

§ 416.1402

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

Date you receive notice means 5 days after the date on the notice, unless you show us that you did not receive it within the 5-day period.

Decision means the decision made by an administrative law judge or the Appeals Council.

Determination means the initial determination or the reconsidered determination.

Mass change means a State-initiated change in the level(s) of federally administered State supplementary payments applicable to all recipients of such payments, or to categories of such recipients, due, for example, to State legislative or executive action.

Preponderance of the evidence means such relevant evidence that as a whole shows that the existence of the fact to be proven is more likely than not.

Remand means to return a case for further review.

Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Vacate means to set aside a previous action.

Waive means to give up a right knowingly and voluntarily.

We, us, or our refers to the Social Security Administration.

You or your refers to any person or the eligible spouse of any person claiming or receiving supplemental security income benefits.

[45 FR 52096, Aug. 5, 1980, as amended at 59 FR 43038, Aug. 22, 1994; 73 FR 76944, Dec. 18, 2008]

§ 416.1402 Administrative actions that are initial determinations.

Initial determinations are the determinations we make that are subject to administrative and judicial review. We will base our initial determination on the preponderance of the evidence. We will state the important facts and give the reasons for our conclusions in the initial determination. Initial determinations regarding supplemental security income benefits include, but are not limited to, determinations about—

(a) Your eligibility for, or the amount of, your supplemental security

income benefits or your special SSI cash benefits under § 416.262, except actions solely involving transitions to eligibility between these types of benefits (see §§ 416.1403 (a)(13) and (a)(14)).

(b) Suspension, reduction, or termination of your SSI benefits or special SSI cash benefits (see §§ 416.261 and 416.262) or suspension or termination of your special SSI eligibility status (see §§ 416.264 through 416.269);

(c) Whether an overpayment of benefits must be repaid to us;

(d) Whether the payment of your benefits will be made, on your behalf, to a representative payee;

(e) Who will act as your payee if we determine that representative payment will be made;

(f) Imposing penalties for failing to report important information;

(g) Your drug addiction or alcoholism;

(h) Whether you are eligible for special SSI eligibility status under § 416.265;

(i) Your disability;

(j) Whether your completion of, or continuation for a specified period of time in, an appropriate program of vocational rehabilitation services, employment services, or other support services will increase the likelihood that you will not have to return to the disability or blindness benefit rolls, and thus, whether your benefits may be continued even though you are not disabled or blind;

(k) Whether or not you have a disabling impairment as defined in § 416.911;

(l) How much and to whom benefits due a deceased individual will be paid;

(m) A claim for benefits under § 416.351 based on alleged misinformation;

(n) Our calculation of the amount of change in your federally administered State supplementary payment amount (*i.e.*, a reduction, suspension, or termination) which results from a mass change, as defined in § 416.1401; and

(o) Whether we were negligent in investigating or monitoring or failing to

investigate or monitor your representative payee, which resulted in the misuse of benefits by your representative payee.

[45 FR 52096, Aug. 5, 1980, as amended at 47 FR 15325, Apr. 9, 1982; 49 FR 22275, May 29, 1984; 58 FR 52913, Oct. 13, 1993; 59 FR 41405, Aug. 12, 1994; 59 FR 43039, Aug. 22, 1994; 59 FR 44928, Aug. 31, 1994; 60 FR 8153, Feb. 10, 1995; 60 FR 14215, Mar. 15, 1995; 69 FR 60240, Oct. 7, 2004; 70 FR 36509, June 24, 2005; 73 FR 76944, Dec. 18, 2008]

§ 416.1403 Administrative actions that are not initial determinations.

(a) Administrative actions that are not initial determinations may be reviewed by us, but they are not subject to the administrative review process provided by this subpart and they are not subject to judicial review. These actions include, but are not limited to, an action about—

- (1) Presumptive disability or presumptive blindness;
- (2) An emergency advance payment (as defined in § 416.520(b));
- (3) Denial of a request to be made a representative payee;
- (4) Denial of a request to use the expedited appeals process;
- (5) Denial of a request to reopen a determination or a decision;
- (6) The fee that may be charged or received by a person who has represented you in connection with a proceeding before us;
- (7) Disqualifying or suspending a person from acting as your representative in a proceeding before us (see § 416.1545);
- (8) Denying your request to extend the time period for requesting review of a determination or a decision;
- (9) Determining whether (and the amount of) travel expenses incurred are reimbursable in connection with proceedings before us;
- (10) Denying your request to readjudicate your claim and apply an Acquiescence Ruling;
- (11) Determining whether an organization may collect a fee from you for expenses it incurs in serving as your representative payee (see § 416.640a);
- (12) Declining under § 416.351(f) to make a determination on a claim for benefits based on alleged misinformation because one or more of the conditions specified in § 416.351(f) are not met;

(13) Transition to eligibility for special SSI cash benefits (§ 416.262) in a month immediately following a month for which you were eligible for regular SSI benefits;

(14) Transition to eligibility for regular SSI benefits in a month immediately following a month for which you were eligible for special SSI cash benefits (§ 416.262);

(15) The determination to reduce, suspend, or terminate your federally administered State supplementary payments due to a State-initiated mass change, as defined in § 416.1401, in the levels of such payments, except as provided in § 416.1402(n);

(16) Termination of Federal administration of State supplementary payments;

(17) Findings on whether we can collect an overpayment by using the Federal income tax refund offset procedure. (see § 416.583);

(18) Determining whether we will refer information about your overpayment to a consumer reporting agency (see §§ 416.590 and 422.305 of this chapter);

(19) Determining whether we will refer your overpayment to the Department of the Treasury for collection by offset against Federal payments due you (see §§ 416.590 and 422.310 of this chapter);

(20) Determining whether we will order your employer to withhold from your disposable pay to collect an overpayment you received under title XVI of the Social Security Act (see part 422, subpart E, of this chapter);

(21) Determining when provisional benefits are payable, the amount of the provisional benefit payable, and when provisional benefits terminate (see § 416.999c);

(22) Determining whether to select your claim for the quick disability determination process under § 416.1019;

(23) The removal of your claim from the quick disability determination process under § 416.1019;

(24) Starting or discontinuing a continuing disability review; and

(25) Issuing a receipt in response to your report of a change in your earned income.

(b) We send some notices of actions that are not initial determinations: