information and will ask the entity or POC to provide the missing information. To ensure consistent communication, we will hold the POC and the entity jointly responsible for keeping their information current.

We expect the POC to assist us in resolving fee-related matters and to conduct all entity affairs with us with diligence, truthfulness, and competence. Regardless of whether the POC is appointed on any claim, we will hold the POC responsible under our Rules of conduct and standards of responsibility for representatives if these duties are not met, but

²⁷ During the individual registration process, we issue a Representative Identification number (Rep ID) for representatives to use in lieu of their Social Security number (SSN).

we will not hold the POC financially responsible for repayment of excess or otherwise erroneous fee payments made directly to the entity. The entity will be responsible for repayment of excess or otherwise erroneous fees via a remittance.²⁸ We revised our Rules of conduct and standards of responsibility for representatives to account for the new POC role in our processes. We made these changes in 20 CFR 404.1735, 404.1740, 416.1535, and 416.1540.

Entities may become ineligible for direct payment if they do not remit excess or otherwise erroneous fees; if they do not maintain an active POC; if they, through their POCs, do not assist us in correcting a fee payment error; or if they do not otherwise comply with our rules. An entity will need to update the entity registration to name a new POC immediately if there is any change in the current POC's status.²⁹ We will work with the POC to correct possible fee inaccuracies or recover erroneous fees.

We will maintain a list of entities that are ineligible for direct payment because, after notice to that entity's POC, the entity failed to resolve a fee matter or other issue restricting their eligibility. We will stop direct payments to any entity on this list and will not accept new assignments from representatives made to an entity on this list. We will remove an entity from the list and accept new assignments when the entity resolves to our satisfaction the fee matter or other issue restricting eligibility. If the entity is ineligible for direct payment at the time we are ready to make direct payment, we will make the payment to the representative who filed the assignment if that representative remains eligible for direct payment. If the representative is no longer eligible for direct payment at that time, we will, as we currently do, release the funds to the claimant. We are making these changes in 20 CFR 404.1735 and 416.1535.

²⁸ This is similar to what we currently do for individuals.

²⁹ To update a POC's information, the new POC must submit an updated Form SSA-1694.

Fee Waiver

Representatives who waive their fee, direct payment, or both will not be permitted to make an assignment because there would be no fee or direct payment to assign. We will not accept fee waivers or direct payment waivers made by representatives who previously assigned direct payment of a fee and did not rescind the assignment prior to the date we notify the claimant of our first favorable determination or decision. Issues arising from untimely assignment submissions or rescissions, improper waivers, or similar events would be matters between the entity and the representative. We are making these changes in 20 CFR 404.1730 and 416.1530.

Form SSA-1695

On October 2, 2006, we issued a Federal Register Notice (FRN), “Registration Requirements for Representatives to Receive Direct Payment of Fees Approved for Services Provided Before the Social Security Administration or a Federal Court and Forms 1099-MISC” that required the submission of Form SSA-1695 “Identifying Information For Possible Direct Payment of Authorized Fees” (OMB No. 0960-0730).³⁰ We subsequently included relevant information from this collection instrument in the Form SSA-1696, while eliminating the representative’s SSN requirement. The 2006 FRN’s requirements are obsolete with the publication of this final rule.

Explanation of Changes

As mentioned above, we are updating our regulations to enable us to directly pay authorized fees to entities when certain conditions are met. Accordingly, we are making changes to the following sections: 20 CFR 404.1703, 404.1705, 404.1707, 404.1720, 404.1730, 404.1735, 404.1740, 416.1503, 416.1505, 416.1507, 416.1520, 416.1530, 416.1535, 416.1540, and 422.515.

Sections 404.1703, 404.1705, 416.1503, and 416.1505

³⁰ 71 FR 58043 (Oct. 2, 2006).

In these sections, we are adding definitions, including affiliate, assignment, point of contact, and registration. We are also revising our definition of representative, revising representative registration requirements, and making minor stylistic changes.

Sections 404.1707 and 416.1507

In these sections, we are revising the process for appointments and modifying language to accommodate developments in methods for filing appointments.

Sections 404.1720, 404.1730, 404.1735, 404.1740, 416.1520, 416.1530, 416.1535, and 416.1540

In these sections, we discuss assignments and eligibility for assignments. In these sections, we also explain a POC's role and responsibilities under our Rules of conduct and standards of responsibility for representatives.

Section 422.515

In this section, we update the title and description of the newly required and revised Form SSA-1696 Claimant's Appointment of a Representative and add the newly required and revised Form SSA-1699 Representative Registration.

Modifications from the NPRM

In several places, this final rule differs from the Code of Federal Regulations (CFR) text we proposed in the NPRM. As we discuss, we are adding a definition and revising language because we received comments specifically asking for clarification on old and new terminology. More specifically, we revised 20 CFR 404.1703 and 416.1503 to include a definition for "affiliate" and revised the definitions of "representative" and "point of contact." We revised 20 CFR 404.1705(c) and 416.1505(c) to give the agency operational flexibility with processing registration and appointment forms. We revised 20 CFR 404.1730(b)(i) and 416.1530(b)(i) for consistency with regulatory language elsewhere in this subpart. We revised 20 CFR 416.1530(b) to explain that we will pay a representative out of the past-due benefits the smallest of the amounts in paragraphs

(b)(1)(iii) through (v), and we are clarifying that we are redesignating paragraph (b)(1)(iii) as (b)(1)(v) and redesignating paragraph (e) as paragraph (f). We also revised 20 CFR 404.1730(e) and 416.1530(e) to clarify that we will prescribe how representatives may make and rescind assignments. We revised 20 CFR 404.1735(d) and 416.1535(d) for consistency with the change to the definition of “point of contact.” We revised 20 CFR 404.1720(f), 404.1730(e), 416.1520(f), and 416.1530(e) to clarify that a representative may assign direct payment of a fee to an entity. We also revised 20 CFR 422.515 to reflect the correct title of Form SSA-1696 and to include Form SSA-1699.

This final rule now defines affiliate to mean “to associate with an entity through our prescribed registration process.”

We revised the representative definition to cite to our Rules of conduct and standards of responsibility for representatives in 404.1740-404.1799 and 416.1540-416.1599.

We revised the point of contact definition to clarify that the POC need not be an established representative, but rather must register as a representative before filling that role. This final rule revises the definition of point of contact to mean “an individual who registers as a representative in the manner we prescribe and is selected by an entity to speak and act on the entity’s behalf and who assumes the affirmative duties and obligations we prescribe.”

Comments Summary

We received eleven submissions of public comments on the proposed rule. Many comments were supportive of the overall regulatory change, i.e., establishing a process that permits the direct payment of representatives’ fees to entities rather than only to the representatives. At the same time, multiple commenters asked questions or expressed confusion about some parts of our proposed implementation, and others documented

concerns about various aspects of the proposed rule. Below we summarize and respond to the public comments.

This rule is necessary to establish the basic regulatory authority and framework we will use to comply with the court's order in *Marasco*. This rule is designed to give us the flexibility to adjust as we receive feedback from the advocate community and the public at large with implementation. Our intention is to use this flexibility to improve the process based on experience, and we will provide information on updates to the process through subregulatory instructions as appropriate. Our subregulatory instructions are generally publicly available.

Comments and Responses:

Requests for Clarification

Comment: Multiple commenters opined that some of the central changes in the NPRM were inconsistent with the First Circuit's holding in *Marasco*, and that these changes will not actually steer payments to law firms. Some commenters disagreed with us establishing a process that allows the individual representative to decide whether or not to assign direct payment of authorized fees to an entity, arguing that the fees authorized for services performed as a representative while working as an employee belong to the entity, not the representative, and that the First Circuit's decision so held.

Response: We disagree with this interpretation of the First Circuit's decision. Prior to discussing ways in which we might comply with the decision, the First Circuit explicitly stated, “[i]t is not our role to determine what those mechanisms should be. However, we can see multiple ways of adjusting the current approach without disturbing the agency’s judgment that only individuals should represent claimants. As noted above, the SSA already expects law firms to disclose an attorney-representative’s affiliation with a firm. In such cases, the associate-representative could advise the SSA that any fees authorized from the claimant’s past-due benefits are jointly payable to the firm.” *Marasco &*

Nesselbush, LLP v. Collins, 6 F.4th 150, 177-78 (1st Cir. 2021). In other words, the court preserved SSA's flexibility in establishing the process by which direct payments would be made to entities. In so doing, it contemplated a process like the one SSA adopts here, in which the representative would "advise" SSA whether fees should be made directly to an entity. *Id.*

Therefore, the flexibility offered by the First Circuit is important, as the court considered only one type of representative/entity relationship, rather than the many types of relationships that actually exist. The First Circuit did not state that authorized fees must be paid to the entity without the representative's involvement. In addition, on remand from the First Circuit, the district court ordered the agency to "[e]stablish a process to ensure that law firms that employ salaried associates to represent SSA claimants may receive direct payment of the attorney's fees *to which the firms' associates are entitled* for representation performed while employed by those law firms." (emphasis added). Accordingly, we have established a process that is consistent with the First Circuit's decision, that complies with the district court's order, and that also does not "disturb[]" our "judgment that only individuals should represent claimants." *Marasco*, 6 F. 4th at 177-178.

Moreover, the assignment process aligns with a suggestion by the First Circuit that the agency "could simply honor the limited power of attorney that...firms require their associates to execute, in which the associates relinquish payments made to them for representing SSA claimants." *Marasco*, 6 F.4th at 178. It would be untenable for the agency to efficiently review and accurately make payments based on requirements set out in a range of powers of attorney (with varied terms governed by different state laws, which might also include an associate's right to rescind) that firms might require associates to execute. However, the assignment process adopted here accomplishes the same result as honoring any powers of attorney by allowing representatives to indicate

that their authorized fees should be directly paid to an entity, through a uniform process that is efficient and workable for representatives and agency employees.

Therefore, our process permits and facilitates direct payment of authorized fees to entities, as the court ordered, while accommodating the varying types of underlying relationships between representatives and entities, in which we have no involvement. Those relationships may take many forms, and we respect the choices entities and representatives make with regard to their employment agreements and contractual terms, as well as local laws affecting such relationships.

To simplify implementation and build flexibility, we will allow any representative to affiliate with an entity and assign direct payment, if applicable, to that entity. We will not verify whether the representative is salaried with the entity or is a contractor. We currently allow representatives to affiliate with the entity or entities of their choice through registration using the Form SSA-1699 to provide the entity with an informational IRS Form 1099. Similarly, we will require the representative to use our prescribed registration process to affiliate with an entity as a condition for a representative to assign direct payment of a fee to a particular entity.

Comment: Commenters had concerns about whether the principal representative should be required to be the de facto POC and whether language regarding the principal representative will remain on the Form SSA-1696. Commenters also expressed concerns that if there is a POC assigned and a principal representative did not waive fees, the proposed rule does not clarify the impact a fee waiver by a later appointed representative would have on the payment to the entity.

Response: The POC and principal representative are separate roles, and the POC's function will not change, impact, or affect that of a principal representative. Principal representatives are chosen by claimants when a claimant appoints more than one representative on their claim. The claimant is responsible for making decisions related to

the appointment, and the ability to designate the principal representative will remain on the Form SSA-1696. The principal representative must be one of the representatives appointed by the claimant. When there are multiple representatives appointed on a single claim, we send notices for non-fee-related matters only to the principal representative, who is responsible for distributing the information to the other representatives.

In contrast, POCs are individuals chosen by entities to resolve fee-related issues on any claim for which the entity receives direct payment of a fee. They must be registered as representatives with us but do not need to be appointed on any individual claim. Rather, the POC's role is to assist us in the resolution of any fee issues or errors with respect to direct payments to an entity. We have revised 20 CFR 404.1703 and 416.1503 to clarify the POC's role. Further, due to applicable Federal law (including the Privacy Act), regulations (including our regulations), and directives governing how, when, and to whom we may disclose a claimant's personal information, unless the POC is also appointed by the claimant as a representative, the POC is not entitled to any information about the claim or claimant other than what is necessary to resolve fee-related issues on behalf of the entity. For non-fee issues, we will continue to communicate with and send claim-related notices to the principal representative only.

Because we continue to recognize only individuals as appointed representatives, the right to a fee for services will remain with the representative – even though direct payment may be assigned to an entity. When a representative, whether the principal representative or another representative who is appointed on the case, waives the fee, we will not authorize or pay a fee to that representative or to an affiliated entity. However, if there are other representatives appointed on the case who have assigned direct payment of their fee to an entity and who did not waive their fee, we will authorize or pay a fee to those representatives and honor any assignments of direct payment those representatives made to an entity, if all relevant conditions are met.

Any appointed representative on a case who is eligible for direct payment can assign direct payment to an entity, but each assignment is limited to only one entity per representative per claim. Different representatives appointed on the same claim can assign their respective payments to the same or different entities.

Comment: Another commenter asked us to clarify the processing times for registration so that representatives are aware of the lead time required before they can be appointed. In addition, they asked for clarification on the method by which assignments will be made for an entity to receive direct payment of an authorized fee.

Response: We are implementing this final rule in two phases to accommodate concerns about processing times, with the first implementation phase focused on registering representatives and entities. After representatives and entities have had the opportunity to properly register, the second implementation phase will generally focus on assignment and direct payment of representative fees to entities. We are developing training that we will provide to agency staff who will be involved in this process to ensure they are prepared to explain the new requirements and necessary forms to claimants, prospective claimants, and anyone assisting them.

We will begin accepting entity registrations as soon as practicable and will generally process registrations as we receive them. We also plan to notify currently-registered entities about the changes in our rules and the need to update their registration. Our records indicate that there are approximately 5,000 registered entities that will need to update their registration to provide us their banking institution information and name a POC in order to receive direct payment via EFT based on an assignment. We have also identified several thousand EINs belonging to unregistered entities, meaning that representatives have listed these entities as affiliated with them, but these entities are unregistered. These entities must register in order to receive direct payment based on an assignment.

Individual representatives who are already registered and affiliated with an entity do not need to update their registration, unless their information changes or they wish to be affiliated with a different entity. Nonetheless, we plan to notify currently-registered individuals about the changes in our rules.

We have revised Form SSA-1696 (Claimant's Appointment of a Representative). On the revised form, a selection is available to assign direct payment of the fee to an affiliated entity. A representative may make an assignment any time before the date we notify the claimant of our first favorable determination or decision. All assignments must be filed using this standard form. We have added regulatory language to clarify that the assignment must be made in the manner we prescribe and will elaborate in our instructions³¹ that the manner of assignment will be on the Form SSA-1696. We made these changes in 20 CFR 404.1730(e)(iii) and 416.1530(e)(iii). We encourage representatives to make their assignment at the time of appointment or as early as possible to help us collect this critical information early and process it in an efficient manner.

Comment: Commenters opined that the proposed rule is unclear about whether the changes apply to new appointments and assignments after the date of the final rule, or if the assignments can be made "retroactively."

Response: In pending cases where a representative is already appointed, the representative may assign direct payment to an entity in accordance with these rules. The assignment must be made before the date we notify the claimant of our first favorable determination or decision.

However, although we will allow assignments for cases that are already in process prior to the final rule's effective dates, we cannot accept assignments or rescission of assignments filed after the date we notify the claimant of our first favorable

³¹ Our instructions include POMS and HALLEX, which are publicly available.

determination or decision for reasons of operational efficiency and accuracy. The vast majority of fees authorized by the agency use the fee agreement process, and section 206(a)(2)(A) of the Social Security Act (Act)³² requires fee agreements to be approved at the time of the favorable determination. Once the fee agreement is approved, our processes for authorizing the fee amount and issuing direct payments of the authorized fee begin. Because the timeline for the process that follows the fee agreement approval can be dependent on the facts of each case, we chose the time in the process that could be applied most uniformly and efficiently by agency technicians, and in the interest of uniformity, we will apply that rule regardless of whether the fees are authorized using the fee petition or fee agreement processes. We anticipate this deadline for making or rescinding appointments will minimize errors.

Attempting to treat differently pipeline cases in which a favorable determination or decision has been issued, but authorized representative fees have not been paid, by the effective date of the rule would greatly complicate our implementation of new policies and business processes. It would also increase the risk of processing errors.

Comment: Commenters stated that we had not been specific enough in identifying all the circumstances that would invalidate an assignment. As an example, they asked, “...what is the impact of the death of a representative who assigned fees to an entity prior to his death?”

Response: An established assignment will be invalidated if a representative or entity becomes ineligible for direct payment after the assignment is filed. For example:

- A representative may become ineligible for direct payment if they are sanctioned or if they are an eligible for direct payment non-attorney (EDPNA) who has lost their eligibility for direct payment.

³² 42 U.S.C. 406(a)(2)(A).

- An entity may become ineligible if, for example, it fails to remit excess fees.

Further, we will not accept untimely assignments, e.g., assignments made after we notified the claimant of the first favorable determination or decision on the case. If we determine in the future that other circumstances will invalidate an assignment, we will make those circumstances public in our subregulatory instructions. While we are unable to anticipate every possible circumstance at this time, we recognize the uncertainty this might cause the representative community as they try to comply with our rules and policies. To minimize this uncertainty, in addition to publishing changes in our publicly available subregulatory instructions, we will provide any updates to this policy to representatives through the channels we use to communicate with advocates, such as our Dear Colleague Letters and news announcements on our advocate webpage. This will ensure that the representative community is aware of any changes.

Regarding this specific example raised by the commenter, in the event an appointed representative dies, we will continue to honor an already-filed assignment if the representative was eligible for direct payment at the time of death and other necessary criteria for assignment and direct payment are met (e.g., there are past-due benefits, we authorize a fee, and the entity is eligible to receive direct payment).

Comment: Commenters asked how we will ensure that entities are paid for work performed by their salaried employees when that work was performed as a part of the representative's employment. Commenters had concerns that the proposed rule allows a representative to rescind an assignment prior to the award of a claim, thus creating the possibility that the representative could "take with them the fees to which the firm was clearly entitled."

Response: While we recognize entities' concerns about receiving compensation for work done by their employees, representative and entity relationships can take many

forms, and we are not in a position to know how those relationships are arranged. We respect the choices entities and representatives make with regard to their employment agreements and contractual terms, and we established a process that is flexible enough to accommodate a variety of relationships. Permitting an individual representative to rescind an assignment is important to that flexibility, as rescission might be appropriate in certain relationships. For example, an employment contract might permit a representative to leave a firm's employ but continue their representation and collect associated fees.

As well, maintaining this flexibility helps to protect claimant rights. Specifically, our process protects the claimant's ability to continue to be represented by the individual representative of their choice, regardless of that individual's employment relationship. To hinder that flexibility could disincentivize representatives who are not in the type of employment relationship that was at issue in *Marasco* from continuing representation in these circumstances.

While there may be other ways to preserve this flexibility, we are unable at this time to commit the significant information technology investments that would be required to, for instance, allow representatives the option of splitting direct payment of their authorized fee to accommodate those situations in which they are employed by an entity for only part of the time that they represent a claimant.³³ But again, nothing in these rules prevents entities and representatives from addressing such situations through their employment contracts (e.g., they agree that direct payment of such a fee should be made to the entity with the entity returning a portion to the representative, or they agree that direct payment of the fee should be made to the representative with the representative returning a portion to the entity).

The agency's new process is available to representatives and entities to use as appropriate for their individual circumstances. Ultimately, while we acknowledge the

³³ See, e.g., *supra* n.11.

need for entities to receive payment for the work representative employees do while in their employ, and we encourage entities and representatives to decide on and document those arrangements as part of a formal employment contract, we cannot assume responsibility for mediating the many types of employer-employee relationships. To do so would not be feasible.

As required, our process enables employers to directly receive fees authorized to representatives they employ through the assignment process. However, entities may structure their own employment contracts to prohibit or limit rescission of the assignment, if doing so is appropriate for their particular employment relationship, and may enforce those contracts as necessary. Additionally, neither the First Circuit's opinion nor the district court's order require the agency to favor a specific type of employment relationship.

Recapture of Fees

Comment: One commenter expressed concerns specifically about our proposed process for recovering excess or otherwise erroneous fees. They expressed, "No organizational requirements should permit Social Security to unilaterally recapture a fee from a representative or organization's bank account even if a fee was clearly, erroneously paid." They also stated, "Representatives remain responsible to return unearned, or mistakenly paid fees, but permitting Social Security to unilaterally take those fees whether disputed or not could lead to further mistake, violate a representative's appeals rights, and unduly harm a business that cannot predict the involuntary withdrawal of funds from its operating account, potentially years after a fee was paid and dispersed on the good faith belief that it was valid."

Response: We are not proposing to recapture fees from bank accounts. We currently have a long-established process to handle collection of erroneous or excess fees from individuals and are developing a similar process to collect erroneous or excess fees

from entities. With this rule we require entities to name a POC so that we can work with that person to detect and confirm whether an error has occurred and, where appropriate, collect the excess fee via a remittance from the entity similar to what we currently do for individuals. We do not withdraw excess fees directly from an entity's or individual representative's bank account, and this rule will not change that.

Registration of Representatives and Entities

Comment: Some commenters had concerns with the revised definition of the term “representative,” as well as the proposed rule’s requirement that individual representatives register prior to being appointed on a claim.

One commenter stated, “The proposed rule’s expansion of this requirement [registration by all representatives and use of the representative ID] appears to be beyond the scope of addressing the First Circuit direction to develop a process for paying entities directly and may well discourage friends and family from providing valuable assistance to claimants.” However, they did concur that entities themselves should be required to register to receive direct payment.

Response: We expect that requiring all representatives to register with us will have several benefits. While we generally communicate with unregistered representatives via manual notifications, requiring all representatives to register will allow us to conduct business more efficiently because it will allow us to automate more notices, minimize manual errors, properly track transactions and related communications, and improve our sanctions process. The registration requirement will help us further automate communications that are managed by our centralized representative database and share the information with our secondary databases used to process cases at different adjudicatory levels, so these systems can also automate their communications. We expect this increased automation will also make the processing of appointments and fee payments more efficient by reducing errors associated with manual actions. In addition,

the registration requirement will enable us to better track all representatives' actions and conduct on their cases, rather than just those who choose to register with us, and it will extend access to our electronic services to more representatives. Access to our Electronic Records Express (ERE) system, for example, has been an important tool for representatives to obtain real-time information from our files in an easy and efficient way without the need to contact an agency employee for that information.

Our subregulatory instructions already provide that general assistance, including accompanying a claimant to an appointment or our offices, or providing general help or casual advice, is not considered "representational services."³⁴ Relatives, friends, or other individuals who want to assist claimants in this manner do not need to be registered or appointed. They can perform tasks such as interpreting for claimants, helping claimants fill out forms, or joining claimants in interviews. However, anyone who wants to actively represent a claimant, speak to us on behalf of a claimant, or access our electronic files must be appointed (unless the individual has other legal authority to do so). If friends and family members want to act in the capacity of an appointed representative, with the rights and responsibilities that go along with that role, they will need to register with us.

Comment: Commenters expressed concerns with our proposal to connect the appointment document (Form SSA-1696) to the payment of fees.

Response: As explained in more detail above, we chose to maintain our rule that only individuals, not entities, may be appointed as representatives. As such, our process facilitates direct payment to entities through assignment, which provides a reasonably reliable means for law firms to obtain fees compensating them for an individual's representation of a claimant on behalf of the entity directly from claimants' past-due benefits. The representative must make the assignment in the manner we prescribe—

³⁴ See POMS GN 03910.020 Qualifications for and Recognition of Representatives, available at: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203910020>.

which will be the updated Form SSA-1696. We may update the prescribed manner in the future if appropriate.

We will collect the assignment selection on Form SSA-1696 because this collection instrument is required to document the appointment, is the first form we receive on a claim about the representation and is already used to collect information about payment of fees such as whether the representative will waive their fee or direct payment. Creating a separate form, or other means, to collect the assignment would be redundant and would create additional burden for claimants, their representatives, and us. In recent years, we archived another form (SSA-1695) and incorporated information contained therein on the Form SSA-1696 to help reduce the need for more forms. Further, our records show that most representatives use the Form SSA-1696 to document their appointments, so adding a box to collect the assignment information does not significantly increase the burden on representatives and their clients.

Comment: Commenters expressed confusion and concern that the wording of our new requirement that attorneys also sign notices of appointment could be misconstrued as requiring all representatives to sign the same notice of appointment.

Response: Previously, our regulations only required non-attorneys to sign written notices of appointment. With these new rules, every representative, whether an attorney or non-attorney, will need to sign a prescribed notice of appointment before we will recognize the appointment. Each representative will need to sign a separate Form SSA-1696; we will not accept appointment forms signed by multiple representatives.

Requiring all representatives to sign the SSA-1696 regardless of attorney or non-attorney status will improve efficiency by implementing a uniform rule, as technicians will no longer be required to confirm different requirements are met depending on the representative's status as an attorney or non-attorney. It will also strengthen uniformity in the processing of appointments.

Fee Agreements and Fee Waivers

Comment: Multiple commenters said that the proposed rule fails to provide the procedures and required format for fee agreements with enough specificity, including whether all representatives appointed on a claim will be permitted to agree to be bound by a previously executed entity fee agreement without requiring an additional wet signature on a single document. Commenters also asked if the requirement that all representatives who jointly represent one claimant and have signed the same fee agreement will continue or whether one fee agreement with the entity's POC would suffice.

Response: These comments concern our fee authorization policies rather than our fee payment procedures. Our fee authorization policies, including who must sign a fee agreement, were not before the court and were not part of the First Circuit's decision or the district court's order. Therefore, because our focus is implementing a new process to pay entities as required by the court's order, we are not revising our rules related to who must sign a fee agreement or otherwise revising our fee authorization policies at this time. We continue to require that all representatives who will or may ask for a fee sign the same fee agreement to ensure that we authorize one fee under the same approved agreement and that the fee we authorize under this process does not exceed the maximum statutory limit. We will continue to accept revised fee agreements if they are filed prior to the date of the first favorable determination or decision.

Comment: A commenter expressed concern that the proposed rule does not include a requirement that we find that the fee set forth in an approved fee agreement is reasonable.

Response: Section 206(a) of the Act³⁵ sets out several criteria for fee agreements, including that the fee under the fee agreement must not exceed the lesser of 25 percent of

³⁵ 42 U.S.C. 406(a).

the claimant's past-due benefits or the maximum dollar limit set by the Commissioner (\$7,200 as of November 2022).³⁶ We do not examine reasonableness or consider services when evaluating a fee agreement. Under section 206(a)(1) of the Act,³⁷ we are tasked with determining whether the fee is reasonable when a fee petition, rather than a fee agreement, is filed. We consider the purpose of the program and use seven factors to ascertain whether the fee requested by a fee petition is reasonable.³⁸

The *Marasco* decision was limited to the issue of payment to the entity after we authorize a fee. The decision did not address or require changes to our rules for evaluating fee agreements or fee petitions, and these rules do not change any of our existing rules in that area.

Fee Petitions

Comment: Commenters pointed out that the proposed rule is silent on fee petitions, and they wanted to know whether we will allow the entity or POC to file one fee petition on behalf of all the representatives who were salaried employees of the entity. One commenter asked that we give entities the right to request a fee. Another said, "The proposed rule does not include any mechanisms for a law firm to collect a fee via the fee petition process for work performed by salaried associates who have left the employ of the firm."

Response: So long as the necessary criteria are met, we will pay any authorized fee directly to an entity if there is a valid assignment, regardless of whether the representative opted to use the fee agreement or fee petition process, and regardless of whether the representative is currently appointed on a case. For example, as we explained above, if a representative who has assigned direct payment of the authorized fee leaves the employment of an affiliated entity or withdraws their appointment, this will not affect

³⁶ 87 FR 39157 (June 30, 2022). The maximum dollar limit will increase to \$9,200 effective November 30, 2024. 89 FR 40523 (May 10, 2024).

³⁷ 42 U.S.C. 406(a)(1).

³⁸ See 20 CFR 404.1725 and 416.1525.

an entity's eligibility to receive direct payment of an authorized fee. As well, we note that it is common to have more than one representative assigned to a claim (and sign on to the fee agreement, if applicable), and to have additional representatives assigned to a case if one leaves. Moreover, we have already made policy and procedural changes to permit withdrawn representatives hired by the Federal Government to file fee petitions for services they provided prior to withdrawing and joining the government, and to receive direct payment of those fees.³⁹ In total, these provisions offer mechanisms for entities to receive direct payment of fees, regardless of the fee authorization process used by the representative. As we explained above with respect to fee agreements, with this final rule we are not revising who we recognize as a representative, and therefore we are likewise not revising our rules related to fee petitions.

Electronic Funds Transfers/Direct Deposits and 1099s

Comment: Some commenters opposed our proposed requirement that entities receive payments via electronic funds transfer (EFT), and they expressed concern about what information we would provide to the banks linking payments to specific clients, and what information individual banks would provide to their customers. Some commenters asked that we provide information linking payments to clients directly to representatives or entities via text, email, mail, or a dedicated portal. Because of these concerns, some commenters asked that we ensure the EFT process is fully developed and appropriate guidance is provided to financial institutions and entity payees before the proposed rule becomes final. Another commenter urged us to return to the process of identifying claimants and fee amounts on all Forms IRS 1099 we issue.

Response: We will use EFT to pay entities. Electronic payments are widely used, are preferred by the Department of the Treasury's Fiscal Service, and are efficient. Our

³⁹ See POMS GN 03980.005, available at: <https://secure.ssa.gov/apps10/poms.nsf/lrx/0203980005>; id. GN 03980.010, available at <https://secure.ssa.gov/apps10/poms.nsf/lrx/0203980010>; id. GN 03980.071, available at <https://secure.ssa.gov/apps10/poms.nsf/lrx/0203980071>.

current systems do not support paying entities by check, and system updates to facilitate this functionality would be expensive and take significant time, diverting resources from other important system improvements necessary to carry out our core programs. When we certify a fee payment, we transmit key information linking payments to the related claims such as the claimant's first name, last name, and Social Security Number. We confirmed with the Department of the Treasury that it passes on this information to banking institutions. However, we understand that while the information is available, it may not be readily accessible by all representatives or entities depending on their choice of banking institution. We appreciate the concern raised and are actively looking for ways to make this information more accessible to representatives and entities while responsibly allocating limited resources.

Designated Point of Contact

Comment: Several commenters asked whether we would consider communicating with the POC's assistant(s), so that paralegals and other non-representatives could handle the administrative work while the representatives focused on the legal work. One commenter stated, "Most people in law firms who collect fees for the entity are legal assistants and not lawyers; therefore, they likely would not be registered representatives." They objected to our proposal to require that the POC be an individual who is a registered representative.

Response: A POC is not required to be an attorney; they need only be an individual registered with us in the manner we explained above using Form SSA-1699. The POC is not required to be eligible for direct payment or be appointed on any claim. As such, there is no reason the POC cannot be a paralegal or other staff member. As stated above, we expect the POC to assist us with resolving fee-related matters related to direct payment of fees to the entity. As also explained above, we will hold the POC

responsible under our Rules of conduct and standards of responsibility for representatives,⁴⁰ as appropriate to their role.

Requiring individuals to register with us before being designated as POCs will facilitate quicker processing of the entity's registration because, at the time the entity submits its registration, the registered individual's information will already be in our system and will not need to be manually keyed in by a technician prior to processing the entity's registration, which would otherwise be the case. It will also allow us to readily identify and verify the POC when we share certain claim information to resolve fee matters and, if needed, ensure accountability under our rules of conduct. Registration will also help us ensure that we keep accurate and comprehensive records of our communications with the entities and their POCs.

Comment: Another commenter asked about the procedure for the entity to amend the POC and how quickly we will be able to process the change.

Response: To update a POC's information the new POC must submit an updated Form SSA-1694. While the processing of the form is centralized and streamlined, it is not instantaneous. As such, entities should make every effort to make updates as early as possible.

Proposed Criteria

Comment: One commenter suggested a modification to the revised definition of "Registration" to indicate that the representative must have started the registration process prior to appointment.

Response: For reasons explained above, we deem it important that individual representatives now register with us through Form SSA-1699 in order to be appointed on a claim. To ensure a representative is registered before being appointed, Form SSA-1696 requires that the representative seeking appointment provide their Rep ID, which is

⁴⁰ 20 CFR 404.1740-404.1799, 416.1540-416.1599.

issued at the completion of registration. Therefore, we cannot process a request to be appointed until registration is complete. Although we cannot process a new registration through Form SSA-1699 at the same time as a request for appointment through Form SSA-1696, we will not reject the Form SSA-1696 solely because it is submitted with an initial representative registration; we will hold the Form SSA-1696 and process it once registration is complete. Furthermore, we do not have the administrative capacity or systems resources to track registration in phases. When we receive a completed Form SSA-1699, it is placed in a processing queue. When it is processed, our system automatically generates and sends a notice to the representative to confirm registration. We do not expect registration delays will have a significant effect on a claimant's ability to timely appoint a representative.

Comment: A commenter suggested that we establish an Administrative POC or similar position who is accessible and required to be reasonably responsive to fee inquiries. The commenter opined that just as we plan to require that firms have a POC that can be reached to address fee issues, representatives should have a fee coordinator at SSA, or similar position who is accessible and required to be reasonably responsive to fee inquiries.

Response: Appointed representatives and entity POCs may direct fee inquiries to the appropriate processing center.⁴¹ We will train staff who will be handling this workload in this newly developed process to ensure that they are able to respond to fee inquiries from an appointed representative or an entity's POC.

Comment: One commenter encouraged us to implement a process that minimizes the issuance of multiple checks when the fee agreement includes multiple employees of a single firm.

⁴¹ Specific contact information for processing centers can be found on our website www.ssa.gov.

Response: Under the new rule, we will pay entities by way of direct payment, not a check, so we will not be issuing multiple checks to entities. In addition, if all appointed representatives eligible for direct payment assign direct payment of their fees to the same entity, we plan to make one total payment to the entity rather than multiple payments for each assignment.

Comment: Commenters encouraged us to formally recognize and permit the submission of valid, electronically signed representative documents (i.e., Appointment of Representative and Fee Agreements).

Response: Electronic signature procedures are beyond the scope of this rule. However, we note that we currently accept electronic versions of the SSA-1696 and SSA-1693, (Fee Agreement for Representation Before the Social Security Administration), which can be electronically completed, signed, and filed. The e1696 and e1693 can be found on our website at: <https://www.ssa.gov/representation/>.

Comment: Commenters expressed concerns that claimants and some representatives may not be aware that they are now required to file our prescribed form (Form SSA-1696) to document an appointment.

Response: Our records show that the use of a written statement in lieu of an SSA-1696 is very rare by both claimants and representatives. However, our new requirement that representative appointments be made through the SSA-1696, along with other new requirements, will be made clear to the public through the publishing of this rule in the *Federal Register*; communications to the representative community; and announcements on our website at www.ssa.gov/representation. In addition, as noted above, we are developing training that we will provide to agency staff that will be involved in this process to ensure they are prepared to explain the new requirements and necessary forms to representatives, claimants, prospective claimants, and anyone assisting them.

Comment: Finally, a commenter suggested we specify that when the principal representative or the principal law firm withdraws, this also automatically serves as a withdrawal of the secondary representative in the same firm, unless stated otherwise. The commenter opined that current rules do not treat the secondary representative as withdrawn, even though they have not touched the file in several months, if at all.

Response: Only the appointed representative can withdraw their acceptance of an appointment. Representatives, including the principal representative, are prohibited from withdrawing on another representative's behalf. We are not changing this policy.

Additionally, each representative is responsible for conducting their dealings in such a way that furthers the efficient and orderly conduct of our administrative decision-making process, including withdrawing representation in a non-disruptive manner.⁴² Representatives have an affirmative duty to withdraw themselves when appropriate and to ensure that such withdrawal is not disruptive.

Regulatory Procedures

Executive Order 12866, as Supplemented by Executive Orders 13563 and 14094

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule meets the criteria for a significant regulatory action under E.O.s 12866 and 14094 and is subject to OMB review.

Anticipated Accounting Costs of This Final Rule

Anticipated Transfers to Our Programs

Our Office of the Chief Actuary estimates that this final rule would not materially affect the availability and quality of representation. Specifically, this means any small incidental changes to scheduled OASDI (Old Age, Survivors, Disability, Insurance) benefits and federal SSI (Supplemental Security Insurance) payments would collectively

⁴² See 20 CFR 404.1740(b)(3) and 416.1540(b)(3); POMS GN 03970.010 Rules of Conduct and Standards of Responsibility for Representatives, available at: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203970010>.

be less than our baseline significance number of \$500,000 over the period of fiscal years 2024 through 2033.

Anticipated Administrative Costs to the Social Security Administration

The systems upgrades necessary to comply with the *Marasco* decision are funded and currently underway. Once the rule becomes effective, the Office of Budget, Finance, and Management estimates administrative costs of less than 15 work years and \$2 million annually from the updates to our current business process.

Executive Order 13132 (Federalism)

We analyzed this final rule in accordance with the principles and criteria established by E.O. 13132 and determined that this final rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment. We also determined that this final rule would not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities. Although this final rule would require small entities who want to receive direct payment of authorized fees to provide us with certain information, maintain an active POC responsible for interacting with us, and accept payment by EFT, these requirements would not disadvantage small entities or limit their ability to compete with larger competitors. Additionally, this final rule does not place significant costs on entities.

We estimate that the time required for a small entity to complete the one-time transaction required to fill out and submit a basic registration form, provide banking information, and identify a POC would be minimal. Once the initial registration is complete, there would be no additional burden on the entity unless and until the entity needed to update its registration information. We anticipate that small entities that take

advantage of the opportunity to receive direct payment of authorized fees through the assignment process may experience slight cost savings because of improved accuracy and efficiency in their recordkeeping processes and because they would no longer need to collect and properly account for payments made to individual representative employees. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

The final rule requires revisions to our existing information collections to enable SSA to directly pay entities fees we may authorize to their employees, and to register all entities who wish direct payment to register with us, using our revised, standardized registration system. For some sections in this rule, we previously accounted for the public reporting burdens under the following OMB approved information collections: 0960-0527 (SSA-1696 Claimant's Appointment of a Representative, which allows an individual to appoint a representative, and requires the representative's agreement to serve as representative), 0960-0731 (SSA-1694, Request for Business Entity Taxpayer Information, which requests specific taxpayer data from representatives requesting a fee), and 0960-0732 (SSA-1699, Representative Registration, which requires the representatives to prove eligibility when they register with SSA and allows them to request a fee). Consequently, we are not reporting those sections below.

However, the application of the revisions under this final rule requires burden changes and information collection revisions to the currently approved information collections under the following information collection requests: 0960-0527 (SSA-1696, Claimant's Appointment of a Representative, which allows an individual to appoint a representative, and requires the representative's agreement to serve as representative), 0960-0731 (SSA-1694, Request for Business Entity Taxpayer Information, which requests specific taxpayer data from representatives requesting a fee), and 0960-0732

(SSA-1699, Representative Registration, which requires the representatives to prove eligibility when they register with SSA and allows them to request a fee). We anticipate these revisions will increase the burdens for the affected information collections.

We published a Notice of Proposed Rulemaking (NPRM) on August 4, 2023, at 88 FR 51747. In that NPRM, we solicited comments under the PRA on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. The comments section above includes our responses to the PRA-related public comments we received under the NPRM.

Note: While this information collection request encompasses multiple information collection (IC) tools, not all of the ICs will become effective at the same time. We expect to make the SSA-1694 (OMB No. 0960-0731) and the SSA-1699 (OMB No. 0960-0732) effective on September 30, 2024. However, we expect to make the SSA-1696 (OMB No. 0960-0527) effective December 9, 2024.

The following chart shows the time burden information associated with the final rule for the public reporting requirements we are revising:

CFR Citations; OMB #; Form #	Description of New Public Reporting Requirement	Number of Respondents	Frequency of Response	Average Burden Per Response (minutes)	Anticipated Estimated Total Burden Under Regulation (hours)
404.1707(a) 416.1507(a) SSA-1696 (0960-0527) Effective Date: December 9, 2024.	You [claimant] complete and sign our prescribed appointment form, and	1,100,000	1	7	128,333
404.1707(a) 416.1507(a) SSA-1696 (0960-0527)	Your representative completes and signs our prescribed appointment form, and	1,100,000	1	5	91,667

CFR Citations; OMB #; Form #	Description of New Public Reporting Requirement	Number of Respondents	Frequency of Response	Average Burden Per Response (minutes)	Anticipated Estimated Total Burden Under Regulation (hours)
Effective Date: December 9, 2024.					
404.1720(f) 416.1520(f) SSA-1696 (0960-0527) Effective Date: December 9, 2024.	A representative who is eligible for direct payment of an authorized fee may assign the authorized fee to an entity that is eligible for direct payment	500,000	1	5	41,667*
404.1730(e)(2) 416.1530(e)(2) SSA-1696 (0960-0527) Effective Date: December 9, 2024.	A representative may rescind an assignment before the date on which we notify you of our first favorable determination or decision.	150,000	1	3	7,500
404.1735 416.1535 SSA-1694 (0960-0731) Effective Date: September 30, 2024.	An entity is eligible for direct payment if the entity: (a) has an Employment Identification Number, (b) is registered with us in the manner we prescribe, (c) has not been found ineligible for direct payment, (d) designates and maintains an employee who is a registered representative as a point of contact to speak and act on the entity's behalf, (e) accepts payment via electronic transfer, and (f) conforms to our rules	7,000	1	18	2,100
404.1705(c) 404.1730(e)(v) 404.1735(b) 416.1505(c) 416.1530(e)(v) 416.1535(b) SSA-1699 (0960-0732)	Your representative(s) must be registered with us in the manner we prescribe before you submit the appointment(s)	15,382	1	20	15,382

CFR Citations; OMB #; Form #	Description of New Public Reporting Requirement	Number of Respondents	Frequency of Response	Average Burden Per Response (minutes)	Anticipated Estimated Total Burden Under Regulation (hours)
Effective Date: September 30, 2024.					
Totals		2,867,382			276,394

The following chart shows the theoretical cost burdens associated with the final rule:

OMB #; Form #; CFR Citations	Number of Respondents	Anticipated Estimated Total Burden Under Regulation from Chart Above (hours)	Average Theoretical Hourly Cost Amount (dollars)**	Total Annual Opportunity Cost (dollars)***
404.1707(a) 416.1507(a) SSA-1696 (0960-0527) Effective Date: December 9, 2024.	1,100,000	128,333	\$13.30**	\$1,706,829***
404.1707(a) 416.1507(a) SSA-1696 (0960-0527) Effective Date: December 9, 2024.	1,100,000	91,667	\$84.84**	\$7,777,028***
404.1720(f) 416.1520 (f) SSA-1696 (0960-0527) Effective Date: December 9, 2024.	500,000	41,667*	\$84.84**	\$3,535,028***
404.1730(e)(2) 416.1530(e)(2) SSA-1696 (0960-0527) Effective Date: December 9, 2024.	150,000	7,500	\$84.84**	\$636,300***
404.1735 416.1535 SSA-1694 (0960-0731) Effective Date: September 30, 2024.	7,000	2,100	\$84.84**	\$178,164***
SSA-1699 (0960-0732) Effective Date: September 30, 2024.	15,382	5,127	\$84.84**	\$434,975***
Totals	2,867,382	276,394		\$14,268,324***

* This is not additional burden but part of the existing burden for those representatives who complete this instrument but also check the assignment box. We include it here to indicate a change in burden for this regulatory section.

** We based these figures on average Legal Service hourly salary, as reported by Bureau of Labor Statistics data (<https://www.bls.gov/oes/current/oes231011.htm>) and the average DI payments based on SSA's current FY 2024 data (<https://www.ssa.gov/legislation/2024FactSheet.pdf>).

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. There is no actual charge to respondents to complete the application.

SSA submitted a single new Information Collection Request which encompasses revisions to information collections currently under OMB Numbers 0960-0527, 0960-0731 and 0960-0732 to OMB for the approval of the changes due to the final rule. After approval at the final rule stage, we will adjust the figures associated with the current OMB numbers for these forms to reflect the new burden.

As we have revised the associated burdens for the above-mentioned forms since we made revisions to the final rule which were not included at the NPRM stage, we are currently soliciting comment on the burden for the forms as shown in the charts above. If you would like to submit comments, please send them to:

Currently under Review - Open for Public Comments

(<https://www.reginfo.gov/public/do/PRAMain>)⁴³ and choosing to click on one of SSA's published items. Please reference Docket ID Number [SSA-2023-0018] in your submitted response.

Social Security Administration, OLCA
Attn: Reports Clearance Director
Mail Stop 3253 Altmeyer
6401 Security Blvd
Baltimore MD 21235
Fax: 833-410-1631
Email address: OR.Reports.Clearance@ssa.gov

⁴³ Please note that the link to the specific ICR connected to this regulation will only become active the day after the final rule publishes in the *Federal Register*.

You can submit comments until [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], which is 30 days after the publication of this document. To receive a copy of the OMB clearance package, contact the SSA Reports Clearance Officer using any of the above contact methods. We prefer to receive comments by email or fax.

(Federal Assistance Listings Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Blind; Disability benefits; Old-Age, Survivors, and Disability Insurance; Reporting and recordkeeping requirements; Social Security.

20 CFR Part 416

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

20 CFR Part 422

Administrative practice and procedure; Reporting and recordkeeping requirements; Social security.

The Commissioner of the Social Security Administration, Martin O'Malley, having reviewed and approved this document, is delegating the authority to electronically

sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for SSA, for purposes of publication in the *Federal Register*.

Faye I. Lipsky,
Federal Register Liaison,
Office of Legislation and Congressional Affairs,
Social Security Administration.

For the reasons stated in the preamble, we amend 20 CFR parts 404, 416, and 422 as set forth below:

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

Subpart R—Representation of Parties

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

Authority: 42 U.S.C. 405(a), 406, 902(a)(5), and 1320a-6.

2. In § 404.1703, add definitions for “Affiliate”, “Assignment”, “Point of Contact”, and “Registration” in alphabetical order and revise the definition of “Representative” to read as follows:

§ 404.1703 Definitions.

* * * * *

Affiliate means to associate with an entity through our prescribed registration process.

Assignment means the transfer of the right to receive direct payment of an authorized fee to an entity as described in § 404.1730(e).

* * * * *

Point of Contact means an individual who registers as a representative in the manner we prescribe and is selected by an entity to speak and act on the entity’s behalf and who assumes the affirmative duties and obligations we prescribe.

Registration means a process by which an individual or entity provides the information we require to conduct business with us.

* * * * *

Representative means an attorney who meets all of the requirements of § 404.1705(a), or a person other than an attorney who meets all of the requirements of § 404.1705(b), and whom you appoint to represent you in dealings with us. For purposes

of our Rules of conduct and standards of responsibility for representatives in §§ 404.1740 through 404.1799, *Representative* also includes an individual who provides representational services and an individual who is listed as a point of contact for an entity, as applicable to their identified role.

* * * * *

3. In § 404.1705, redesignate paragraph (c) as paragraph (d), add a new paragraph (c), and revise newly redesignated paragraph (d) to read as follows:

§ 404.1705 Who may be your representative.

* * * * *

(c) Your representative(s) must be registered with us in the manner we prescribe.

(d) We may refuse to recognize your chosen representative if the person does not meet the requirements in this section. We will notify you and the proposed representative if we do not recognize the person as your representative.

4. Revise § 404.1707 to read as follows:

§ 404.1707 Appointing a representative.

We will recognize a person as your representative if:

(a) You and your representative complete and sign our prescribed appointment form; and

(b) You or your representative file our prescribed appointment form in the manner we designate.

5. In § 404.1720, add paragraph (f) to read as follows:

§ 404.1720 Fee for a representative's services.

* * * * *

(f) *Assignment of direct payment of fees.* A representative who is eligible for direct payment of an authorized fee may assign direct payment of the authorized fee to an entity that is eligible for direct payment of fees (see §§ 404.1730(e) and 404.1735).

6. In § 404.1730:

a. Revise the paragraph (b) heading;

b. Revise paragraph (b)(1) introductory text;

c. Redesignate paragraph (b)(1)(i) as (b)(1)(iii) and paragraph (b)(1)(ii) as (b)(1)(iv);

d. Add new paragraphs (b)(1)(i) and (ii); and

e. Add paragraph (e).

The revisions and additions read as follows:

§ 404.1730 Payment of fees.

* * * * *

(b) *Fees we may pay*—(1) *Attorneys and eligible non-attorneys*. Except as provided in paragraph (c) of this section, if we make a determination or decision in your favor and you were represented by an attorney or an eligible non-attorney (see § 404.1717), and as a result of the determination or decision you have past-due benefits;

(i) We will pay your representative out of the past-due benefits the lesser of the amounts in paragraph (b)(1)(iii) or (iv) of this section, less the amount of the assessment described in paragraph (d) of this section, unless the representative files a waiver of the fee or direct payment of the fee; and

(ii) If there is a valid assignment (see paragraph (e) of this section), we will pay the representative's fee (see paragraph (b)(1)(i) of this section) to an entity.

* * * * *

(e) *Assignment of direct payment of a fee to designated entity*. (1) A representative may assign direct payment of the fee we authorize to an eligible entity if the representative:

(i) Is eligible for direct payment;

(ii) Has not waived the fee or direct payment;

(iii) Assigns direct payment of the entire fee we authorize to one entity in the manner we prescribe;

(iv) Makes the assignment before the date on which we notify you of our first favorable determination or decision; and

(v) Affiliates with the entity through registration.

(2) A representative may rescind an assignment in the manner we prescribe before the date on which we notify you of our first favorable determination or decision.

(3) A representative may not assign direct payment of a fee to an entity that is ineligible to receive direct payment.

(4) A representative may not waive a fee or direct payment of a fee if the representative previously assigned direct payment of a fee in accordance with paragraph (e)(1) of this section and did not timely rescind that assignment in accordance with paragraph (e)(2) of this section.

7. Add § 404.1735 to read as follows:

§ 404.1735 Entity eligible for direct payment of fees.

An entity is eligible for direct payment of an authorized fee if the entity:

(a) Has an Employer Identification Number;

(b) Has registered with us in the manner we prescribe;

(c) Has not been found ineligible for direct payment;

(d) Designates and maintains an employee who is registered as a representative in the manner we prescribe as a point of contact to speak and act on the entity's behalf;

(e) Accepts payment via electronic funds transfer; and

(f) Conforms to our rules.

8. In § 404.1740, add paragraph (c)(15) to read as follows:

§ 404.1740 Rules of conduct and standards of responsibility for representatives.

* * * * *

(c) * * *

(15) While serving as a point of contact for an entity, violate applicable affirmative duties, engage in prohibited actions, or conduct dealings with us in a manner that is untruthful or does not further the efficient and prompt correction of a fee error.

**PART 416— SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND,
AND DISABLED**

Subpart O—Representation of Parties

9. The authority citation for subpart O is revised to read as follows:

Authority: 42 U.S.C. 405(a), 406, 902(a)(5), 1320a-6, and 1383(d).

10. In § 416.1503, add definitions for “Affiliate”, “Assignment”, “Point of Contact”, and “Registration” in alphabetical order and revise the definition of “Representative” to read as follows:

§ 416.1503 Definitions.

* * * * *

Affiliate means to associate with an entity through our prescribed registration process.

Assignment means the transfer of the right to receive direct payment of an authorized fee to an entity as described in § 416.1530(e).

* * * * *

Point of Contact means an individual who registers as a representative in the manner we prescribe and is selected by an entity to speak and act on the entity’s behalf and who assumes the affirmative duties and obligations we prescribe.

Registration means a process by which an individual or entity provides the information we require to conduct business with us.

* * * * *

Representative means an attorney who meets all of the requirements of § 416.1505(a), or a person other than an attorney who meets all of the requirements of § 416.1505(b), and whom you appoint to represent you in dealings with us. For purposes of our Rules of conduct and standards of responsibility for representatives in §§ 416.1540 through 416.1599, *Representative* also includes an individual who provides representational services and an individual who is listed as a point of contact for an entity, as applicable to their identified role.

* * * * *

11. In § 416.1505, redesignate paragraph (c) as paragraph (d), add a new paragraph (c), and revise newly redesignated paragraph (d) to read as follows:

§ 416.1505 Who may be your representative.

* * * * *

(c) Your representative(s) must be registered with us in the manner we prescribe.

(d) We may refuse to recognize your chosen representative if the person does not meet the requirements in this section. We will notify you and the proposed representative if we do not recognize the person as your representative.

12. Revise § 416.1507 to read as follows:

§ 416.1507 Appointing a representative.

We will recognize a person as your representative if:

(a) You and your representative complete and sign our prescribed appointment form; and

(b) You or your representative file our prescribed appointment form in the manner we designate.

13. In § 416.1520, add paragraph (f) to read as follows:

§ 416.1520 Fee for a representative's services.

* * * * *

(f) *Assignment of direct payment of fees.* A representative who is eligible for direct payment of an authorized fee may assign direct payment of the authorized fee to an entity that is eligible for direct payment of fees (see §§ 416.1530(e) and 416.1535).

14. In § 416.1530:

- a. Revise the paragraph (b) heading;
- b. Revise paragraph (b)(1) introductory text;
- c. Redesignate paragraphs (b)(1)(i), (ii), and (iii) as (b)(1)(iii), (iv), and (v);
- d. Add new paragraphs (b)(1)(i) and (ii);
- e. Redesignate paragraph (e) as (f); and
- f. Add a new paragraph (e).

The revisions and additions read as follows:

§ 416.1530 Payment of fees.

* * * * *

(b) *Fees we may pay*—(1) *Attorneys and eligible non-attorneys.* Except as provided in paragraph (c) of this section, if we make a determination or decision in your favor and you were represented by an attorney or an eligible non-attorney (see § 416.1517), and as a result of the determination or decision you have past-due benefits;

(i) We will pay your representative out of the past-due benefits the smallest of the amounts in paragraphs (b)(1)(iii) through (v) of this section, less the amount of the assessment described in paragraph (d) of this section, unless the representative files a waiver of the fee or direct payment of the fee; and

(ii) If there is a valid assignment (see paragraph (e) of this section), we will pay the representative's fee (see paragraph (b)(1)(i) of this section) to an entity.

* * * * *

(e) *Assignment of direct payment of a fee to designated entity.* (1) A representative may assign direct payment of the fee we authorize to an eligible entity if the representative:

(i) Is eligible for direct payment;

(ii) Has not waived the fee or direct payment;

(iii) Assigns direct payment of the entire fee we authorize to one entity in the manner we prescribe;

(iv) Makes the assignment before the date on which we notify you of our first favorable determination or decision; and

(v) Affiliates with the entity through registration.

(2) A representative may rescind an assignment in the manner we prescribe before the date on which we notify you of our first favorable determination or decision.

(3) A representative may not assign direct payment of a fee to an entity that is ineligible to receive direct payment.

(4) A representative may not waive a fee or direct payment of a fee if the representative previously assigned direct payment of a fee in accordance with paragraph (e)(1) of this section and did not timely rescind that assignment in accordance with paragraph (e)(2) of this section.

* * * * *

15. Add § 416.1535 to read as follows:

§ 416.1535 Entity eligible for direct payment of fees.

An entity is eligible for direct payment of an authorized fee if the entity:

(a) Has an Employer Identification Number;

(b) Has registered with us in the manner we prescribe;

(c) Has not been found ineligible for direct payment;

- (d) Designates and maintains an employee who is registered as a representative in the manner we prescribe as a point of contact to speak and act on the entity's behalf;
- (e) Accepts payment via electronic funds transfer; and
- (f) Conforms to our rules.

16. In § 416.1540, add paragraph (c)(15) to read as follows:

§ 416.1540 Rules of conduct and standards of responsibility for representatives.

* * * * *

(c) * * *

(15) While serving as a point of contact for an entity, violate applicable affirmative duties, engage in prohibited actions, or conduct dealings with us in a manner that is untruthful or does not further the efficient and prompt correction of a fee error.

PART 422—ORGANIZATION AND PROCEDURES

Subpart F—Applications and Related Forms

17. The authority citation for subpart F is revised to read as follows:

Authority: 42 U.S.C. 1320b-10(a)(2)(A).

18. In § 422.515, revise the section heading and the listing for form SSA-1696 and add a listing for form SSA-1699 in numerical order to read as follows:

§ 422.515 Forms used for withdrawal, reconsideration and other appeals, appointment of representative, and representative registration.

* * * * *

SSA-1696-Claimant's Appointment of a Representative. (For use by claimants or representatives as a notice of their appointment of a representative in a claim, issue, or other matter that is pending a determination or a decision before us).

SSA-1699-Representative Registration. (For use by individuals to register with us as representatives prior to appointment as a representative on a claim or designation as a point of contact for an entity).

* * * * *

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