§ 416.263
(a) You were eligible to receive a regular SSI benefit or a federally administered State supplementary payment (see §416.2001) in a month before the month for which we are determining your eligibility for special SSI cash benefits as long as that month was not in a prior period of eligibility which has terminated according to §§416.1331 through 416.1335;

(b) In the month for which we are making the determination, your gross earned income exceeds the amount ordinarily considered to represent SGA under §416.974(b)(2);

(c) You continue to have a disabling impairment;

(d) If your disability is based on a determination that drug addiction or alcoholism is a contributing factor material to the determination of disability as described in §416.935, you have not yet received SSI cash benefits, special SSI cash benefits, or special SSI eligibility status for a total of 36 months, or Social Security benefit payments when treatment was available for a total of 36 months; and

(e) You meet all the nondisability requirements for eligibility for SSI benefits (see §416.202).

We will follow the rules in this subpart in determining your eligibility for special SSI cash benefits.


§ 416.264 No additional application needed.

We do not require you to apply for special cash benefits nor is it necessary for you to apply to have the special SSI eligibility status determined. We will make these determinations automatically.

[47 FR 15324, Apr. 9, 1982]

§ 416.265 When does the special SSI eligibility status apply.

The special SSI eligibility status applies for the purposes of establishing or maintaining your eligibility for Medicaid. For these purposes we continue to consider you to be a blind or disabled individual receiving benefits even though you are in fact no longer receiving regular SSI benefits or special SSI cash benefits. You must meet the eligibility requirements in §416.265 in order to qualify for the special SSI eligibility status. Special SSI eligibility status also applies for purposes of re-acquiring status as eligible for regular SSI benefits or special SSI cash benefits.

[59 FR 41404, Aug. 12, 1994]

§ 416.266 Requirements for the special SSI eligibility status.

In order to be eligible for the special SSI eligibility status, you must have been eligible to receive a regular SSI benefit or a federally administered State supplementary payment (see §416.2001) in a month before the month for which we are making the special SSI eligibility status determination. The month you were eligible for a regular SSI benefit or a federally administered State supplementary payment may not be in a prior period of eligibility which has been terminated according to §§416.1331 through 416.1335. For periods prior to May 1, 1991, you must be under age 65. Also, we must establish that:

(a) You are blind or you continue to have a disabling impairment which, if drug addiction or alcoholism is a contributing factor material to the determination of disability as described in §416.935, has not resulted in your receiving SSI cash benefits, special SSI cash benefits, or special SSI eligibility status for a total of 36 months, or Social Security benefit payments when treatment was available for a total of 36 months;

(b) Except for your earnings, you meet all the nondisability requirements for eligibility for SSI benefits (see §416.202);

(c) The termination of your eligibility for Medicaid would seriously inhibit your ability to continue working (see §416.208); and

(d) Your earnings after the exclusions in §416.1112(c) (6), (8), and (9) are not sufficient to allow you to provide yourself with a reasonable equivalent of the benefits (SSI benefits, federally administered State supplementary payments, Medicaid, and publicly-funded attendant care services, including personal care assistance under §416.269(d)) which
§ 416.269 What is done to determine whether your earnings are too low to provide comparable benefits and services you would receive in the absence of those earnings.

(a) What we determine. We must determine whether your earnings are too low to provide you with benefits and services comparable to the benefits and services you would receive if you did not have those earnings (see § 416.265(d)).

(b) How the determination is made. In determining whether your earnings are too low to provide you with benefits and services comparable to the benefits and services you would receive if you did not have those earnings, we compare your anticipated gross earnings (or a combination of anticipated and actual gross earnings, as appropriate) for the 12-month period beginning with the month for which your special SSI eligibility status is being determined to a threshold amount for your State of residence. This threshold amount consists of the sum for a 12-month period of two items, as follows:

(1) The amount of gross earnings including amounts excluded under § 416.1112(c) (4), (5) and (7) that would reduce to zero the Federal SSI benefit and the optional State supplementary payment for an individual with no other income living in his or her own household in the State where you reside. This amount will vary from State to State depending on the amount of the State supplementary payment; and

(2) The average expenditures for Medicaid benefits for disabled and blind SSI cash recipients, including recipients of federally administered State supplementary payments only, in your State of residence.

(c) How the eligibility requirements are met. (1) You meet the requirements in § 416.265(d) if the comparison shows that your gross earnings are equal to or less than the applicable threshold amount for your State, as determined under paragraphs (b) (1) and (2) of this section. However, if the comparison shows that these earnings exceed the applicable threshold amount for your State, we will establish (and use in a second comparison) an individualized threshold taking into account the total amount of: