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SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA-2006-0090]

Applicability of Amendments--Additional Instances Where
Administrative Sanctions Can Be Imposed--Title II and Title XVI

AGENCY: Social Security Administration (SSA).

ACTION: Announcement of applicability date.

SUMMARY: On October 18, 2006, we published final rules in the Federal Register at 71 FR 61403 that made some revisions to 20 CFR 404.459 and 416.1340 to reflect section 201(a) of the Social Security Protection Act of 2004 (SSPA) providing for the imposition of administrative sanctions based on the failure to disclose information to us. Consistent with the effective date provisions enacted by Congress for section 201 of the SSPA, we stated in the preamble to those final rules that those sections of the regulations reflecting section 201 of the SSPA would not be applicable until implementation of the centralized computer file described in section 202 of the SSPA. That centralized computer file has now been fully implemented. Therefore, we are publishing this notice to announce the applicability date of the revisions to 20 CFR 404.459 and 416.1340.

DATES: The amendments to 20 CFR 404.459 and 416.1450 published October 16, 2006 (71 FR 61403) became applicable November 27, 2006.

FOR FURTHER INFORMATION CONTACT: Margaret Smilow, Social Insurance Specialist, Office of Income Security Programs, 252 Altmeyer Building, Social Security Administration, 6401 Security Boulevard, Baltimore, MD. 21235-6401, (410) 965-7976.

SUPPLEMENTARY INFORMATION: Section 207 of the Foster Care Independence Act of 1999 amended title XI of the Social Security Act by adding section 1129A to provide for the imposition of administrative sanctions by SSA against persons who knowingly make a statement that is false or misleading or omits a material fact for use in determining any right to or amount of monthly benefits under titles II or XVI of the Social Security Act.

Section 201 of the SSPA of 2004 amended section 1129A to also allow for the imposition of the administrative sanction against persons who fail to disclose information that is material to eligibility or benefit amount if the person knows or should know that the withholding of such information is misleading. These sanctions are in addition to any other penalties prescribed by law that may result from false/misleading statements or failure to report material facts.

The SSPA provided that this change would only apply with respect to violations committed after the date on which there was a title II and

title XVI computerized system in place which would document reporting of monthly wages. The title XVI system became functional on November 27, 2006. The title II system became operational in 2005.

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As a result of the implementation of this computerized system on November 27, 2006, the revisions to 20 CFR 404.459 and 419.1340 expanding the situations where administrative sanctions may be imposed became applicable. A person is subject to a sanction for failing to disclose information that is material to determining title II/title XVI benefit eligibility or amounts if:

The person knows or should know the information is material to benefit eligibility or amount; and

The person knows or should know the withholding of the information is misleading; and

The failure to disclose occurred after November 27, 2006.

We have revised our instructional manuals and other documents to reflect this additional instance where administrative sanctions may be imposed.

Dated: May 8, 2007.

Michael J. Astrue,
Commissioner of Social Security.

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