will reduce husband’s, wife’s, and child’s insurance benefits payable (or deemed payable—see §404.420) on the insured individual’s earnings record because of the excess earnings of the insured individual. However, beginning with January 1985, we will not reduce the benefits payable to a divorced wife or a divorced husband who has been divorced from the insured individual for at least 2 years.

(c) Deductions because of excess earnings of beneficiary other than the insured. If benefits are payable to you (or deemed payable—see §404.420) on the earnings record of an insured individual and you have excess earnings (as described in §404.430) charged to a month, we will reduce only your benefits for that month under the annual earnings test. Child’s insurance benefits payable by reason of being disabled will be evaluated using Substantial Gainful Activity guidelines (as described in §404.1574 or §404.1575). This deduction equals the amount of the excess earnings. (See §404.434 for charging of excess earnings where both the insured individual and you, a beneficiary, have excess earnings.)

[70 FR 28811, May 19, 2005]

§ 404.417 Deductions because of non-covered remunerative activity outside the United States; 45 hour and 7-day work test.

(a) Deductions because of individual’s activity—(1) Prior to May 1983. For months prior to May 1983, a 7-day work test applies in a month before benefit deductions are made for noncovered remunerative activity outside the United States. A deduction is made from any monthly benefit (except disability insurance benefits, child’s insurance benefits based on the child’s disability, or widow’s or widower’s insurance benefits based on the widow’s or widower’s disability) payable to an individual for each month in a taxable year beginning after December 1954 in which the beneficiary, while under age 72 (age 70 after December 1982), engages in noncovered remunerative activity (see §404.418) outside the United States on 7 or more different calendar days. The deduction is for an amount equal to the benefit payable to the individual for that month.

(2) From May 1983 on. Effective May 1983, a 45-hour work test applies before a benefit deduction is made for the non-covered remunerative activity performed outside the United States in a month by the type of beneficiary described in paragraph (a)(1) of this section.

(b) Deductions from benefits because of the earnings or work of an insured individual—(1) Prior to September 1984. Where the insured individual entitled to old-age benefits works on 7 or more days in a month prior to September 1984 while under age 72 (age 70 after December 1982), a deduction is made for that month from any:

(i) Wife’s, husband’s, or child’s insurance benefit payable on the insured individual’s earnings record; and

(ii) Mother’s, father’s, or child’s insurance benefit based on child’s disability, which under §404.420 is deemed payable on the insured individual’s earnings record because of the beneficiary’s marriage to the insured individual.

(2) From September 1984 on. Effective September 1984, a benefit deduction is made for a month from the benefits described in paragraph (b)(1) of this section only if the insured individual, while under age 70, has worked in excess of 45 hours in that month.

(3) Amount of deduction. The amount of the deduction required by this paragraph (b) is equal to the wife’s, husband’s or child’s benefit.

(4) From January 1985 on. Effective January 1985, no deduction will be made from the benefits payable to a divorced wife or a divorced husband who has been divorced from the insured individual for at least 2 years.

[49 FR 24117, June 12, 1984, as amended at 51 FR 11912, Apr. 21, 1986; 52 FR 26145, July 13, 1987]

§ 404.418 “Noncovered remunerative activity outside the United States,” defined.

An individual is engaged in noncovered remunerative activity outside the United States for purposes of deductions described in §404.417 if:

(a) He performs services outside the United States as an employee and the services do not constitute employment as defined in subpart K of this part.