

(5) Estimates of the monthly retirement (old-age), disability, dependents' and survivors' insurance benefits potentially payable on your record if you meet the credits (quarters of coverage) requirements. If you are age 50 or older, the estimates will include the retirement (old-age) insurance benefits you could receive at age 62 (or your current age if you are already over age 62), at full retirement age (currently age 65 to 67, depending on your year of birth) or at your current age if you are already over full retirement age, and at age 70. If you are under age 50, instead of estimates, we may provide a general description of the benefits (including auxiliary benefits) that are available upon retirement;

(6) A description of the coverage provided under the medicare program;

(7) A reminder of your right to request a correction of your earnings record; and

(8) A remark that an annually updated statement is available on request.

[61 FR 18077, Apr. 24, 1996]

CORRECTING THE EARNINGS RECORD

§ 404.820 Filing a request for correction of the record of your earnings.

(a) *When to file a request for correction.* You or your survivor must file a request for correction of the record of your earnings within the time limit for the year being questioned unless one of the exceptions in § 404.822 applies.

(b) *Contents of a request.* (1) A request for correction of an earnings record must be in writing and must state that the record is incorrect.

(2) A request must be signed by you or your survivor or by a person who may sign an application for benefits for you or for your survivor as described in § 404.612.

(3) A request should state the period being questioned.

(4) A request should describe, or have attached to it, any available evidence which shows that the record of earnings is incorrect.

(c) *Where to file a request.* A request may be filed with an SSA employee at one of our offices or with an SSA employee who is authorized to receive a request at a place other than one of our

offices. A request may be filed with the Veterans Administration Regional Office in the Philippines or with any U.S. Foreign Service Office.

(d) *When a request is considered filed.* A request is considered filed on the day it is received by any of our offices, by an authorized SSA employee, by the Veterans Administration Regional Office in the Philippines, or by any U.S. Foreign Service Office. If using the date we receive a mailed request disadvantages the requester, we will use the date the request was mailed to us as shown by a U.S. postmark. If the postmark is unreadable or there is no postmark, we will consider other evidence of the date when the request was mailed.

(e) *Withdrawal of a request for correction.* A request for correction of SSA records of your earnings may be withdrawn as described in § 404.640.

(f) *Cancellation of a request to withdraw.* A request to withdraw a request for correction of SSA records of your earnings may be cancelled as described in § 404.641.

(g) *Determinations on requests.* When we receive a request described in this section, we will make a determination to grant or deny the request. If we deny the request, this determination may be appealed under the provisions of subpart J of this part.

§ 404.821 Correction of the record of your earnings before the time limit ends.

Before the time limit ends for any year, we will correct the record of your earnings for that year for any reason if satisfactory evidence shows SSA records are incorrect. We may correct the record as the result of a request filed under § 404.820 or we may correct it on our own.

§ 404.822 Correction of the record of your earnings after the time limit ends.

(a) *Generally.* After the time limit for any year ends, we may correct the record of your earnings for that year if satisfactory evidence shows SSA records are incorrect and any of the circumstances in paragraphs (b) through (e) of this section applies.

(b) *Correcting SSA records to agree with tax returns.* We will correct SSA records to agree with a tax return of wages or self-employment income to the extent that the amount of earnings shown in the return is correct.

(1) *Tax returns of wages.* We may correct the earnings record to agree with a tax return of wages or with a wage report of a State.

(2) *Tax returns of self-employment income—(i) Return filed before the time limit ended.* We may correct the earnings record to agree with a tax return of self-employment income filed before the end of the time limit.

(ii) *Return filed after time limit ended.* We may remove or reduce, but not increase, the amount of self-employment income entered on the earnings record to agree with a tax return of self-employment income filed after the time limit ends.

(iii) *Self-employment income entered in place of erroneously entered wages.* We may enter self-employment income for any year up to an amount erroneously entered in SSA records as wages but which was later removed from the records. However, we may enter self-employment income under this paragraph only if—

(A) An amended tax return is filed before the time limit ends for the year in which the erroneously entered wages were removed; or

(B) Net earnings from self-employment, which are not already entered in the record of your earnings, were included in a tax return filed before the end of the time limit for the year in which the erroneously entered wages were removed.

(c) *Written request for correction or application for benefits filed before the time limit ends—(1) Written request for correction.* We may correct an earnings record if you or your survivor files a request for correction before the time limit for that year ends. The request must state that the earnings record for that year is incorrect. However, we may not correct the record under this paragraph after our determination on the request becomes final.

(2) *Application for benefits.* We may correct an earnings record if an application is filed for monthly benefits or for a lump-sum death payment before

the time limit for that year ends. However, we may not correct the record under this paragraph after our determination on the application becomes final.

(3) See subpart J for the rules on the finality of determinations.

(d) *Transfer of wages to or from the Railroad Retirement Board—(1) Wages erroneously reported.* We may transfer to or from the records of the Railroad Retirement Board earnings which were erroneously reported to us or to the Railroad Retirement Board.

(2) *Earnings certified by Railroad Retirement Board.* We may enter earnings for railroad work under subpart O if the earnings are certified by the Railroad Retirement Board.

(e) *Other circumstances permitting correction—(1) Investigation started before time limit ends.* We may correct an earnings record if the correction is made as the result of an investigation started before, but completed after the time limit ends. An investigation is started when we take an affirmative step leading to a decision on a question about the earnings record, for example, an investigation is started when one SSA unit asks another unit to obtain additional information or evidence. We will remove or reduce earnings on the record under this paragraph only if we carried out the investigation as promptly as circumstances permitted.

(2) *Error apparent on face of records.* We may correct an earnings record to correct errors, such as mechanical or clerical errors, which can be identified and corrected without going beyond any of the pertinent SSA records.

(3) *Fraud.* We may change any entry which was entered on the earnings record as the result of fraud.

(4) *Entries for wrong person or period.* We may correct errors in SSA records resulting from earnings being entered for the wrong person or period.

(5) *Less than correct wages on SSA records.* We may enter wages paid to you by an employer for a period if no part of those wages or less than the correct amount of those wages is entered on SSA records.

(6) *Wage payments under a statute.* We may enter and allocate wages awarded to you for a period as the result of a determination or agreement approved by

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a court or administrative agency that enforces Federal or State statutes protecting your right to employment or wages.

[44 FR 38454, July 2, 1979, as amended at 57 FR 21600, May 21, 1992]

§ 404.823 Correction of the record of your earnings for work in the employ of the United States.

We may correct the record of your earnings to remove, reduce, or enter earnings for work in the employ of the United States only if—

(a) Correction is permitted under § 404.821 or § 404.822; and

(b) Any necessary determinations concerning the amount of remuneration paid for your work and the periods for which such remuneration was paid have been made as shown by—

(1) A tax return filed under section 3122 of the Internal Revenue Code (26 U.S.C. 3122); or

(2) A certification by the head of the Federal agency or instrumentality of which you have been an employee or his or her agent. A Federal instrumentality for these purposes includes a nonappropriated fund activity of the armed forces or Coast Guard.

[44 FR 38454, July 2, 1979, as amended at 55 FR 24891, June 19, 1990]

NOTICE OF REMOVAL OR REDUCTION OF AN ENTRY OF EARNINGS

§ 404.830 Notice of removal or reduction of your wages.

If we remove or reduce an amount of wages entered on the record of your earnings, we will notify you of this correction if we previously notified you of the amount of your wages for the period involved. We will notify your survivor if we previously notified you or your survivor of the amount of your earnings for the period involved.

§ 404.831 Notice of removal or reduction of your self-employment income.

If we remove or reduce an amount of self-employment income entered on the record of your earnings, we will notify you of this correction. We will notify your survivor if we previously notified you or your survivor of the amount of your earnings for the period involved.

Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

AUTHORITY: Secs. 201(j), 204(f), 205(a)–(b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a)–(b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

INTRODUCTION, DEFINITIONS, AND INITIAL DETERMINATIONS

§ 404.900 Introduction.

(a) *Explanation of the administrative review process.* This subpart explains the procedures we follow in determining your rights under title II of the Social Security Act. The regulations describe the process of administrative review and explain your right to judicial review after you have taken all the necessary administrative steps. These procedures apply also to persons claiming certain benefits under title XVIII of the Act (Medicare); see 42 CFR 405.904(a)(1). The administrative review process consists of several steps, which usually must be requested within certain time periods and in the following order:

(1) *Initial determination.* This is a determination we make about your entitlement or your continuing entitlement to benefits or about any other matter, as discussed in § 404.902, that gives you a right to further review.

(2) *Reconsideration.* If you are dissatisfied with an initial determination, you may ask us to reconsider it.

(3) *Hearing before an administrative law judge.* If you are dissatisfied with the reconsideration determination, you may request a hearing before an administrative law judge.

(4) *Appeals Council review.* If you are dissatisfied with the decision of the administrative law judge, you may request that the Appeals Council review the decision.