(1) The widow or surviving divorced wife dies; or
(2) Where the individual has qualified as the widow of a miner under §410.320(d), she ceases to so qualify, as provided therein.

(c) Although payment of benefits to a widow or surviving divorced wife ends with the month before the month in which she marries (see paragraph (a) of this section), her entitlement is not terminated by such marriage. However, but solely for purposes of entitlement of a child under §410.212(b), a widow is deemed not entitled to benefits in months for which she is not paid benefits because she is married.

[41 FR 4899, Feb. 3, 1976]

§410.212 Conditions of entitlement; child.

(a) An individual is entitled to benefits if such individual:

(1) Is the child or stepchild (see §410.330) of (i) a deceased miner (see §410.110(j)) or (ii) of the widow of a miner who was entitled to benefits at the time of her death (see §§410.210 and 410.211);

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

(3) Meets the dependency requirements in §410.370;

(4) If a child of a miner, the deceased miner:

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

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

(iii) 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).

(b) A child is not entitled to benefits for any month for which a widow of a miner is entitled to benefits, except that (for purposes of entitlement of a child under this section) a widow is deemed not entitled to benefits in months for which she is not paid benefits because she is married (see §410.211). Thus, a child may be entitled to benefits for months wherein such benefits are not payable to the widow because of marriage.


§410.213 Duration of entitlement; child.

(a) An individual is entitled to benefits as a child for each month beginning with the first month in which all of the conditions of entitlement prescribed in §410.212 are satisfied.

(b) The last month for which such individual is entitled to or may be paid such benefit is the month before the month in which any one of the following events first occurs:

(1) The child dies;

(2) The child marries;

(3) The child attains age 18 and,
   (i) Is not under a disability at that time, and
   (ii) Is not a student (as defined in §410.370) during any part of the month in which he attains age 18;

(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.


§ 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.


§ 410.215 Duration of entitlement; parent, brother, or sister.

(a) A parent, brother, or sister is entitled to benefits beginning with the month all the conditions of entitlement described in § 410.214 are met.

(b) The last month for which such parent is entitled to benefits is the month before the month in which the parent dies.

(c) The last month for which such sister is entitled to benefits is the month before the month in which any of the following events occurs:

(1) She dies;

(2) She marries or remarries; or

(3) She ceases to be a student (see § 410.370(c)); or

(4) She 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.

(d) The last month for which such brother is entitled to benefits is the month before the month in which any of the following events first occurs:

(1) He dies;

(2) He marries or remarries; or

(3) He ceases to be a student (see § 410.370(c)); or

(4) He 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.

(e) 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).