

§ 410.350

the law they would apply in determining the devolution of the miner's intestate personal property, that the individual is the miner's parent, brother, or sister. Where, under such law, the individual does not bear the relationship to the miner of parent, brother, or sister, but would, under State law, have the same status (*i.e.*, right to share in the miner's intestate personal property) as a parent, brother, or sister, the individual will be deemed to be such. An individual will be considered to be the parent, brother, or sister of a miner if the individual is the step-parent, stepbrother, stepsister, half brother, or half sister of the miner, or is the parent, brother, or sister of the miner by adoption.

[37 FR 20639, Sept. 30, 1972]

§ 410.350 Determination of dependency; wife.

An individual who is the miner's wife (see § 410.310) will be determined to be dependent upon the miner if:

- (a) She is a member of the same household as the miner (see § 410.393); or
- (b) She is receiving regular contributions from the miner for her support (see § 410.395(c)); or
- (c) The miner has been ordered by a court to contribute to her support (see § 410.395(e)); or
- (d) She is the natural mother of the son or daughter of the miner; or
- (e) She was married to the miner (see § 410.310) for a period of not less than 1 year.

[37 FR 20639, Sept. 30, 1972]

§ 410.351 Determination of dependency; divorced wife.

An individual who is the miner's divorced wife (see § 410.311) will be determined to be dependent upon the miner if:

- (a) She is receiving at least one-half of her support from the miner (see § 410.395(g)); or
- (b) She is receiving substantial contributions from the miner pursuant to a written agreement (see § 410.395 (c) and (f)); or
- (c) There is in effect a court order for substantial contributions to her sup-

20 CFR Ch. III (4-1-10 Edition)

port to be furnished by such miner (see § 410.395 (c) and (e)).

[37 FR 20639, Sept. 30, 1972]

§ 410.360 Determination of dependency; widow.

(a) *General.* An individual who is the miner's widow (see § 410.320) will be determined to have been dependent on the miner if, at the time of the miner's death:

- (1) She was living with the miner (see § 410.393); or
- (2) She was dependent upon the miner for support or the miner has been ordered by a court to contribute to her support (see § 410.395); or
- (3) She was living apart from the miner because of his desertion or other reasonable cause; or
- (4) She is the natural mother of his son or daughter; or
- (5) She had legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of 18; or
- (6) He had legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of 18; or
- (7) She was married to him at the time both of them legally adopted a child under the age of 18; or
- (8) She was married to him for a period of not less than 9 months immediately prior to the day on which he died (but see paragraph (b) of this section).

(b) *Waiver of 9-month requirement—(1) General.* Except as provided in paragraph (b)(3) of this section, the requirement in paragraph (a)(8) of this section that the surviving spouse of a miner must have been married to him for a period of not less than 9 months immediately prior to the day on which he died in order to qualify as such miner's widow, shall be deemed to be satisfied where such miner dies within the applicable 9-month period, if his death:

- (i) Is accidental (as defined in paragraph (b)(2) of this section), or
- (ii) Occurs in line of duty while he is a member of a uniformed service serving on active duty (as defined in § 404.1013 (f) (2) and (3) of this chapter), and such surviving spouse was married to such miner for a period of not less