

**Medicare Part B Income-Related Monthly Adjustment Amount Final Rules
Sections with Public Reporting Burdens**

RIN: 0960-AG11

NOTE: Below is the text of the sections with public reporting requirements, arranged according to the categorization system we used in the supporting statement. Of course, these sections are also in the Federal Register Notice as part of the entire Final Rule.

Part A: Sections that provide general information about new initial determinations

418.1135(c)-(e)

(c) When we have used the information in paragraph (b) of this section, you may provide us with evidence of your modified adjusted gross income for the year in paragraph (a) of this section. You must provide a retained copy of your signed Federal income tax return for that year, if available. If you filed a return for that year, but did not retain a copy, you must request a transcript or a copy of your return from IRS and provide it to us. When we use this evidence, we will later confirm this information with IRS records.

(d) When you meet the conditions specified in §418.1150 because you have amended your Federal income tax return, or when you believe we have used information provided by IRS which is incorrect, as described in §418.1335, we will use information that you provide directly to us regarding your modified adjusted gross income.

(e) We may use information that you give us about your modified adjusted gross income for a more recent tax year than those discussed in paragraphs (a) or (b) of this section as described in §§418.1201 through 418.1270.

418.1310(a)

(a) You may request that we make a new initial determination in the following circumstances:

(1) You provide a copy of your filed Federal income tax return for the tax year 2 years prior to the effective year when IRS has provided information for the tax year 3 years prior to the effective year. You may request a new initial determination beginning with the date you receive a notice from us regarding your income-related monthly adjustment amount until the end of the effective year, with one exception. If you receive the notice during the last 3 months of a calendar year, you may request a new initial determination beginning with the date you receive the notice until March 31 of the following year. We will follow the rules and procedures in §§418.1110(b) and 418.1140(b) to make a new initial determination and any necessary retroactive adjustments back to January 1 of the effective year, or the first month you were enrolled in Medicare Part B in the effective year if later than January.

(2) You provide a copy of an amended tax return filed with IRS, as defined in §418.1010(b)(1). We will use your amended tax return for the same tax year as the year used to

determine your income-related monthly adjustment amount. You must request the new initial determination within the timeframe described in §418.1150.

(3) You provide proof that the tax return information about your modified adjusted gross income or tax filing status IRS gave us is incorrect. We will use proof that you obtain from IRS of a correction of your tax return information for the same tax year instead of the information that was provided to us by IRS, as explained in §418.1335(a). You may request a new initial determination within 60 days following the date you receive a notice from us regarding your income-related monthly adjustment amount. We will use the rules and procedures in §418.1335.

(4) You have a major life-changing event. You may request a new initial determination based on a major life-changing event when you meet all the requirements described in §418.1201. You may make such a request at any time during the calendar year in which you experience a significant reduction in your modified adjusted gross income caused by a major life-changing event. When you have a major life-changing event that occurs in the last 3 months of a calendar year and your modified adjusted gross income for that year is significantly reduced as a result of the event, you may request that we make a new initial determination based on your major life-changing event from the date of the event until March 31 of the next year. We will follow the rules in §418.1230 when we make a new initial determination based on your major life-changing event.

418.1140(b)-(d)

(b) When we have used the modified adjusted gross income information that you provided for the tax year 2 years prior to the effective year and the modified adjusted gross income information we receive from IRS for that same year is different from the information you provided, we will use the modified adjusted gross income information provided to us by IRS to make a new initial determination. We will make retroactive adjustments back to January 1 of the effective year, or the first month you were enrolled or reenrolled in Medicare Part B if later than January.

(c) When we have used information from your amended Federal tax return that you provide, as explained in §418.1150, or you provide proof that the information IRS provided to us is incorrect as described in §418.1335, we will not make any adjustments to your income-related monthly adjustment amount for the effective year or years based on IRS information we receive later from IRS.

(d) When we use modified adjusted gross income information that you provided due to a qualifying life-changing event and we receive different information from IRS, we will use the IRS information to make retroactive corrections to all months affected in the effective year(s) during which you were enrolled in Medicare Part B, except when paragraph (c) of this section applies.

418.1245

(a) If you notify us that your modified adjusted gross income for the more recent tax year has changed from what is in our records, we may make a new initial determination for each effective year involved. To make a new initial determination(s) we will take into account:

(1) The new modified adjusted gross income information for the more recent tax year you provide; and

(2) Any modified adjusted gross income information from IRS, as described in §418.1135, that we have available for each effective year; and

(3) Any modified adjusted gross income information from you, as described in §418.1135, that we have available for each effective year.

(b) For each new initial determination that results in a change in your income-related monthly adjustment amount, we will make retroactive adjustments that will apply to all enrolled months of the effective year.

(c) We will continue to use a new initial determination described in paragraph (a) of this section to determine additional yearly income-related monthly adjustment amount(s) until an event described in §418.1235 occurs.

(d) We will make a new determination about your income-related monthly adjustment amount when we receive modified adjusted gross income for the effective year from IRS, as described in §418.1140(d).

NOTE: Please note that Part A of the chart (see question #12) contains these sections, which briefly mention all of the situations which result in SSA conducting a new initial determination, and that is why they are grouped together. However, the burden numbers provided in the chart for Part A only account for the first situation cited above, when beneficiaries provide 2-year-old tax returns. Each of the remaining three situations is discussed below and has its own burdens. Situation 2 (beneficiaries provide a copy of their amended Federal income tax returns for the same year as the IRS information that we used) is discussed in Part C of the chart; situation 3 (new initial determination due to life-changing events) is discussed in Part D of the chart; and situation 4 (beneficiaries may provide proof of a correction of IRS information that we used) is discussed in Part H of the chart.

Part B: Section regarding attestation of spouses living separately

418.1140(e)

(e) When we used the table in §418.1120(b)(3) to determine your income-related monthly adjustment amount, and you lived apart from your spouse throughout that year, we will ask you for a signed statement or attestation that you lived apart from your spouse throughout that year. We will also ask you to provide information about the addresses of you and your spouse during that year. If you provide a signed statement or attestation that you lived apart from your spouse throughout that year, and information about your respective addresses that year, we will use the table in §418.1120(b)(1) to determine your income-related monthly adjustment amount.

Part C: Sections related to requests for new initial determinations based on beneficiary requests that SSA use information from their amended Federal income tax return

418.1150

You may provide your amended tax return for a tax year we used within 3 calendar years following the close of the tax year for which you filed the amended tax return. You must provide us with your retained copy of your amended U.S. Individual Income Tax Return on the required IRS form and a copy of the IRS letter confirming the amended tax return was filed or a transcript from IRS if they did not send a letter. If you cannot provide your retained copy of the amended tax return, you must obtain a copy of the return from IRS. We will then make any necessary retroactive corrections as defined in §418.1110(c) to your income-related monthly adjustment amount.

418.1310(a)(2)

- (2) You provide a copy of an amended tax return filed with IRS, as defined in §418.1010(b)(1). We will use your amended tax return for the same tax year as the year used to determine your income-related monthly adjustment amount. You must request the new initial determination within the timeframe described in §418.1150.

Part D: Sections related to requests for new initial determinations based on beneficiary reports that a major life-changing event has significantly reduced their MAGI

418.1005(c)

(c) We use information that we get from IRS to determine if beneficiaries who are enrolled in Medicare Part B are required to pay an income-related monthly adjustment amount. We also change income-related monthly adjustment amount determinations using information provided by a beneficiary under certain circumstances. In addition, we notify beneficiaries when the social security benefit amounts they receive will change based on our income-related monthly adjustment amount determination.

418.1201

We will use a more recent tax year than the years described in §418.1135(a) or (b) to reduce or eliminate your income-related monthly adjustment amount when all of the following occur:

- (a) You experience a major life-changing event as defined in §418.1205; and
- (b) That major life-changing event results in a significant reduction in your modified adjusted gross income for the year which you request we use and the next year, if applicable. For purposes of this section, a significant reduction in your modified adjusted gross income is one that results in the decrease or elimination of your income-related monthly adjustment amount; and
- (c) You request that we use a more recent tax year's modified adjusted gross income; and
- (d) You provide evidence as described in §§418.1255 and 418.1265.

418.1225

We will consider evidence of your modified adjusted gross income that you provide for a tax year that is more recent than the year described in §418.1135 (a) or (b) when you meet all of the requirements described in §418.1201. We will always ask you for your retained copy of your filed Federal income tax return for the more recent year you request that we use and will use that information to make an initial determination. If you have not filed your Federal income tax return for the more recent year you request that we use, you must provide us with evidence that is equivalent to a copy of a filed Federal income tax return. Evidence that is equivalent to a copy of a filed Federal income tax return is defined in §418.1265(c).

418.1250

When you request that we use a more recent tax year to determine your income-related monthly adjustment amount, we will ask for evidence of the major life-changing event and how the event significantly reduced your modified adjusted gross income as described in §§418.1255 and 418.1265. Unless we have information in our records that raises a doubt about the evidence, additional evidence documenting the major life-changing event(s) will not be needed.

418.1255

(a) If your spouse died and we do not have evidence of the death in our records, we will require proof of death as described in §404.720(b) or (c) or §404.721 of this chapter.

(b) If you marry and we do not have evidence of the marriage in our records, we will require proof of marriage as described in §§404.725 through 404.727 of this chapter.

(c) If your marriage ends and we do not have evidence that the marriage has ended in our records, we will require proof that the marriage has ended as described in §404.728(b) or (c) of this chapter.

(d) If you or your spouse stop working or reduce your work hours, we will require evidence documenting the change in work activity. Examples of acceptable documentation include, but are not limited to, documents we can corroborate such as a signed statement from your employer, proof of the transfer of your business, or your signed statement under penalty of perjury, describing your work separation or a reduction in hours.

(e) If you or your spouse experience a loss of income from income-producing property we will require evidence documenting the loss. Examples of the type of evidence include, but are not limited to, insurance claims or an insurance adjuster's statement.

(f) If you or your spouse experience a reduction in or loss of pension income, we will require evidence documenting the reduction or loss. Examples include, but are not limited to, a statement from the Pension Benefit Guaranty Corporation or your pension fund administrator that explains the reduction or termination of your benefits.

418.1265

(a) You must provide evidence that one or more of the major life-changing events described in §418.1205 resulted in a significant reduction in your modified adjusted gross income for the tax year you request we use.

(b) The preferred evidence is a retained copy of your filed Federal income tax return or amended or corrected tax return with an IRS letter of receipt of the amended tax return, or a copy of your return or amended or corrected tax return that you obtain from IRS for the more recent tax year you request we use.

(c) When a copy of your filed Federal income tax return is not available for the more recent tax year in which your modified adjusted gross income was significantly reduced, we will accept equivalent evidence. Equivalent evidence is the appropriate proof(s) in paragraphs (c)(1), (2) and (3) of this section, plus your signed statement under penalty of perjury that the information you provide is true and correct. When the major life-changing event changes your tax filing status, or the income-related monthly adjustment amount determination could be affected by your tax filing status, you will also be required to sign a statement regarding your intended income tax filing status for the tax year you request we use.

(1) If you experience one or more of the events described in §418.1205(a), (b), or (c), you must provide evidence as to how the event(s) significantly reduced your modified adjusted gross income. Examples of the type of evidence include, but are not limited to, evidence of your spouse's modified adjusted gross income and/or your modified adjusted gross income for the tax year we use.

(2) If you experienced one or more of the events described in §418.1205(d), (e) or (f), you must provide evidence of how the event(s) significantly reduced your modified adjusted gross income, such as a statement explaining any modified adjusted gross income changes for the tax year we used, and a copy of your filed Federal income tax return (if you have filed one).

(3) If your spouse experiences one or more of the events described in §418.1205(d), (e), or (f), you must provide evidence of the resulting significant reduction in your modified adjusted gross income. The evidence requirements are described in paragraph (c)(2) of this section.

(d) When we use information described in paragraph (c) of this section, we will request that you provide your retained copy of your Federal income tax return for the year we used when you file your taxes. We will use that information to make timely adjustments to your Medicare premium, if necessary. We will later verify the information you provide when we receive information about that tax year from IRS, as described in §418.1140(d).

418.1310(a)(4)

(4) You have a major life-changing event. You may request a new initial determination based on a major life-changing event when you meet all the requirements described in §418.1201. You may make such a request at any time during the calendar year in which you experience a significant reduction in your modified adjusted gross income caused by a major life-changing event. When you have a major life-changing event that occurs in the last 3 months of a calendar year and your modified adjusted gross income for that year is significantly reduced

as a result of the event, you may request that we make a new initial determination based on your major life-changing event from the date of the event until March 31 of the next year. We will follow the rules in §418.1230 when we make a new initial determination based on your major life-changing event.

NOTE: Please note that SSA has developed form SSA-44, Medicare Part B Income-Related Premium - Life-Changing Event, to collect the information described in these sections. The burden for this collection requirement is included in the OMB package for the form.

Part E: Sections related to requests for additional new initial determinations and updates of modified adjusted gross income information that a beneficiary provided for a new initial determination

418.1235(c)-(d)

(a) You request we use a more recent tax year based on another major life-changing event as described in §418.1201; or

(b) You notify us of a change in your modified adjusted gross income for the more recent tax year we used as described in §418.1240.

418.1240

If you know that the information you provided to us about the more recent tax year that we used has changed, you should tell us so that we can determine if your income-related monthly adjustment amount should be eliminated or adjusted. We will accept new modified adjusted gross income information at any time after your request until the end of the calendar year following the more recent tax year(s) that we used. For us to make a new initial determination using your new modified adjusted gross income information, you must provide evidence as described in §418.1265 to support the reduction or increase in your modified adjusted gross income. If you amend your Federal income tax return for the more recent tax year we used, we will use the rules in §418.1150.

Part F: Sections related to requests for reconsideration of an initial determination

418.1320

An initial determination is binding unless you request a reconsideration within the time period described in §§404.909 and 404.911 of this chapter or we revise the initial determination or issue a new initial determination.

418.1325

If you are dissatisfied with our initial determination about your income-related monthly adjustment amount, you may request that we reconsider it. In addition, a person who shows that his or her rights may be adversely affected by the initial determination may request a reconsideration. We may accept requests for reconsideration that are filed by electronic or other means that we determine to be appropriate. Subject to the provisions of this section and §418.1330, when you request a reconsideration, we will use the rules in §§404.907 through 404.922 of this chapter.

418.1330

If you request a reconsideration solely because you believe that the information that IRS gave us is incorrect, we will dismiss your request for a reconsideration and notify you to obtain proof of a correction from IRS and request a new initial determination (§418.1335).

Our dismissal of your request for reconsideration is not an initial determination subject to further administrative or judicial review.

418.1340

To the extent that they are not inconsistent with the rules in this subpart for making initial determinations and reconsidered determinations, we will use the same rules for the administrative review process that we use for determinations and decisions about your rights regarding non-medical issues under title II of the Act, as described in subpart J of part 404 of this chapter. We will also accept oral as well as the written requests required in subpart J of part 404 of this chapter for requesting administrative review of our determination. If you are dissatisfied with our reconsidered determination, you may request review in accordance with §418.1350 for this subpart. A request for a new initial determination, described in §418.1310, is not the same as a request for reconsideration or further administrative review.

NOTE: Please note that an existing OMB form, form SSA-561 (OMB No. 0960-0622, the Request for Reconsideration), will be used to fulfill the requirements of these sections. This form has been re-cleared for use in Medicare Part B reconsideration requests.

Part G: Sections related to requests for appeal beyond reconsideration

418.1340

To the extent that they are not inconsistent with the rules in this subpart for making initial determinations and reconsidered determinations, we will use the same rules for the administrative review process that we use for determinations and decisions about your rights regarding non-medical issues under title II of the Act, as described in subpart J of part 404 of this chapter. We will also accept oral as well as the written requests required in subpart J of part 404 of this chapter for requesting administrative review of our determination. If you are dissatisfied with our reconsidered determination, you may request review in accordance with §418.1350 for this subpart. A request for a new initial determination, described in §418.1310, is not the same as a request for reconsideration or further administrative review.

418.1350

You may request a hearing before an OMHA administrative law judge consistent with HHS' regulations at 42 CFR part 405, subpart I. You may seek further review of the administrative law judge's decision by requesting MAC review and judicial review in accordance with HHS' regulations.

418.1355

The rules in 42 CFR 405.980 through 405.986 govern reopenings of decisions by an administrative law judge of the OMHA and decisions by the MAC. A decision by an administrative law judge of the OMHA may be reopened by the administrative law judge or by the MAC. A decision by the MAC may be reopened only by the MAC.

NOTE: Please note that the burden attributed to this section will be counted under the clearance package for the HA-501, 0960-0269, which is in the process of being recleared to include the burden for Medicare Pat B.

Part H: Sections related to requests for new initial determinations based on a beneficiary's report that the IRS provided incorrect information about a beneficiary's modified adjusted gross income

418.1310(a)(3)

(3) You provide proof that the tax return information about your modified adjusted gross income or tax filing status IRS gave us is incorrect. We will use proof that you obtain from IRS of a correction of your tax return information for the same tax year instead of the information that was provided to us by IRS, as explained in §418.1335(a). You may request a new initial determination within 60 days following the date you receive a notice from us regarding your income-related monthly adjustment amount. We will use the rules and procedures in §418.1335.

418.1335

If you believe that IRS or you provided incorrect modified adjusted gross income information to us that we used to determine your income-related monthly adjustment amount, you can request information from us on how to contact IRS regarding the information we used.

(a) If IRS determines that the information it provided is not correct, IRS will provide you with documentation of the error, such as a copy of your Federal income tax return. If you would like us to use the revised or corrected information to determine your income-related monthly adjustment amount, you will need to request that we use that information and provide us with the IRS documentation confirming the error. We will make any necessary retroactive corrections as described in §418.1110 to your income-related monthly adjustment amount.

(b) If you provided information to us about your modified adjusted gross income that we used to determine your income-related monthly adjustment amount, and that information is not correct, you may provide revised or corrected information. We will use the revised or corrected information if it reduces or eliminates your income-related monthly adjustment amount. We will make any necessary retroactive corrections as described in §418.1110 to your income-related monthly adjustment amount. If you are providing corrected information about a more recent tax year's modified adjusted gross income that we used due to your major life-changing event, as described in §418.1240, we will use the rules in §418.1245 to determine how it will affect your income-related monthly adjustment amount.