

Social Security Administration

§410.214

(4) If the child's entitlement is based on his status as a student, the earlier of:

(i) The first month during no part of which he is a student, or

(ii) The month in which he attains age 23 and is not under a disability at that time (but see §410.370(c)(4) for an exception);

(5) If the child's entitlement is based on disability, the first month in no part of which such individual is under a disability;

(6) A widow's benefit payment, which was ended because of marriage, is resumed following termination of such marriage. (See §410.211(a)). (In the month before the month in which a widow marries, payment of benefits to her ends and non-payment of such benefits continues for the duration of the marriage. Thereafter, if her remarriage ends, subject to the provisions of §410.211 her benefit payments may be resumed. Should such widow again remarry or die, payment of benefits to such child, if he is otherwise entitled, will be resumed effective with the month of such remarriage or death. In such event no action by or on behalf of such child is required for resumption of payment.)

(c) A child whose entitlement to benefits terminated with the month before the month in which he attained age 18, or later, may thereafter (provided he is not married) again become entitled to such benefits upon filing application for such reentitlement, beginning with the first month in which he files such application in or after such termination and in which he is a student and has not attained the age of 23.

[37 FR 20636, Sept. 30, 1972, as amended at 41 FR 4900, Feb. 3, 1976]

§410.214 Conditions of entitlement; parent, brother, or sister.

An individual is entitled to benefits if:

(a) Such individual:

(1) Is the parent, brother, or sister (see §410.340) of a deceased miner (see §410.110(j));

(2) Has filed a claim for benefits in accordance with the provisions of §§410.220 through 410.234;

(3) Was dependent on the miner at the pertinent time (see §410.380); and

(4) Files proof of support before June 1, 1974, or within 2 years after the miner's death, whichever is later, or it is shown to the satisfaction of the Administration that there is good cause for failure to file such proof within such period (see §410.216).

(b) In the case of a brother, he also:

(1) Is under 18 years of age; or

(2) Is 18 years of age or older and is under a disability as defined in section 223(d) of the Social Security Act, 42 U.S.C. 423(d) (see subpart P of part 404 of this chapter), which began:

(i) Before he attained age 22, however, no entitlement to brother's benefits may be established for any month before January 1973, based on a disability which began after attainment of age 18; or

(ii) In the case of a student, before he ceased to be a student (see §410.370(c)); or

(3) Is a student (see §410.370(c)); or

(4) Is under a disability as defined in section 223(d) of the Social Security Act, 42 U.S.C. 423(d) (see subpart P of part 404 of this chapter), at the time of the miner's death.

(c) In addition to the requirements set forth in paragraphs (a) and (b) of this section, the deceased miner:

(1) Was entitled to benefits at the time of his death; or

(2) Died before January 1, 1974, and his death is determined to have been due to pneumoconiosis (see subpart D of this part); or

(3) Died before January 1, 1974, and it is determined that at the time of his death he was totally disabled by pneumoconiosis (see subpart D of this part).

(d) Notwithstanding the provisions of paragraphs (a), (b), and (c) of this section:

(1) A parent is not entitled to benefits if the deceased miner was survived by a widow or child at the time of his death, and

(2) A brother or sister is not entitled to benefits if the deceased miner was survived by a widow, child, or parent at the time of his death.

[37 FR 20636, Sept. 30, 1972, as amended at 41 FR 7091, Feb. 17, 1976]