(i) For 9 months beginning with the month following the month of receipt, the unspent portion of any retroactive payment of special pay an ineligible parent (or stepparent) received from one of the uniformed services pursuant to 37 U.S.C. 310; and

(ii) For 9 months beginning with the month following the month of receipt, the unspent portion of any retroactive payment of family separation allowance an ineligible parent (or stepparent) received from one of the uniformed services pursuant to 37 U.S.C. 427 as a result of deployment to or service in a combat zone (as defined in §416.1160(d)).

(2) Disabled child under age 18. In the case of a disabled child under age 18 who is living in the same household with his or her parents, the deeming provisions of paragraph (b)(1) of this section shall not apply if such child—

(i) Previously received a reduced SSI benefit while a resident of a medical treatment facility, as described in §416.414;

(ii) Is eligible for medical assistance under a Medicaid State home care plan approved by the Secretary under the provisions of section 1915(c) or authorized under section 1902(e)(3) of the Act; and

(iii) Would otherwise be ineligible because of the deeming of his or her parents’ resources or income.

(c) Applicability. When used in this subpart L, the term individual refers to an eligible aged, blind, or disabled person, and also includes a person whose resources are deemed to be the resources of such individual (as provided in paragraphs (a) and (b) of this section).

§416.1204 Deeming of resources of the sponsor of an alien.

The resources of an alien who first applies for SSI benefits after September 30, 1980, are deemed to include the resources of the alien’s sponsor for 3 years after the alien’s date of admission into the United States. The date of admission is the date established by the U.S. Citizenship and Immigration Services as the date the alien is admitted for permanent residence. The resources of the sponsor’s spouse are included if the sponsor and spouse live in the same household. Deeming of these resources applies regardless of whether the alien and sponsor live in the same household and regardless of whether the resources are actually available to the alien. For rules that apply in specific situations, see §416.1166a(d).

(a) Exclusions from the sponsor’s resources. Before we deem a sponsor’s resources to an alien, we exclude the same kinds of resources that are excluded from the resources of an individual eligible for SSI benefits. The applicable exclusions from resources are explained in §§416.1210 (paragraphs (a) through (i), (k), and (m) through (t)) through 416.1239 and §§416.1247 through

§416.1203 Deeming of resources of an essential person.

In the case of a qualified individual (as defined in §416.221) whose payment standard has been increased because of the presence of an essential person (as defined in §416.222), the resources of such qualified individual shall be deemed to include all the resources of such essential person with the exception of the resources explained in §§416.1210(t) and 416.1249. If such qualified individual would not meet the resource criteria for eligibility (as defined in §§416.1205 and 416.1260) because of the deemed resources, then the payment standard increase because of the essential person will be nullified and the provision of this section will not apply; essential person status is lost permanently. However, if such essential person is an ineligible spouse of a qualified individual or a parent (or spouse of a parent) of a qualified individual who is a child under age 21, then the resources of such person will be deemed to such qualified individual in accordance with the provision in §416.1202.

§ 416.1204a Deeming of resources where Medicaid eligibility is affected.

Section 416.1161a of this part describes certain circumstances affecting Medicaid eligibility in which the Department will not deem family income to an individual. The Department will follow the same standards, procedures, and limitations set forth in that section with respect to deeming of resources.

[52 FR 5747, Feb. 15, 1984]

§ 416.1205 Limitation on resources.

(a) Individual with no eligible spouse. An aged, blind, or disabled individual with no spouse is eligible for benefits under title XVI of the Act if his or her nonexcludable resources do not exceed $1,500 prior to January 1, 1985, and all other eligibility requirements are met. An individual who is living with an ineligible spouse is eligible for benefits under title XVI of the Act if his or her nonexcludable resources, including the resources of the spouse, do not exceed $2,250 prior to January 1, 1985, and all other eligibility requirements are met.

(b) Individual with an eligible spouse. An aged, blind, or disabled individual who has an eligible spouse is eligible for benefits under title XVI of the Act if their nonexcludable resources do not exceed $2,250 prior to January 1, 1985, and all other eligibility requirements are met.

(c) Effective January 1, 1985 and later. The resources limits and effective dates for January 1, 1985 and later are as follows:

<table>
<thead>
<tr>
<th>Effective date</th>
<th>Individual</th>
<th>Individual and spouse</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan. 1, 1985</td>
<td>$1,600</td>
<td>$2,400</td>
</tr>
<tr>
<td>Jan. 1, 1986</td>
<td>1,700</td>
<td>2,550</td>
</tr>
<tr>
<td>Jan. 1, 1987</td>
<td>1,800</td>
<td>2,700</td>
</tr>
<tr>
<td>Jan. 1, 1988</td>
<td>1,900</td>
<td>2,850</td>
</tr>
<tr>
<td>Jan. 1, 1989</td>
<td>2,000</td>
<td>3,000</td>
</tr>
</tbody>
</table>

[50 FR 38982, Sept. 26, 1985]

§ 416.1207 Resources determinations.

(a) General. Resources determinations are made as of the first moment of the month. A resource determination is based on what assets an individual has, what their values are, and whether or