

1980], and shall apply with respect to individuals whose disability has not been determined to have ceased prior to such first day.”

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-603 applicable with respect to monthly benefits under this subchapter for months after December 1972, with specified exceptions, see section 107(c) of Pub. L. 92-603, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 104(d)(5) of Pub. L. 90-248 applicable with respect to monthly benefits under this subchapter for and after the month of February 1968, but only on the basis of applications for such benefits filed in or after January 1968, see section 104(e) of Pub. L. 90-248, set out as a note under section 402 of this title.

Amendment by section 158(c)(9) of Pub. L. 90-248 applicable with respect to applications for disability insurance benefits under section 423 of this title and to disability determinations under section 416(i) of this title, see section 158(e) of Pub. L. 90-248, set out as a note under section 423 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 205(o) of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after August 1958, but only if an application for such benefits is filed on or after Aug. 28, 1958, see section 207(a) of Pub. L. 85-840, set out as a note under section 416 of this title.

EFFECTIVE DATE

Section applicable only with respect to monthly benefits under this subchapter for months after June 1957, see section 103(a) of act Aug. 1, 1956, set out as a note under section 423 of this title.

REPORT ON REFERRAL, MONITORING, TESTING AND TREATMENT OF INDIVIDUALS WHERE ENTITLEMENT TO OR TERMINATION OF BENEFITS INVOLVES ALCOHOLISM OR DRUG ADDICTION

Section 201(a)(3)(B) of Pub. L. 103-296 provided that not later than Dec. 31, 1996, the Secretary was to submit to Congress a full and complete report on the Secretary's activities under former subsec. (c)(5) of this section, which was to include the number and percentage of individuals referred to in such provision who had not received regular drug testing since the effective date of such provision, prior to repeal by Pub. L. 105-33, title V, §5525(c), Aug. 5, 1997, 111 Stat. 625.

TRANSITION RULES FOR CURRENT BENEFICIARIES

Section 201(a)(3)(F) of Pub. L. 103-296 provided that: “In any case in which an individual is entitled to benefits based on disability, the determination of disability was made by the Secretary of Health and Human Services during or before the 180-day period following the date of the enactment of this Act [Aug. 15, 1994], and alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability—

“(i) **TREATMENT REQUIREMENT.**—Paragraphs (1) through (4) of section 225(c) of the Social Security Act [subsec. (c)(1) to (4) of this section] (added by this subsection) shall apply only with respect to benefits paid in months after the month in which such individual is notified by the Secretary in writing that alcoholism or drug addiction is a contributing factor material to the Secretary's determination and that such individual is therefore required to comply with the provisions of section 225(c) of such Act.

“(ii) **TERMINATION AFTER 36 MONTHS.**—

“(I) **IN GENERAL.**—For purposes of section 225(c)(7) of the Social Security Act [subsec. (c)(7) of this section] (added by this subsection), the first month of

entitlement beginning after 180 days after the date of the enactment of this Act [Aug. 15, 1994] shall be treated as the individual's first month of entitlement to such benefits.

“(II) **CONCURRENT BENEFICIARIES CURRENTLY UNDER TREATMENT.**—In any case in which the individual is also entitled to benefits under title XVI [subchapter XVI of this chapter] and, as of 180 days after the date of the enactment of this Act, such individual is undergoing treatment required under section 1611(e)(3) of the Social Security Act [section 1382(e)(3) of this title] (as in effect immediately before the date of the enactment of this Act), the Secretary of Health and Human Services shall notify such individual of the provisions of section 225(c)(7) of the Social Security Act (added by this subsection) not later than 180 days after the date of the enactment of this Act.

“(III) **CONCURRENT BENEFICIARIES NOT CURRENTLY UNDER TREATMENT.**—In any case in which the individual is also entitled to benefits under title XVI but, as of 180 days after the date of the enactment of this Act, such individual is not undergoing treatment described in subclause (II), section 225(c)(7) (added by this subsection) shall apply only with respect to benefits for months after the month in which treatment required under section 1611(e)(3) of the Social Security Act (as amended by subsection (b)) is available, as determined under regulations of the Secretary of Health and Human Services, and the Secretary notifies such individual of the availability of such treatment and describes in such notification the provisions of section 225(c)(7) of the Social Security Act (added by this subsection).”

DEMONSTRATION PROJECTS RELATING TO REFERRAL, MONITORING, AND TREATMENT FOR ALCOHOLICS OR DRUG ADDICTS

Section 201(c) of Pub. L. 103-296 related to demonstration projects relating to referral, monitoring, and treatment for alcoholics or drug addicts, prior to repeal by Pub. L. 104-121, title I, §105(c), Mar. 29, 1996, 110 Stat. 855.

PAYMENT OF COSTS OF REHABILITATION SERVICES

Amendment of sections 422 and 1382d of this title by section 11(a), (b) of Pub. L. 98-460 applicable with respect to individuals who receive benefits as a result of section 425(b) or section 1383(a)(6) of this title, or who refuse to continue to accept rehabilitation services or fail to cooperate in an approved vocational rehabilitation program, in or after the first month following October 1984, see section 11(c) of Pub. L. 98-460, set out as an Effective Date of 1984 Amendment note under section 422 of this title.

§ 426. Entitlement to hospital insurance benefits

(a) Individuals over 65 years

Every individual who—

(1) has attained age 65, and

(2)(A) is entitled to monthly insurance benefits under section 402 of this title, would be entitled to those benefits except that he has not filed an application therefor (or application has not been made for a benefit the entitlement to which for any individual is a condition of entitlement therefor), or would be entitled to such benefits but for the failure of another individual, who meets all the criteria of entitlement to monthly insurance benefits, to meet such criteria throughout a month, and, in conformity with regulations of the Secretary, files an application for hospital insurance benefits under part A of subchapter XVIII of this chapter.

(B) is a qualified railroad retirement beneficiary, or

(C)(i) would meet the requirements of subparagraph (A) upon filing application for the monthly insurance benefits involved if medicare qualified government employment (as defined in section 410(p) of this title) were treated as employment (as defined in section 410(a) of this title) for purposes of this subchapter, and (ii) files an application, in conformity with regulations of the Secretary, for hospital insurance benefits under part A of subchapter XVIII of this chapter,

shall be entitled to hospital insurance benefits under part A of subchapter XVIII of this chapter for each month for which he meets the condition specified in paragraph (2), beginning with the first month after June 1966 for which he meets the conditions specified in paragraphs (1) and (2).

(b) Individuals under 65 years

Every individual who—

(1) has not attained age 65, and

(2)(A) is entitled to, and has for 24 calendar months been entitled to, (i) disability insurance benefits under section 423 of this title or (ii) child's insurance benefits under section 402(d) of this title by reason of a disability (as defined in section 423(d) of this title) or (iii) widow's insurance benefits under section 402(e) of this title or widower's insurance benefits under section 402(f) of this title by reason of a disability (as defined in section 423(d) of this title), or

(B) is, and has been for not less than 24 months, a disabled qualified railroad retirement beneficiary, within the meaning of section 231f(d) of title 45, or

(C)(i) has filed an application, in conformity with regulations of the Secretary, for hospital insurance benefits under part A of subchapter XVIII of this chapter pursuant to this subparagraph, and

(ii) would meet the requirements of subparagraph (A) (as determined under the disability criteria, including reviews, applied under this subchapter), including the requirement that he has been entitled to the specified benefits for 24 months, if—

(I) medicare qualified government employment (as defined in section 410(p) of this title) were treated as employment (as defined in section 410(a) of this title) for purposes of this subchapter, and

(II) the filing of the application under clause (i) of this subparagraph were deemed to be the filing of an application for the disability-related benefits referred to in clause (i), (ii), or (iii) of subparagraph (A),

shall be entitled to hospital insurance benefits under part A of subchapter XVIII of this chapter for each month beginning with the later of (I) July 1973 or (II) the twenty-fifth month of his entitlement or status as a qualified railroad retirement beneficiary described in paragraph (2), and ending (subject to the last sentence of this subsection) with the month following the month in which notice of termination of such entitlement to benefits or status as a qualified railroad retirement beneficiary described in paragraph (2) is mailed to him, or if earlier, with the

month before the month in which he attains age 65. In applying the previous sentence in the case of an individual described in paragraph (2)(C), the "twenty-fifth month of his entitlement" refers to the first month after the twenty-fourth month of entitlement to specified benefits referred to in paragraph (2)(C) and "notice of termination of such entitlement" refers to a notice that the individual would no longer be determined to be entitled to such specified benefits under the conditions described in that paragraph. For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 422(c)(4)(A) of this title, and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, and throughout all of which such individual would have been entitled to monthly insurance benefits under this subchapter or as a qualified railroad retirement beneficiary had such individual been unable to engage in substantial gainful activity, but not in excess of 78 such months. In determining when an individual's entitlement or status terminates for purposes of the preceding sentence, the term "36 months" in the second sentence of section 423(a)(1) of this title, in section 402(d)(1)(G)(i) of this title, in the last sentence of section 402(e)(1) of this title, and in the last sentence of section 402(f)(1) of this title shall be applied as though it read "15 months".

(c) Conditions

For purposes of subsection (a) of this section—

(1) entitlement of an individual to hospital insurance benefits for a month shall consist of entitlement to have payment made under, and subject to the limitations in, part A of subchapter XVIII of this chapter on his behalf for inpatient hospital services, post-hospital extended care services, and home health services (as such terms are defined in part E of subchapter XVIII of this chapter) furnished him in the United States (or outside the United States in the case of inpatient hospital services furnished under the conditions described in section 1395f(f) of this title) during such month; except that (A) no such payment may be made for post-hospital extended care services furnished before January 1967, and (B) no such payment may be made for post-hospital extended care services unless the discharge from the hospital required to qualify such services for payment under part A of subchapter XVIII of this chapter occurred (i) after June 30, 1966, or on or after the first day of the month in which he attains age 65, whichever is later, or (ii) if he was entitled to hospital insurance benefits pursuant to subsection (b) of this section, at a time when he was so entitled; and

(2) an individual shall be deemed entitled to monthly insurance benefits under section 402 or section 423 of this title, or to be a qualified

railroad retirement beneficiary, for the month in which he died if he would have been entitled to such benefits, or would have been a qualified railroad retirement beneficiary, for such month had he died in the next month.

(d) “Qualified railroad retirement beneficiary” defined

For purposes of this section, the term “qualified railroad retirement beneficiary” means an individual whose name has been certified to the Secretary by the Railroad Retirement Board under section 231f(d) of title 45. An individual shall cease to be a qualified railroad retirement beneficiary at the close of the month preceding the month which is certified by the Railroad Retirement Board as the month in which he ceased to meet the requirements of section 231f(d) of title 45.

(e) Benefits for widows and widowers

(1)(A) For purposes of determining entitlement to hospital insurance benefits under subsection (b) of this section in the case of widows and widowers described in paragraph (2)(A)(iii) thereof—

(i) the term “age 60” in sections 402(e)(1)(B)(ii), 402(e)(4), 402(f)(1)(B)(ii), and 402(f)(4) of this title shall be deemed to read “age 65”; and

(ii) the phrase “before she attained age 60” in the matter following subparagraph (F) of section 402(e)(1) of this title and the phrase “before he attained age 60” in the matter following subparagraph (F) of section 402(f)(1) of this title shall each be deemed to read “based on a disability”.

(B) For purposes of subsection (b)(2)(A)(iii) of this section, each month in the period commencing with the first month for which an individual is first eligible for supplemental security income benefits under subchapter XVI of this chapter, or State supplementary payments of the type referred to in section 1382e(a) of this title (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1382e(a) of this title (or in section 212(b) of Public Law 93-66), shall be included as one of the 24 months for which such individual must have been entitled to widow’s or widower’s insurance benefits on the basis of disability in order to become entitled to hospital insurance benefits on that basis.

(2) For purposes of determining entitlement to hospital insurance benefits under subsection (b) of this section in the case of an individual under age 65 who is entitled to benefits under section 402 of this title, and who was entitled to widow’s insurance benefits or widower’s insurance benefits based on disability for the month before the first month in which such individual was so entitled to old-age insurance benefits (but ceased to be entitled to such widow’s or widower’s insurance benefits upon becoming entitled to such old-age insurance benefits), such individual shall be deemed to have continued to be entitled to such widow’s insurance benefits or widower’s insurance benefits for and after such first month.

(3) For purposes of determining entitlement to hospital insurance benefits under subsection (b) of this section, any disabled widow aged 50 or

older who is entitled to mother’s insurance benefits (and who would have been entitled to widow’s insurance benefits by reason of disability if she had filed for such widow’s benefits), and any disabled widower aged 50 or older who is entitled to father’s insurance benefits (and who would have been entitled to widower’s insurance benefits by reason of disability if he had filed for such widower’s benefits), shall, upon application for such hospital insurance benefits be deemed to have filed for such widow’s or widower’s insurance benefits.

(4) For purposes of determining entitlement to hospital insurance benefits under subsection (b) of this section in the case of an individual described in clause (iii) of subsection (b)(2)(A) of this section, the entitlement of such individual to widow’s or widower’s insurance benefits under section 402(e) or (f) of this title by reason of a disability shall be deemed to be the entitlement to such benefits that would result if such entitlement were determined without regard to the provisions of section 402(j)(4) of this title.

(f) Medicare waiting period for recipients of disability benefits

For purposes of subsection (b) of this section (and for purposes of section 1395p(g)(1) of this title and section 231f(d)(2)(ii) of title 45), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1395p(f) of this title), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

(1) more than 60 months before the month in which his current disability began in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2) of this section, or

(2) more than 84 months before the month in which his current disability began in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period, unless the physical or mental impairment which is the basis for disability is the same as (or directly related to) the physical or mental impairment which served as the basis for disability in such previous period.

(g) Information regarding eligibility of Federal employees

The Secretary and Director of the Office of Personnel Management shall jointly prescribe and carry out procedures designed to assure that all individuals who perform medicare qualified government employment by virtue of service described in section 410(a)(5) of this title are fully informed with respect to (1) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of subchapter XVIII of this chapter, (2) the requirements for and conditions of such eligibility, and (3) the necessity of timely application as a con-

dition of entitlement under subsection (b)(2)(C) of this section, giving particular attention to individuals who apply for an annuity under chapter 83¹ of title 5 or under another similar Federal retirement program, and whose eligibility for such an annuity is or would be based on a disability.

(h) Waiver of waiting period for individuals with ALS

For purposes of applying this section in the case of an individual medically determined to have amyotrophic lateral sclerosis (ALS), the following special rules apply:

(1) Subsection (b) of this section shall be applied as if there were no requirement for any entitlement to benefits, or status, for a period longer than 1 month.

(2) The entitlement under such subsection shall begin with the first month (rather than twenty-fifth month) of entitlement or status.

(3) Subsection (f) of this section shall not be applied.

(i) Continuing eligibility of certain terminated individuals

For purposes of this section, each person whose monthly insurance benefit for any month is terminated or is otherwise not payable solely by reason of paragraph (1) or (7) of section 425(c)² of this title shall be treated as entitled to such benefit for such month.

(j) Certain uninsured individuals

For entitlement to hospital insurance benefits in the case of certain uninsured individuals, see section 426a of this title.

(Aug. 14, 1935, ch. 531, title II, § 226, as added Pub. L. 89-97, title I, § 101, July 30, 1965, 79 Stat. 290; amended Pub. L. 90-248, title I, § 129(c)(1), Jan. 2, 1968, 81 Stat. 847; Pub. L. 92-603, title II, §§ 201(b), 299I, Oct. 30, 1972, 86 Stat. 1371, 1463; Pub. L. 93-58, § 3, July 6, 1973, 87 Stat. 142; Pub. L. 93-233, § 18(f), Dec. 31, 1973, 87 Stat. 969; Pub. L. 93-445, title III, § 305, Oct. 16, 1974, 88 Stat. 1358; Pub. L. 95-216, title III, §§ 332(a)(3), 334(d)(4)(B), Dec. 20, 1977, 91 Stat. 1543, 1546; Pub. L. 95-292, §§ 1(b), 3, June 13, 1978, 92 Stat. 308, 315; Pub. L. 96-265, title I, §§ 103(a)(1), (b), 104(a), June 9, 1980, 94 Stat. 444; Pub. L. 96-473, § 2(a), Oct. 19, 1980, 94 Stat. 2263; Pub. L. 96-499, title IX, § 930(q), Dec. 5, 1980, 94 Stat. 2633; Pub. L. 97-35, title XXII, § 2203(e), Aug. 13, 1981, 95 Stat. 837; Pub. L. 97-248, title II, § 278(b)(2)(A), (B), (4), Sept. 3, 1982, 96 Stat. 560, 561; Pub. L. 98-21, title I, § 131(a)(3)(H), (b)(3)(G), title III, § 309(q)(1), Apr. 20, 1983, 97 Stat. 93, 117; Pub. L. 98-369, div. B, title VI, § 2663(a)(17), July 18, 1984, 98 Stat. 1165; Pub. L. 99-272, title XIII, § 13205(b)(2)(A), (C)(ii), Apr. 7, 1986, 100 Stat. 317; Pub. L. 100-203, title IV, § 4033(a), formerly § 4033(a)(1), title IX, § 9010(e)(3), Dec. 22, 1987, 101 Stat. 1330-77, 1330-294, renumbered Pub. L. 100-360, title IV, § 411(e)(2), July 1, 1988, 102 Stat. 775; Pub. L. 100-360, title IV, § 411(n)(1), July 1, 1988, 102 Stat. 807; Pub. L. 100-485, title VI, § 608(f)(5), Oct. 13, 1988, 102 Stat. 2424; Pub. L. 101-508, title V, § 5103(c)(2)(C), Nov. 5, 1990, 104 Stat. 1388-252; Pub. L. 103-296, title II,

§ 201(a)(3)(D)(i), Aug. 15, 1994, 108 Stat. 1497; Pub. L. 105-33, title IV, § 4002(f)(1), Aug. 5, 1997, 111 Stat. 329; Pub. L. 106-170, title II, § 202(a), Dec. 17, 1999, 113 Stat. 1894; Pub. L. 106-554, § 1(a)(6) [title I, § 115(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-474; Pub. L. 108-173, title I, § 101(e)(1), Dec. 8, 2003, 117 Stat. 2150; Pub. L. 108-203, title IV, § 418(b)(4)(B)(vii), Mar. 2, 2004, 118 Stat. 533.)

REFERENCES IN TEXT

Parts A and E of subchapter XVIII of this chapter, referred to in text, are classified to section 1395c et seq. and 1395x et seq., respectively, of this title.

Section 212 of Public Law 93-66, referred to in subsec. (e)(1)(B), is section 212 of Pub. L. 93-66 which is set out as a note under section 1382 of this title.

Section 425(c) of this title, referred to in subsec. (i), was repealed by Pub. L. 104-121, title I, § 105(a)(4), Mar. 29, 1996, 110 Stat. 853.

AMENDMENTS

2004—Subsec. (e)(1)(A)(i). Pub. L. 108-203 substituted “402(f)(4)” for “402(f)(5)”.

2003—Subsec. (c)(1). Pub. L. 108-173 substituted “part E” for “part D”.

2000—Subsecs. (h), (j). Pub. L. 106-554 added subsec. (h) and redesignated former subsec. (h) as (j) and transferred such subsec. to appear at end of section.

1999—Subsec. (b). Pub. L. 106-170 substituted “78” for “24” in penultimate sentence.

1997—Subsec. (c)(1). Pub. L. 105-33 substituted “part D” for “part C”.

1994—Subsec. (i). Pub. L. 103-296 added subsec. (i).

1990—Subsec. (e)(1). Pub. L. 101-508 designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, and added subpar. (B).

1988—Subsec. (a). Pub. L. 100-485 substituted “condition specified in paragraph (2)” for “condition specified in paragraph (1)” in concluding provisions.

Subsec. (b). Pub. L. 100-360, § 411(n)(1), amended last sentence generally. Prior to amendment, last sentence read as follows: “In determining when an individual’s entitlement or status terminates for purposes of the preceding sentence, the second sentence of section 423(a) of this title shall be applied as though the term ‘36 months’ (in such second sentence) read ‘15 months’.”

1987—Subsec. (b). Pub. L. 100-203, § 9010(e)(3), inserted sentence at end which related to determining when an individual’s entitlement or status terminates for purposes of preceding sentence.

Subsec. (f). Pub. L. 100-203, § 4033(a), inserted before period at end “, unless the physical or mental impairment which is the basis for disability is the same as (or directly related to) the physical or mental impairment which served as the basis for disability in such previous period”.

1986—Subsec. (a)(2)(C)(i). Pub. L. 99-272, § 13205(b)(2)(A) substituted “medicare qualified government employment” for “medicare qualified Federal employment”.

Subsec. (b)(2)(C)(ii)(I). Pub. L. 99-272, § 13205(b)(2)(A), substituted “medicare qualified government employment” for “medicare qualified Federal employment”.

Subsec. (g). Pub. L. 99-272, § 13205(b)(2)(C)(ii), substituted “medicare qualified government employment by virtue of service described in section 410(a)(5) of this title” for “medicare qualified Federal employment”.

1984—Subsec. (b). Pub. L. 98-369 substituted “part A” for “part (A)” in provisions following par. (2)(C).

1983—Subsec. (e)(1)(A). Pub. L. 98-21, § 131(a)(3)(H), (b)(3)(G), substituted reference to section 402(e)(4), (f)(5) of this title for reference to section 405(e)(5), (f)(6) of this title.

Subsec. (e)(3). Pub. L. 98-21, § 309(q)(1), amended par. (3) generally, inserting provisions relating to any disabled widower and striking out provision that a disabled widow, upon furnishing proof of such disability

¹So in original. Probably should be “subchapter III of chapter 83”.

²See References in Text note below.

prior to July 1, 1974, under such procedures as the Secretary prescribed, would be deemed to have been entitled to such widow's benefits as of the time she would have been entitled to such widow's benefits if she had filed a timely application therefor.

1982—Subsec. (a)(2). Pub. L. 97-248, § 278(b)(2)(A), redesignated existing provisions as subpar. (A), struck out “or is a qualified railroad retirement beneficiary,” after “of this chapter,” and added subpars. (B) and (C).

Subsec. (b). Pub. L. 97-248, § 278(b)(2)(B), in par. (2)(B) inserted a comma after “24 months” and “or” after “title 45,” added par. (2)(C), and in provisions following par. (2) inserted provision defining “twenty-fifth month of his entitlement” and “notice of termination of such entitlement” with regards to applying first sentence of this subsection to individuals described in par. (2)(C).

Subsecs. (g), (h). Pub. L. 97-248, § 278(b)(4), added subsec. (g) and redesignated former subsec. (g) as (h).

1981—Subsec. (a)(2). Pub. L. 97-35 substituted “would be entitled” for “or would be entitled” and inserted “, or would be entitled to such benefits but for the failure of another individual, who meets all the criteria of entitlement to monthly insurance benefits, to meet such criteria throughout a month.”

1980—Subsec. (a)(2). Pub. L. 96-473 inserted provisions relating to persons who would be entitled to benefits but for enumerated exceptions.

Subsec. (b). Pub. L. 96-265, § 104(a), in provisions following par. (2), inserted “(subject to the last sentence of this subsection)”, and inserted provision that, for purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 422(c)(4)(A) of this title, and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, and throughout all of which such individual would have been entitled to monthly insurance benefits under this subchapter.

Pub. L. 96-265, § 103(a)(1), substituted “24 calendar months” and “24 months” for “24 consecutive calendar months” and “24 consecutive months”, respectively, in par. (2) and, in provisions following par. (2), substituted “the twenty-fifth month” for “the twenty-fifth consecutive month”.

Subsec. (c)(1). Pub. L. 96-499 substituted “and home health services” for “and post-hospital home health services” and struck out “or post-hospital home health services” before “unless the discharge”.

Subsecs. (f), (g). Pub. L. 96-265, § 103(b), added subsec. (f) and redesignated former subsec. (f) as (g).

1978—Subsec. (a). Pub. L. 95-292, § 3(a), substituted “condition specified in paragraph (1), beginning with the first month after June 1966 for which he meets the conditions specified in paragraphs (1) and (2)” for “conditions specified in subparagraph (B), beginning with the first month after June 1966 for which he meets the conditions specified in subparagraphs (A) and (B)”.

Subsec. (e). Pub. L. 95-292, §§ 1(b)(1), (2), 3(b), redesignated subsec. (h) as (e) and, in subsec. (e) as so redesignated, corrected a technical error resulting from the 1973 amendment of pars. (2) and (3) by Pub. L. 93-233 under which a reference to subsec. (b) of this section had been inserted without the required parentheses. Former subsec. (e), relating to Medicare eligibility of persons medically determined to have chronic renal disease requiring hemodialysis or renal transplantation, was struck out. See section 426-1 of this title.

Subsec. (f). Pub. L. 95-292, § 1(b)(1), (2), redesignated subsec. (i) as (f). Former subsec. (f), relating to the duration of Medicare coverage of persons medically determined to have chronic renal disease requiring hemodialysis or renal transplantation, was struck out. See section 426-1 of this title.

Subsec. (g). Pub. L. 95-292, § 1(b)(1), struck out subsec. (g) which related to reimbursement for kidney trans-

plant and kidney treatment. See section 1395rr of this title.

Subsecs. (h), (i). Pub. L. 95-292, § 1(b)(2), redesignated subsecs. (h) and (i) as (e) and (f), respectively.

1977—Subsec. (h)(1)(B). Pub. L. 95-216, § 334(d)(4)(B), substituted “subparagraph (F) of section 402(f)(1)” for “subparagraph (G) of section 402(f)(1)”.

Subsec. (h)(4). Pub. L. 95-216, § 332(a)(3), added par. (4).
1974—Subsec. (b)(2). Pub. L. 93-445, § 305(a), substituted “section 7(d) of the Railroad Retirement Act of 1974” for “section 22 of the Railroad Retirement Act of 1937”.

Subsec. (d). Pub. L. 93-445, § 305(b), substituted “section 7(d) of the Railroad Retirement Act of 1974” for “section 21 or 22 of the Railroad Retirement Act of 1937”, in two places.

Subsec. (e). Pub. L. 93-445, § 305(c), substituted “Railroad Retirement Act of 1974” for “Railroad Retirement Act of 1937”, wherever appearing.

1973—Subsec. (a). Pub. L. 93-233, § 18(f)(1)(A), redesignated subsec. (a)(1) as subsec. (a).

Subsec. (a)(1), (2). Pub. L. 93-233, § 18(f)(1)(B), redesignated cls. (A) and (B) as (1) and (2), respectively.

Subsec. (e)(2). Pub. L. 93-58, inserted in: item (2)(A) “or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1937) after December 31, 1936, were included in the term ‘employment’ as defined in this chapter” after “(as such terms are defined in section 414 of this title)”; item (2)(B) “or an annuity under the Railroad Retirement Act of 1937” after “this subchapter”; item (2)(C) “Or would be fully or currently insured if his service as an employee (as defined in the Railroad Retirement Act of 1937) after December 31, 1936, were included in the term ‘employment’ as defined in this chapter” after “fully or currently insured”; and item (2)(D) “or annuity under the Railroad Retirement Act of 1937” after “this subchapter”.

Subsec. (h). Pub. L. 93-233, § 18(f)(1)(C), (2)-(4), redesignated as subsec. (h) provisions originally enacted as subsec. (e) by section 201(b)(5) of Pub. L. 92-603 and redesignated as subsec. (f) by section 299I of Pub. L. 92-603, and in par. (1)(A) substituted “, 402(e)(5),” for “and 402(e)(5) of this title, and the term ‘age 62’ in sections”, in par. (1)(B) substituted “and the phrase ‘before he attained age 60’ in the matter following subparagraph (G) of section 402(f)(1) of this title shall each” for “shall”, and in pars. (2) and (3) substituted “(b)” for “(a)(2)”, respectively.

Subsec. (i). Pub. L. 93-233, § 18(f)(1)(C), redesignated as subsec. (i) provisions originally enacted as subsec. (d) by section 101 of Pub. L. 89-97 and redesignated as subsec. (f) by section 201(b)(5) of Pub. L. 92-603.

1972—Subsec. (a). Pub. L. 92-603, § 201(b)(1), incorporated provisions of former subsec. (a) and subsec. (a)(1), and redesignated pars. (1) and (2) as subpars. (A) and (B).

Subsec. (b). Pub. L. 92-603, § 201(b)(1), added subsec. (b). Former subsec. (b) redesignated subsec. (c).

Subsec. (c)(1). Pub. L. 92-603, § 201(b)(2), (5), redesignated subsec. (b)(1) as subsec. (c)(1) and, in subsec. (c)(1) as so redesignated, inserted reference to entitlement to hospital insurance benefits pursuant to subsec. (b) of this section. Former subsec. (c) redesignated subsec. (d).

Subsec. (c)(2). Pub. L. 92-603, § 201(b)(3), (5), redesignated subsec. (b)(2) as subsec. (c)(2) and inserted reference to section 423 of this title. Former subsec. (c) redesignated subsec. (d).

Subsec. (d). Pub. L. 92-603, § 201(b)(4), (5), redesignated former subsec. (c) as subsec. (d) and inserted reference to section 22 of the Railroad Retirement Act of 1937. Former subsec. (d) redesignated subsec. (i).

Subsecs. (e) to (h). Pub. L. 92-603, §§ 201(b)(5), 299I, added subsecs. (e) to (h). See 1973 Amendment note above.

Subsec. (i). Pub. L. 92-603, § 201(b)(5), redesignated former subsec. (d) as subsec. (i). See 1973 Amendment note above.

1968—Subsec. (b)(1). Pub. L. 90-248 struck out outpatient hospital diagnostic services from services for which hospital insurance benefits are payable.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-203 applicable with respect to applications for benefits under this subchapter filed on or after the first day of the first month that begins after Mar. 2, 2004, see section 418(c) of Pub. L. 108-203, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(6) [title I, §115(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A-474, provided that: "The amendments made by this section [amending this section and section 1395p of this title] shall apply to benefits for months beginning July 1, 2001."

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-170, title II, §202(b), Dec. 17, 1999, 113 Stat. 1894, provided that: "The amendment made by subsection (a) [amending this section] shall be effective on and after October 1, 2000."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 applicable with respect to benefits based on disability (as defined in section 425(c)(9) of this title) which are otherwise payable in months beginning after 180 days after Aug. 15, 1994, with Secretary of Health and Human Services to issue regulations necessary to carry out such amendment not later than 180 days after Aug. 15, 1994, see section 201(a)(3)(E)(i) of Pub. L. 103-296, set out as an Effective Date of 1994 Amendment; Sunset Provision note under section 425 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable with respect to items and services furnished after December 1990, see section 5103(e) of Pub. L. 101-508, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Section 608(f)(5) of Pub. L. 100-485 provided that the amendment made by such section 608(f)(5) is effective as of the date of enactment of Pub. L. 95-292, which was approved June 13, 1978.

Except as specifically provided in section 411 of Pub. L. 100-360, amendment by Pub. L. 100-360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, effective as if included in the enactment of that provision in Pub. L. 100-203, see section 411(a) of Pub. L. 100-360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 4033(b), formerly section 4033(a)(2) of Pub. L. 100-203, as renumbered by Pub. L. 100-360, title IV, §411(e)(2), July 1, 1988, 102 Stat. 775, provided that:

"(1) The amendment made by subsection (a) [amending this section] shall apply to months beginning after the end of the 60-day period beginning on the date of enactment of this Act [Dec. 22, 1987].

"(2) The amendment made by subsection (a) shall not apply so as to include (for the purposes described in section 226(f) of the Social Security Act [subsec. (f) of this section]) monthly benefits paid for any month in a previous period (described in that section) that terminated before the end of the 60-day period described in paragraph (1)."

Amendment by section 9010(e)(3) of Pub. L. 100-203 effective Jan. 1, 1988, and applicable with respect to individuals entitled to benefits under specific provisions of sections 402 and 423 of this title for any month after December 1987, and individuals entitled to benefits payable under specific provisions of sections 402 and 423 of this title for any month before January 1988 and with respect to whom the 15-month period described in the applicable provision amended by section 9010 of Pub. L. 100-203 has not elapsed as of Jan. 1, 1988, see section 9010(f) of Pub. L. 100-203, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 effective after Mar. 31, 1986, with no individual to be considered under disability for any period beginning before Apr. 1, 1986, for purposes of hospital insurance benefits, see section 13205(d)(2) of Pub. L. 99-272, set out as a note under section 410 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

Amendment by section 131(a)(3)(H), (b)(3)(G) of Pub. L. 98-21 effective with respect to monthly benefits payable under this subchapter for months after December 1983, and in the case of an individual who was not entitled to a monthly benefit of the type involved under this subchapter for December 1983, no benefit shall be paid under this subchapter by reason of such amendments unless proper application for such benefit is made, see section 131(d) of Pub. L. 98-21 set out as a note under section 402 of this title.

Amendment by section 309(q)(1) of Pub. L. 98-21 applicable only with respect to monthly payments payable under this subchapter for months after April 1983, see section 310 of Pub. L. 98-21, set out as a note under section 402 of this title.

Pub. L. 97-448, title III, §309(c)(1), Jan. 12, 1983, 96 Stat. 2410, provided that: "Any amendment to the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97-248, Sept. 3, 1982, 96 Stat. 324] made by this section [amending sections 1395x, 1395cc, and 1396a of this title and amending provisions set out as notes under this section and sections 1320c, 1395b-1, 1395f, 1395u, 1395ww, 1395xx, and 1396o of this title] shall be effective as if it had been originally included in the provision of such Act to which such amendment relates."

EFFECTIVE DATE OF 1982 AMENDMENT; TRANSITIONAL PROVISIONS

Section 278(c)(2), (d) of Pub. L. 97-248, as amended by Pub. L. 97-448, title III, §309(a)(10), (11), Jan. 12, 1983, 96 Stat. 2408, provided that:

"(c) EFFECTIVE DATES.—

"(2) MEDICARE COVERAGE.—

"(A) IN GENERAL.—The amendments made by subsection (b) [amending this section and sections 410, 426-1, and 1395c of this title] are effective on and after January 1, 1983, and the amendments made by paragraph (2) of that subsection [amending this section and section 426-1 of this title] apply to remuneration (for medicare qualified Federal employment) paid after December 31, 1982.

"(B) TREATMENT OF CURRENT DISABILITIES.—For purposes of establishing entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act [section 1395c et seq. of this title] pursuant to the amendments made by subsection (b) or the provisions of subsection (d), no individual may be considered to be under a disability for any period before January 1, 1983.

"(d) TRANSITIONAL PROVISIONS.—

"(1) IN GENERAL.—For purposes of sections 226, 226A, and 1811 of the Social Security Act [this section and sections 426-1 and 1395c of this title], in the case of any individual who performs service both during January 1983, and before January 1, 1983, which constitutes medicare qualified Federal employment (as defined in section 210(p) of such Act [section 410(p) of this title]), the individual's medicare qualified Federal employment (as so defined) performed before January 1, 1983, for which remuneration was paid before such date, shall be considered to be 'employment' (as defined for purposes of title II of such Act

[this subchapter]), but only for the purpose of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act [section 1395c et seq. of this title].

“(2) APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year, on account of—

“(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act [section 1395 et seq. of this title] solely by reason of paragraph (1) of this subsection,

“(B) the additional administrative expenses resulting or expected to result therefrom, and

“(C) any loss in interest to such Trust Fund resulting from the payment of those amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.”

EFFECTIVE DATE OF 1981 AMENDMENT

Section 2203(f)(3) of Pub. L. 97-35, as amended by Pub. L. 97-248, title I, §128(c)(2), Sept. 3, 1982, 96 Stat. 367, provided that: “The amendments made by subsection (e) of this section [amending this section] shall apply only to individuals aged 65 and over whose insured spouse attains age 62 after August 1981.”

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-499 effective with respect to services furnished on or after July 1, 1981, see section 930(s)(1) of Pub. L. 96-499, set out as a note under section 1395x of this title.

Section 2(d) of Pub. L. 96-473 provided that: “The amendments made by subsections (a) and (b) [amending this section and section 1395c of this title] shall be effective after the second month beginning after the date on which this Act is enacted [Oct. 19, 1980].”

Section 103(c) of Pub. L. 96-265 provided that: “The amendments made by this section [amending this section and sections 1395c and 1395p of this title and section 231f of Title 45, Railroads] shall apply with respect to hospital insurance or supplementary medical insurance benefits for services provided on or after the first day of the sixth month which begins after the date of the enactment of this Act [June 9, 1980].”

Section 104(b) of Pub. L. 96-265 provided that: “The amendments made by subsection (a) [amending this section] shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act [June 9, 1980], and shall apply with respect to any individual whose disability has not been determined to have ceased prior to such first day.”

EFFECTIVE DATE OF 1978 AMENDMENT

Section 6 of Pub. L. 95-292 provided that: “The amendments made by the preceding sections of this Act [enacting sections 426-1 and 1395rr of this title and amending this section and sections 1395c, 1395i, 1395l, 1395t, 1395x, 1395cc, and 1395mm of this title] shall become effective with respect to services, supplies, and equipment furnished after the third calendar month which begins after the date of the enactment of this Act [June 13, 1978], except that those amendments providing for the implementation of an incentive reimbursement system for dialysis services furnished in facilities and providers shall become effective with respect to a facility’s or provider’s first accounting period which begins after the last day of the twelfth month following the month of the enactment of this Act [June 1978], and those amendments providing for reimbursement rates for home dialysis shall become effective on April 1, 1979.”

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 332(a)(3) of Pub. L. 95-216 effective with respect to monthly insurance benefits

under this subchapter to which an individual becomes entitled on the basis of an application filed on or after Jan. 1, 1978, see section 332(b) of Pub. L. 95-216, set out as a note under section 402 of this title.

Amendment by section 334(d)(4)(B) of Pub. L. 95-216 applicable with respect to monthly insurance benefits payable under this subchapter for months beginning with December 1977, on the basis of applications filed in or after December 1977, see section 334(f) of Pub. L. 95-216, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-445 effective Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 4(a) of Pub. L. 93-58 provided that: “The provisions of this Act [amending this section and sections 228c and 228e of Title 45, Railroads], except the provisions of section 1, shall be effective as of the date the corresponding provisions of Public Law 92-603 are effective as follows: clause (xi) [section 228c(e)(xi) of Title 45] effective with respect to services provided on and after July 1, 1973. The provisions of clauses (xi) and (xii), which are added by section 1 of this Act, shall be effective as follows: clause (xi) [section 228c(e)(xi) of Title 45] shall be effective with respect to calendar years after 1971 for annuities accruing after December 1972; and clause (xii) [section 228c(e)(xii) of Title 45] shall be effective as of the date the delayed retirement provision of Public Law 92-603 is effective [section 402(w) of this title applicable with respect to old-age insurance benefits payable under this subchapter for months beginning after 1972].”

EFFECTIVE DATE OF 1972 AMENDMENT

Section 299I of Pub. L. 92-603 provided that the amendment made by that section is effective with respect to services provided on and after July 1, 1973.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-248 applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90-248, set out as a note under section 1395d of this title.

APPLICABILITY OF PUB. L. 96-473 TO APPLICATIONS FOR HOSPITAL INSURANCE BENEFITS

Section 2(c) of Pub. L. 96-473 provided that: “For purposes of section 226 of such Act [this section] as amended by subsection (a) of this section, an individual who filed an application for monthly insurance benefits under section 202 of such Act [section 402 of this title] prior to the effective date of the amendment made by subsection (a) [see section 2(c) of Pub. L. 96-473, set out above as an Effective Date of 1980 Amendment note] shall be deemed to have filed an application for hospital insurance benefits under part A of title XVIII of such Act [part A of subchapter XVIII of this chapter] at the time he applied for such benefits under section 202 regardless of the continuing status or effect of the application for benefits under section 202, if he would have been entitled to benefits under that section had such application remained in effect.”

GAO REPORT

Pub. L. 106-170, title II, §202(c), Dec. 17, 1999, 113 Stat. 1894, provided that: “Not later than 5 years after the date of the enactment of this Act [Dec. 17, 1999], the Comptroller General of the United States shall submit a report to the Congress that—

“(1) examines the effectiveness and cost of the amendment made by subsection (a) [amending this section];

“(2) examines the necessity and effectiveness of providing continuation of medicare coverage under section 226(b) of the Social Security Act (42 U.S.C.

426(b)) to individuals whose annual income exceeds the contribution and benefit base (as determined under section 230 of such Act (42 U.S.C. 430));

“(3) examines the viability of providing the continuation of medicare coverage under such section 226(b) based on a sliding scale premium for individuals whose annual income exceeds such contribution and benefit base;

“(4) examines the viability of providing the continuation of medicare coverage under such section 226(b) based on a premium buy-in by the beneficiary’s employer in lieu of coverage under private health insurance;

“(5) examines the interrelation between the use of the continuation of medicare coverage under such section 226(b) and the use of private health insurance coverage by individuals during the extended period; and

“(6) recommends such legislative or administrative changes relating to the continuation of medicare coverage for recipients of social security disability benefits as the Comptroller General determines are appropriate.”

TIME IN WHICH TO FURNISH PROOF OF DISABILITY FOR HOSPITAL BENEFITS

Section 309(q)(2) of Pub. L. 98-21 provided that: “For purposes of determining entitlement to hospital insurance benefits under section 226(e)(3) of such Act [subsec. (e)(3) of this section], as amended by paragraph (1), an individual becoming entitled to such hospital insurance benefits as a result of the amendment made by such paragraph shall, upon furnishing proof of his or her disability within twelve months after the month in which this Act is enacted [April 1983], under such procedures as the Secretary of Health and Human Services may prescribe, be deemed to have been entitled to the widow’s or widower’s benefits referred to in such section 226(e)(3), as so amended, as of the time such individual would have been entitled to such widow’s or widower’s benefits if he or she had filed a timely application therefor.”

SPECIAL \$50 PAYMENT UNDER TAX REDUCTION ACT OF 1975

Special payment of \$50 as soon as practicable after Mar. 29, 1975, by the Secretary of the Treasury to each individual who, for the month of March 1975, was entitled to a monthly insurance benefit payable under this subchapter, see section 702 of Pub. L. 94-12, set out as a note under section 402 of this title.

ADOPTED CHILD’S REENLISTMENT TO ANNUITY

Section 4(b) of Pub. L. 93-58 provided that: “Any child (1) whose entitlement to an annuity under section 5(c) of the Railroad Retirement Act [section 228e(c) of Title 45, Railroads] was terminated by reason of his adoption prior to the enactment of this Act [July 6, 1973], and (2) who, except for such adoption, would be entitled to an annuity under such section for a month after the month in which this Act is enacted [July 1973], may, upon filing application for an annuity under the Railroad Retirement Act [section 228a et seq. of Title 45] after the date of enactment of this Act [July 6, 1973], become reentitled to such annuity; except that no child shall, by reason of the enactment of this Act [amending this section and sections 228c, 228e of Title 45] become reentitled to such annuity for any month prior to the effective date of the relevant amendments made by this Act to section 5(l)(1)(ii) of the Railroad Retirement Act [section 228e(l)(1)(ii)].”

§ 426-1. End stage renal disease program

(a) Entitlement to benefits

Notwithstanding any provision to the contrary in section 426 of this title or subchapter XVIII of this chapter, every individual who—

(1)(A) is fully or currently insured (as such terms are defined in section 414 of this title),

or would be fully or currently insured if (i) his service as an employee (as defined in the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.]) after December 31, 1936, were included within the meaning of the term “employment” for purposes of this subchapter, and (ii) his medicare qualified government employment (as defined in section 410(p) of this title) were included within the meaning of the term “employment” for purposes of this subchapter;

(B)(i) is entitled to monthly insurance benefits under this subchapter, (ii) is entitled to an annuity under the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.], or (iii) would be entitled to a monthly insurance benefit under this subchapter if medicare qualified government employment (as defined in section 410(p) of this title) were included within the meaning of the term “employment” for purposes of this subchapter; or

(C) is the spouse or dependent child (as defined in regulations) of an individual described in subparagraph (A) or (B);

(2) is medically determined to have end stage renal disease; and

(3) has filed an application for benefits under this section;

shall, in accordance with the succeeding provisions of this section, be entitled to benefits under part A and eligible to enroll under part B of subchapter XVIII of this chapter, subject to the deductible, premium, and coinsurance provisions of that subchapter.

(b) Duration of period of entitlement

Subject to subsection (c) of this section, entitlement of an individual to benefits under part A and eligibility to enroll under part B of subchapter XVIII of this chapter by reasons of this section on the basis of end stage renal disease—

(1) shall begin with—

(A) the third month after the month in which a regular course of renal dialysis is initiated, or

(B) the month in which such individual receives a kidney transplant, or (if earlier) the first month in which such individual is admitted as an inpatient to an institution which is a hospital meeting the requirements of section 1395x(e) of this title (and such additional requirements as the Secretary may prescribe under section 1395rr(b) of this title for such institutions) in preparation for or anticipation of kidney transplantation, but only if such transplantation occurs in that month or in either of the next two months,

whichever first occurs (but no earlier than one year preceding the month of the filing of an application for benefits under this section); and

(2) shall end, in the case of an individual who receives a kidney transplant, with the thirty-sixth month after the month in which such individual receives such transplant or, in the case of an individual who has not received a kidney transplant and no longer requires a regular course of dialysis, with the twelfth month after the month in which such course of dialysis is terminated.