

(2) By deduction from any benefits payable to the enrollee or the estate of a deceased enrollee under Title II or XVIII of the Social Security Act, the Railroad Retirement Act or any act administered by the Office of Personnel Management in accordance with § 408.4(b) and Subpart C of this part (Deduction from Monthly Benefits); or

(3) By billing the estate of a deceased enrollee.

(c) *Termination of collection action.* CMS terminates collection action on unpaid premiums under either of the following circumstances, if the cost of collection exceeds the amount of overdue premiums:

(1) The individual is not entitled to benefits under the Acts listed in paragraph (b)(2) of this section, is not currently enrolled for SMI or premium hospital insurance, and demonstrates, to CMS's satisfaction, that he or she is unable to pay the debt within a reasonable time.

(2) The individual has been dead more than 27 months (the maximum time allowed for claiming SMI benefits), and the legal representative of his or her estate demonstrates, to CMS's satisfaction, that the estate is unable to pay the debt within a reasonable time.

(d) *Renewal of collection efforts.* CMS renews collection efforts in either of the following circumstances, if the cost of collection does not exceed the amount of the overdue premiums:

(1) The individual enrolls again for premium hospital insurance or SMI. (Payment of overdue premiums is not a prerequisite for reenrollment.)

(2) The individual becomes entitled or reentitled to social security or railroad retirement benefits or a Federal civil service annuity.

§ 408.112 Refund of excess premiums after the enrollee dies.

If CMS has received premiums for months after the enrollee's death, CMS refunds those premiums as follows:

(a) To the person or persons who paid the premiums or, if the premiums were paid by the enrollee, to the representative of the enrollee's estate, if any.

(b) If refund cannot be made under paragraph (a) of this section, CMS refunds the premiums to the enrollee's

survivors in the following order of priority:

(1) The surviving spouse, if he or she was either living in the same household with the deceased at the time of death, or was, for the month of death, entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased beneficiary;

(2) The child or children who were, for the month of death, entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased (and, if there is more than one child, in equal parts to each child);

(3) The parent or parents who were, for the month of death, entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased (and, if there is more than one parent, in equal parts to each parent);

(4) The surviving spouse who was not living in the same household with the deceased at the time of death and was not, for the month of death, entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased beneficiary;

(5) The child or children who were not entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased (and, if there is more than one child, in equal parts to each child);

(6) The parent or parents who were not entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased (and, if there is more than one parent, in equal parts to each parent).

If none of the listed relatives survives, no refund can be made.

Subpart H—Supplementary Medical Insurance Premium Surcharge Agreements

SOURCE: 67 FR 60996, Sept. 27, 2002, unless otherwise noted.

§ 408.200 Statutory basis.

This subpart implements provisions of section 1839(e) of the Social Security

Act that allow State or local government agencies to enter into an agreement with the Secretary to pay, on a quarterly or other periodic basis, a lump sum for the total of the SMI premium late enrollment surcharge amounts due for a group of eligible enrollees.

§ 408.201 Definitions.

For purposes of this subpart, the following definitions apply:

SMI premium surcharge means the amount that the standard monthly SMI premium is increased for late enrollment or for reenrollment as specified in §§ 408.22 through 408.25.

SMI premium surcharge agreement means a written arrangement between the Secretary and a State or local government agency to pay, on a quarterly, monthly, or other periodic basis, a lump sum for the SMI premium surcharge amounts due for a designated group of eligible enrollees.

§ 408.202 Conditions for participation.

(a) A State or local government agency may apply to CMS to enter into an SMI premium surcharge agreement if the following conditions are met:

(1) Each individual designated for coverage under the premium surcharge agreement must be enrolled in Medicare Part B at the time the individual is added to the premium surcharge account.

(2) Each enrollee designated for coverage under the agreement must, at the time the individual is added to the premium surcharge account, be responsible for paying the base premium and surcharge through direct remittance or benefit withholding from Social Security or Railroad Retirement benefits or a Civil Service annuity.

(3) Each enrollee designated for coverage under the agreement must, at the time the individual is added to the premium surcharge account, not have premiums paid by a State Welfare Agency under a State buy-in agreement as described in § 407.40 of this chapter or under a group billing arrangement as described in § 408.80.

(b) The State or local government agency must secure from each enrollee a signed, written statement authorizing CMS to send billing notices di-

rectly to the State or local government agency, and to release to the State or local government agency information required under the SMI premium surcharge agreement.

(c) The authorization statement for each enrollee must be retained in the State or local government agency files for as long as the enrollee is covered by the agreement. These authorization statements need not be forwarded to CMS.

(d) The State or local government agency must certify to CMS, in writing, that an authorization statement is on file for each enrollee covered under the SMI premium surcharge agreement. Only one certification is necessary for the entire group of covered enrollees.

(e) A State or local government agency must establish an automated data exchange with CMS using the Third Party Premium Collection System, in order to transmit electronically an input file that will be used to add or remove enrollees from the billing system.

§ 408.205 Application procedures.

(a) A State or local government agency must contact its CMS regional office (RO) to request application materials.

(b) If interested in entering into an agreement, the State or local government agency must return to the RO two copies of the completed application materials.

(c) CMS reviews the application materials, and, when they are approved, notifies the State or local government agency, and the RO.

§ 408.207 Billing and payment procedures.

(a) *Adding and removing enrollees.* The State or local government agency must transmit an input file containing addition and removal records electronically to CMS as follows:

(1) Input files must be transmitted at least once each calendar month, but may be transmitted as often as once a day.

(2) CMS will not add or remove enrollees retroactively, except for removals upon the death of an enrollee.