

## § 401.70

## 20 CFR Ch. III (4–1–04 Edition)

of the refusal and the name and address of the official to whom you should send your request for review.

(f) *Record of another government agency.* If you request us to correct or amend a record governed by the regulation of another government agency, e.g., Office of Personnel Management, Federal Bureau of Investigation, we will forward your request to such government agency for processing and we will inform you in writing of the referral.

### § 401.70 Appeals of refusals to correct or amend records.

(a) *Which decisions are covered.* This section describes how to appeal a decision made under the Privacy Act concerning your request for correction of a record or for access to your records, those of your minor child, or those of a person for whom you are the legal guardian. We generally handle a denial of your request for information about another person under the provisions of the FOIA (see part 402 of this chapter). This section applies only to written requests.

(b) *Appeal of refusal to amend or correct a record.* (1) If we deny your request to correct a record, you may request a review of that decision. As discussed in § 401.65(e), our letter denying your request will tell you to whom to write.

(2) We will review your request within 30 working days from the date of receipt. However, for a good reason and with the approval of the Commissioner, or designee, this time limit may be extended up to an additional 30 days. In that case, we will notify you about the delay, the reason for it, and the date when the review is expected to be completed. If, after review, we determine that the record should be corrected, the record will be corrected. If, after review, we also refuse to amend the record exactly as you requested, we will inform you—

(i) That your request has been refused and the reason;

(ii) That this refusal is SSA's final decision;

(iii) That you have a right to seek court review of this request to amend the record; and

(iv) That you have a right to file a statement of disagreement with the de-

cision. Your statement should include the reason you disagree. We will make your statement available to anyone to whom the record is subsequently disclosed, together with a statement of our reasons for refusing to amend the record. Also, we will provide a copy of your statement to individuals whom we are aware received the record previously.

(c) *Appeals after denial of access.* If, under the Privacy Act, we deny your request for access to your own record, those of your minor child, or those of a person for whom you are the legal guardian, we will advise you in writing of the reason for that denial, the name and title or position of the person responsible for the decision, and your right to appeal that decision. You may appeal the denial decision to the Commissioner of Social Security, 6401 Security Boulevard, Baltimore, MD 21235, within 30 days after you receive the notice denying all or part of your request, or, if later, within 30 days after you receive materials sent to you in partial compliance with your request. If we refuse to release a medical record because you did not designate a representative (§ 401.55) to receive the material, that refusal is not a formal denial of access and, therefore, may not be appealed to the Commissioner. If you file an appeal, either the Commissioner or a designee will review your request and any supporting information submitted and then send you a notice explaining the decision on your appeal. We must make our decision within 20 working days after we receive your appeal. The Commissioner or a designee may extend this time limit up to 10 additional working days if one of the circumstances in 20 CFR 402.140 is met. We will notify you in writing of any extension, the reason for the extension, and the date by which we will decide your appeal. The notice of the decision on your appeal will explain your right to have the matter reviewed in a Federal district court if you disagree with all or part of our decision.

### § 401.75 Rights of parents or legal guardians.

For purposes of this part, a parent or guardian of any minor or the legal guardian of any individual who has

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been declared incompetent due to physical or mental incapacity or age by a court of competent jurisdiction is authorized to act on behalf of a minor or incompetent individual. Except as provided in §401.45, governing procedures for verifying an individual's identity, and §401.55(c) governing special procedures for notification of or access to a minor's medical records, if you are authorized to act on behalf of a minor or legal incompetent, you will be viewed as if you were the individual or subject individual.

### § 401.80 Accounting for disclosures.

(a) We will maintain an accounting of all disclosures of a record for five years or for the life of the record, whichever is longer; *except that*, we will not make accounting for:

(1) Disclosures under paragraphs (a) and (b) of §401.110; and,

(2) Disclosures of your record made with your written consent.

(b) The accounting will include:

(1) The date, nature, and purpose of each disclosure; and

(2) The name and address of the person or entity to whom the disclosure is made.

(c) You may request access to an accounting of disclosures of your record. You must request access to an accounting in accordance with the procedures in §401.40. You will be granted access to an accounting of the disclosures of your record in accordance with the procedures of this part which govern access to the related record. We may, at our discretion, grant access to an accounting of a disclosure of a record made under paragraph (g) of §401.110.

### § 401.85 Exempt systems.

(a) *General policy.* The Privacy Act permits certain types of specific systems of records to be exempt from some of its requirements. Our policy is to exercise authority to exempt systems of records only in compelling cases.

(b) *Specific systems of records exempted.*

(1) Those systems of records listed in paragraph (b)(2) of this section are exempt from the following provisions of the Act and this part:

(i) 5 U.S.C. 552a(c)(3) and paragraph (c) of §401.80 of this part which require

that you be granted access to an accounting of disclosures of your record.

(ii) 5 U.S.C. 552a (d) (1) through (4) and (f) and §§401.35 through 401.75 relating to notification of or access to records and correction or amendment of records.

(iii) 5 U.S.C. 552a(e)(4) (G) and (H) which require that we include information about SSA procedures for notification, access, and correction or amendment of records in the notice for the systems of records.

(iv) 5 U.S.C. 552a(e)(3) and §401.30 which require that if we ask you to provide a record to us, we must inform you of the authority for our asking you to provide the record (including whether providing the record is mandatory or voluntary, the principal purposes for maintaining the record, the routine uses for the record, and what effect your refusal to provide the record may have on you), and if you are not required by statute or Executive Order to provide the record, that you agree to provide the record. This exemption applies only to an investigatory record compiled by SSA for criminal law enforcement purposes in a system of records exempt under subsection (j)(2) of the Privacy Act to the extent that these requirements would prejudice the conduct of the investigation.

(2) The following systems of records are exempt from those provisions of the Privacy Act and this part listed in paragraph (b)(1) of this section:

(i) Pursuant to subsection (j)(2) of the Privacy Act, the Investigatory Material Compiled for Law Enforcement Purposes System, SSA.

(ii) Pursuant to subsection (k)(2) of the Privacy Act:

(A) The General Criminal Investigation Files, SSA;

(B) The Criminal Investigations File, SSA; and,

(C) The Program Integrity Case Files, SSA.

(D) Civil and Administrative Investigative Files of the Inspector General, SSA/OIG.

(E) Complaint Files and Log. SSA/OGC.

(iii) Pursuant to subsection (k)(5) of the Privacy Act: