

§ 406.7

42 CFR Ch. IV (10–1–24 Edition)

(2) Deemed entitlement to disabled widow's or widower's benefit under certain circumstances as provided in § 406.12;

(3) A diagnosis of end-stage renal disease, as specified in § 406.13;

(4) Effective January 1, 1981, eligibility for social security cash benefits, as specified in § 406.10(a)(3), if the individual has attained age 65 without applying for those benefits; or

(5) The special provisions applicable to government employment as set forth in § 406.15.

(d) *When application is deemed to be filed.* (1) An application based on the transitional provisions or on ESRD is deemed to be filed in the first month of eligibility if it is filed not more than 3 months before the first month, and is retroactive to that month if filed within 12 months after the first month. An application filed more than 12 months after the first month of eligibility is retroactive to the 12th month before the month it is filed.

(2) An application for deemed entitlement to disabled widow's or widower's benefits, that is filed before the first month in which the individual meets all conditions of entitlement for this benefit, will be deemed a valid application if those conditions are met before an initial determination, reconsideration, or hearing decision is made on the application. If the conditions are met after the date of any hearing decision, a new application will have to be filed. An application validly filed within 12 months after the first month of eligibility is retroactive to that first month. If filed more than 12 months after that first month, it is retroactive to the 12th month before the month of filing.

(3) Effective June 8, 1980, an application based on eligibility for social security benefits at or after age 65, that is filed before the first month in which the individual meets all eligibility conditions for this benefit, will be deemed a valid application if those conditions are met before an initial determination, reconsideration, or hearing decision is made on the application. If the conditions are met after the date of any hearing decision, a new application will have to be filed.

(4) Effective March 1, 1981, an application under § 406.10 that is validly filed within 6 months after the first month of eligibility is retroactive to that first month. If filed more than 6 months after that first month, it is retroactive to the 6th month before the month of filing.

(e) *Individuals who must enroll for hospital insurance.* An individual who must pay a monthly premium for hospital insurance must enroll in accordance with the procedures set forth in § 406.21.

[48 FR 12536, Mar. 25, 1983, as amended at 50 FR 33033, Aug. 16, 1985; 53 FR 47202, Nov. 22, 1988; 61 FR 40345, Aug. 2, 1996]

§ 406.7 Forms to apply for entitlement under Medicare Part A.

Forms used to apply for Medicare entitlement are available free of charge by mail from CMS or at any Social Security branch or district office or online at the CMS and SSA websites. An individual who files an application for monthly social security cash benefits as defined in § 400.200 of this chapter also applies for Medicare entitlement if he or she is eligible for hospital insurance at that time.

[87 FR 66503, Nov. 3, 2022]

Subpart B—Hospital Insurance Without Monthly Premiums

§ 406.10 Individual age 65 or over who is entitled to social security or railroad retirement benefits, or who is eligible for social security benefits.

(a) *Requirements.* An individual is entitled to hospital insurance benefits under section 226 of the Act if he or she has attained aged 65 and is:

(1) Entitled to monthly social security benefits under section 202 of the Social Security Act;

(2) A qualified railroad retirement beneficiary who has been certified as such to the Social Security Administration by the Railroad Retirement Board in accordance with section 7(d) of the Railroad Retirement Act of 1974; or

(3) Effective January 1, 1981, eligible for monthly social security benefits under section 202 of the Act and has filed an application for hospital insurance.

(b) *Beginning and end of entitlement.*

(1) Entitlement begins with the first day of the first month in which the individual meets the requirements of paragraph (a) of this section.

(2) Entitlement continues until the individual dies or no longer meets the requirements of paragraph (a) of this section. An individual is not entitled to railroad retirement benefits and is neither entitled to, nor eligible for, monthly social security benefits in the month in which he or she dies. However, an individual who meets all other requirements for hospital insurance entitlement is entitled to hospital insurance in the month in which he or she dies if he or she—

(i) Would have been entitled to monthly railroad retirement benefits or social security benefits in that month if he or she had not died; or

(ii) Has filed an application for hospital insurance and would have been eligible for monthly social security benefits in that month if he or she had not died.

§ 406.11 Individual age 65 or over who is not eligible as a social security or railroad retirement benefits beneficiary, or on the basis of government employment.

(a) *Basis.* Section 103 of the law that established the Medicare program in 1965 (Pub. L. 89-97) provided for eligibility for certain individuals who were age 65 or would soon attain age 65 but would not be able to qualify for social security or railroad retirement benefits.

(b) *Requirements.* Unless he or she is excluded under paragraph (c) of this section, an individual age 65 or over who does not meet the requirements of § 406.10 or § 406.15 (and who would not meet those requirements if he or she filed an application), is entitled to Medicare Part A benefits if he or she meets the following requirements:

(1) *Age and quarters of coverage.* (i) He or she attained age 65 before 1968; or

(ii) If he or she attained age 65 in 1968 or later, he or she must have at least 3 quarters of coverage for each year that elapsed after 1966 and before the year in which he or she attained age 65. (The quarters of coverage may have been acquired at any time, not necessarily during the elapsed years.)

(2) *Residence and citizenship.* He or she is a resident of the United States and—

(i) A citizen of the United States; or

(ii) An alien lawfully admitted for permanent residence who has continuously resided in the United States for 5 years immediately preceding the first month in which he or she meets all other requirements for entitlement to hospital insurance.

(3) *Application.* He or she has filed an application for Medicare Part A no earlier than the third month before the first month of eligibility.

(c) *Bases for exclusion.* An individual who meets the requirements of paragraph (b) of this section is excluded from Medicare Part A if he or she—

(1) Has been convicted of spying, sabotage, or treason, sedition, and subversive action under chapter 37, 105, or 115 of title 18 of the United States Code;

(2) Has been convicted of conspiracy to establish a dictatorship under section 4 of the Internal Security Act of 1950;

(3) On February 16, 1965, was or could have been covered under the Federal Employees Health Benefits Act (FEHBA) of 1959; or

(4) In his or her first month of eligibility;

(i) Is covered by an enrollment under the FEHBA; or

(ii) Could have been covered by an enrollment under that Act if he or she (or any other person who could provide him or her with coverage) was a Federal employee at any time after February 15, 1965, and had enrolled and retained coverage under that Act.

(d) *End of exclusion.* An individual excluded under paragraph (c)(3) or (4) of this section can become entitled beginning with the first month in which he or she loses the right to FEHBA coverage solely because he or she or the other person leaves Federal employment.

(e) *Beginning and end of entitlement.*

(1) Entitlement begins—

(i) In the first month of eligibility if the application is filed no later than 12 months after the first month of eligibility;

(ii) In the 12th month before the month of application if the application is filed more than 12 months after the first month of eligibility.