REPEAL OF SECTION
Pub. L. 92–603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1404, provided that this section is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS
1981—Subsecs. (b), (c). Pub. L. 97–35 struck out subsecs. (b) and (c) which defined “medical assistance for the aged” and “Federal medical percentage”, respectively.
1972—Subsec. (a). Pub. L. 92–603 authorized the State, at its option, to include within term “old-age assistance” provisions relating to money payments to an individual absent from such State for more than 90 consecutive days, and provisions relating to rent payments made directly to a public housing agency.
1965—Subsec. (a). Pub. L. 89–97, §221(a)(1), struck out from definition of “old-age assistance” the exclusion of (1) payments to or medical care in behalf of any individual who is a patient in an institution for tuberculosis or mental diseases, or (2) payments to any individual who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof, or (3) medical care in behalf of any individual who is a patient in a medical institution as a result of a diagnosis that he has tuberculosis or psychosis, with respect to any period after the individual has been a patient in such an institution, as a result of such diagnosis, for forty-two days.
Pub. L. 89–97, §462(a), extended definition of “old-age assistance” to include payments made on behalf of the recipient to an individual who (as determined in accordance with the standards prescribed by the Secretary) is interested in or concerned with the welfare of the recipient and inserted an enumeration of the five characteristics required of State plans under which such payments can be made, including provision for finding of inability to manage funds, payment to meet all needs, special efforts to protect welfare, periodic review, and opportunity for fair hearing.
1962—Subsec. (b). Pub. L. 87–543, §156(a)(2), (a), struck out from provision at end of cl. (12) excluding certain payments from definition of “medical assistance for the aged” payments with respect to care or services for any individual who is a patient in an institution for tuberculosis or mental diseases or for any individual who is a patient in a medical institution as a result of a diagnosis of tuberculosis or psychosis, with respect to any period after the individual has been a patient in such an institution for forty-two days and inserted in text preceding cl. (1) “(except, for any month, for recipients of old-age assistance who are admitted to or discharged from a medical institution during such month)” after “who are not recipients of old-age assistance”, respectively.
1960—Subsec. (a). Pub. L. 87–543, §156(a)(1), inserted “(if provided in or after the third month before the month in which the recipient makes application for assistance)” before “medical care”.
Subsec. (b). Pub. L. 87–543, §156(a)(2), inserted “(if provided in or after the third month before the month in which the recipient makes application for assistance)” after “care and services”.
1960—Subsec. (a). Pub. L. 86–778, §601(f)(1), (2), designated existing provisions as subsec. (a) and inserted provisions excluding from definition of “old-age assistance” any care in behalf of any individual, who is a patient in a medical institution as a result of a diagnosis that he has tuberculosis or psychosis, with respect to any period after the individual has been a patient in an institution, as a result of such diagnosis, for forty-two days.
Subsecs. (b), (c). Pub. L. 86–778, §601(f)(2), added subsecs. (b) and (c).
1950—Act Aug. 28, 1950, redefined “old-age assistance”.

1939—Act Aug. 10, 1939, inserted “needy” before “individuals who”.

EFFECTIVE DATE OF 1965 AMENDMENT
Amendment by section 221 of Pub. L. 89–97 applicable in the case of expenditures made after Dec. 31, 1965, under a State plan approved under this subchapter, see section 223(e) of Pub. L. 89–97, set out as a note under section 302 of this title.

Section 222(c) of Pub. L. 89–97 provided that: “The amendments made by this section [amending this section and sections 1206, 1355, and 1385 of this title] shall apply in the case of expenditures under a State plan approved under title I or XVI of the Social Security Act [subchapter I or XVI of this chapter] with respect to care and services provided under such plan after June 1965.”

Section 405(e) of Pub. L. 89–97 provided that: “The amendments made by this section [amending this section and sections 1206, 1355, and 1385 of this title] shall apply in the case of expenditures made after September 30, 1962, under a State plan approved under title I, X, XIV or XVI of the Social Security Act [subchapter I, X, XIV, or XVI of this chapter].”

EFFECTIVE DATE OF 1962 AMENDMENT
Section 156(e) of Pub. L. 87–543 provided that: “The amendments made by this section [amending this section and sections 606, 1206, and 1355 of this title] shall apply in the case of applications made after September 30, 1962, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapter I, IV, X, or XIV of this chapter].”

EFFECTIVE DATE OF 1960 AMENDMENT

EFFECTIVE DATE OF 1950 AMENDMENT
Section 303(b) of act Aug. 28, 1950, provided that: “The amendment made by subsection (a) [amending this section] shall take effect October 1, 1950, except that the exclusion of money payments to needy individuals described in clause (a) or (b) of section 6 of the Social Security Act as so amended [clauses (a) or (b) of this section] shall, in the case of any of such individuals who are not patients in a public institution, be effective July 1, 1952.”

SUBCHAPTER II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

AMENDMENTS

§ 401. Trust Funds
(a) Federal Old-Age and Survivors Insurance Trust Fund
There is hereby created on the books of the Treasury of the United States a trust fund to be known as the “Federal Old-Age and Survivors Insurance Trust Fund”. The Federal Old-Age and Survivors Insurance Trust Fund shall consist of the securities held by the Secretary of the Treasury for the Old-Age Reserve Account and the amount standing to the credit of the Old-Age Reserve Account on the books of the Treasury on January 1, 1940, which securities and amount the Secretary of the Treasury is authorized and directed to transfer to the Federal Old-Age and Survivors Insurance Trust Fund, and, in addition, such gifts and bequests as may
be made as provided in subsection (i)(1) of this section, and such amounts as may be appropriated to, or deposited in, the Federal Old-Age and Survivors Insurance Trust Fund as hereinafter provided. There is hereby appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for the fiscal year ending June 30, 1941, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) the taxes (including interest, penalties, and additions to the taxes) received under subchapter A of chapter 9 of the Internal Revenue Code of 1939 (and covered into the Treasury) which are deposited into the Treasury by collectors of internal revenue before January 1, 1951; and

(2) the taxes certified each month by the Commissioner of Internal Revenue as taxes received under subchapter A of chapter 9 of such Code, which are deposited into the Treasury by collectors of internal revenue after December 31, 1950, and before January 1, 1953, with respect to assessments of such taxes made before January 1, 1951; and

(3) the taxes imposed by subchapter A of chapter 9 of such Code with respect to wages (as defined in section 1426 of such Code), and by chapter 21 (other than sections 3101(b) and 3111(b)) of the Internal Revenue Code of 1954 with respect to wages (as defined in section 3121 of such Code) reported to the Commissioner of Internal Revenue pursuant to section 1420(c) of the Internal Revenue Code of 1939 after December 31, 1950, or to the Secretary of the Treasury or his delegates pursuant to subtitle F of the Internal Revenue Code of 1954 after December 31, 1954, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such subchapter or chapter 21 (other than sections 3101(b) and 3111(b)) to such wages, which taxes shall be certified by the Commissioner of Social Security in accordance with such reports, less the amounts specified in clause (1) of subsection (b) of this section; and

(4) the taxes imposed by subchapter E of chapter 1 of the Internal Revenue Code of 1939, with respect to self-employment income (as defined in section 481 of such Code), and by chapter 2 (other than section 1401(b)) of the Internal Revenue Code of 1954 with respect to self-employment income (as defined in section 1402 of such Code) reported to the Commissioner of Internal Revenue on tax returns under such subchapter or to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such subchapter or chapter (other than section 1401(b)) to such self-employment income, which self-employment income shall be certified by the Commissioner of Social Security on the basis of the records of self-employment income established and maintained by the Commissioner of Social Security in accordance with such returns, less the amounts specified in clause (2) of subsection (b) of this section.

The amounts appropriated by clauses (3) and (4) of this subsection shall be transferred from time to time from the general fund to the Federal Disability Insurance Trust Fund, and the amounts appropriated by clauses (1) and (2) of this subsection (b) of this section shall be transferred from time to time from the general fund to the Federal Disability Insurance Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in clauses (3) and (4) of this subsection, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such clauses (3) and (4) of this subsection. All amounts transferred to either Trust Fund under the preceding sentence shall be invested by the Managing Trustee in the same manner and to the same extent as the other assets of such Trust Fund. Notwithstanding the preceding sentence, in any case in which the Secretary of the Treasury determines that the assets of either such Trust Fund would otherwise be inadequate to meet such Fund's obligations for any month, the Secretary of the Treasury shall transfer to such Trust Fund on the first day of such month the amount which would have been transferred to such Fund under this section as in effect on October 1, 1966. Such Trust Fund shall pay interest to the general fund on the amount so transferred on the first day of any month at a rate (calculated on a daily basis, and applied against the difference between the amount so transferred on such first day and the amount which would have been transferred to the Trust Fund up to that day under the procedures in effect on January 1, 1983) equal to the rate earned by the investments of such Fund in the same month under subsection (d) of this section.

(b) Federal Disability Insurance Trust Fund

There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Disability Insurance Trust Fund". The Federal Disability Insurance Trust Fund shall consist of such gifts and bequests as may be made as provided in subsection (i)(1) of this section, and such amounts as may be appropriated to, or deposited in, such fund as provided in this section. There is hereby appropriated to the Federal Disability Insurance Trust Fund for the fiscal year ending June 30, 1957, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1)(A) ⅕ of 1 per centum of the wages (as defined in section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1956, and before January 1, 1966, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, (B) 0.70 of 1 per centum of the wages (as so defined) paid after December 31, 1965, and before January 1, 1968, and so reported, (C) 0.95 of 1 per centum of the wages (as so defined) paid after December 31, 1967, and before January 1, 1970, and so reported, (D)
1.10 per centum of the wages (as so defined) paid after December 31, 1969, and before January 1, 1973, and so reported, (E) 1.1 per centum of the wages (as so defined) paid after December 31, 1972, and before January 1, 1974, and so reported, (P) 1.15 per centum of the wages (as so defined) paid after December 31, 1973, and before January 1, 1978, and so reported, (G) 1.55 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, (H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1980, and so reported, (I) 1.12 per centum of the wages (as so defined) paid after December 31, 1979, and before January 1, 1981, and so reported, (J) 1.30 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1982, and so reported, (K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1983, and so reported, (L) 1.25 per centum of the wages (as so defined) paid after December 31, 1982, and before January 1, 1984, and so reported, (M) 1.00 per centum of the wages (as so defined) paid after December 31, 1983, and before January 1, 1988, and so reported, (N) 1.06 per centum of the wages (as so defined) paid after December 31, 1987, and before January 1, 1990, and so reported, (O) 1.01 per centum of the wages (as so defined) paid after December 31, 1988, and before January 1, 1994, and so reported, (P) 1.88 per centum of the wages (as so defined) paid after December 31, 1992, and before January 1, 1997, and so reported, (Q) 1.70 per centum of the wages (as so defined) paid after December 31, 1996, and before January 1, 2000, and so reported, and (R) 1.80 per centum of the wages (as so defined) paid after December 31, 1999, and so reported, which wages shall be certified by the Commissioner of Social Security on the basis of the records of wages established and maintained by such Commissioner in accordance with such reports; and

(2)(A) ¾ of 1 per centum of the amount of self-employment income (as defined in section 1402 of the Internal Revenue Code of 1954) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of the Internal Revenue Code of 1954 for any taxable year beginning after December 31, 1956, and before January 1, 1966, (B) 0.525 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1965, and before January 1, 1968, (C) 0.7125 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1967, and before January 1, 1970, (D) 0.825 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1969, and before January 1, 1973, (E) 0.795 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1971, and before January 1, 1974, (F) 0.815 of 1 per centum of the amount of self-employment income (as so defined) as reported for any taxable year beginning after December 31, 1973, and before January 1, 1978, (G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, (H) 1.0400 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1980, (I) 0.7775 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1979, and before January 1, 1981, (J) 0.9730 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1982, (K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1983, (L) 0.9375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1982, and before January 1, 1984, (M) 1.00 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1983, and before January 1, 1988, (N) 1.06 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1987, and before January 1, 1990, (O) 1.01 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1988, and before January 1, 1994, and so reported, (P) 1.88 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1992, and before January 1, 1997, and so reported, (Q) 1.70 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1996, and before January 1, 2000, and so reported, and (R) 1.80 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999, and so reported, which shall be certified by the Commissioner of Social Security on the basis of the records of self-employment income established and maintained by the Commissioner of Social Security in accordance with such returns.

(c) Board of Trustees; duties; reports to Congress

With respect to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (hereinafter in this subchapter called the ‘‘Trust Funds’’), there is hereby created a body to be known as the Board of Trustees of the Trust Funds (hereinafter in this subchapter called the ‘‘Board of Trustees’’), which Board shall be composed of the Commissioner of Social Security, the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services, all ex officio, and of two members of the public (both of whom may not be from the same political party) who shall be nominated by the President for a term of four years and subject to confirmation by the Senate. A member of the Board of Trustees serving as a member of the public and nominated and
confirmed to fill a vacancy occurring during a term shall be nominated and confirmed only for the remainder of such term. An individual nominated and confirmed as a member of the public may serve in such position after the expiration of such member’s term until the earlier of the time at which the member’s successor takes office or the time at which a report of the Board is first issued under paragraph (2) after the expiration of the member’s term. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this subchapter called the “Managing Trustee”). The Deputy Commissioner of Social Security shall serve as Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Funds;

(2) Report to the Congress not later than the first day of April of each year on the operation and status of the Trust Funds during the preceding fiscal year and on their expected operation and status during the next ensuing five fiscal years;

(3) Report immediately to the Congress whenever the Board of Trustees is of the opinion that the amount of either of the Trust Funds is unduly small;

(4) Recommend improvements in administrative procedures and policies designed to effectuate the proper coordination of the old-age and survivors insurance and Federal-State unemployment compensation program; and

(5) Review the general policies followed in managing the Trust Funds, and recommend changes in such policies, including necessary changes in the provisions of the law which govern the way in which the Trust Funds are to be managed.

The report provided for in paragraph (2) of this subsection shall include a statement of the assets of, and the disbursements made from, the Trust Funds during the preceding fiscal year, an estimate of the expected future income to, and disbursements to be made from, the Trust Funds during each of the next ensuing five fiscal years, and a statement of the actuarial status of the Trust Funds. Such statement shall include a finding by the Board of Trustees as to whether the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, individually and collectively, are in close actuarial balance (as defined by the Board of Trustees). Such report shall include an actuarial opinion by the Chief Actuary of the Social Security Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used are reasonable. Such report shall also include an actuarial analysis of the benefit disbursements made from the Federal Old-Age and Survivors Insurance Trust Fund with respect to disabled beneficiaries. Such report shall be printed as a House document of the session of the Congress to which the report is made. A person serving on the Board of Trustees shall not be considered to be a fiduciary and shall not be personally liable for actions taken in such capacity with respect to the Trust Funds.

(d) Investments

It shall be the duty of the Managing Trustee to invest such portion of the Trust Funds as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Funds. Such obligations issued for purchase by the Trust Funds shall have maturities fixed with due regard for the needs of the Trust Funds and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month: except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. Each obligation issued for purchase by the Trust Funds under this subsection shall be evidenced by a paper instrument in the form of a bond, note, or certificate of indebtedness issued by the Secretary of the Treasury setting forth the principal amount, date of maturity, and interest rate of the obligation, and stating on its face that the obligation shall be incontestable in the hands of the Trust Fund to which it is issued, that the obligation is supported by the full faith and credit of the United States, and that the United States is pledged to the payment of the obligation with respect to both principal and interest. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(e) Sale of acquired obligations

Any obligations acquired by the Trust Funds (except public-debt obligations issued exclusively to the Trust Funds) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(f) Proceeds from sale or redemption of obligations; interest

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall be credited to and form a part of the Federal Old-Age and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund, respectively. Payment from the general
fund of the Treasury to either of the Trust Funds of any such interest or proceeds shall be in the form of paper checks drawn on such general fund to the order of such Trust Fund.

(g) Payments into Treasury

(1)(A) The Managing Trustee of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by subchapter XVIII of this chapter) is directed to pay from the Trust Funds into the Treasury—

(i) the amounts estimated by the Managing Trustee, the Commissioner of Social Security, and the Secretary of Health and Human Services which will be expended, out of moneys appropriated from the general fund in the Treasury, during a three-month period by the Department of Health and Human Services for the administration of subchapter XVIII of this chapter, and by the Department of the Treasury for the administration of subchapters II and XVIII of this chapter and chapters 2 and 21 of the Internal Revenue Code of 1986, less—

(ii) the amounts estimated (pursuant to the applicable method prescribed under paragraph (4) of this subsection) by the Commissioner of Social Security which will be expended, out of moneys made available for expenditures from the Trust Funds, during such three-month period to cover the cost of carrying out the functions of the Social Security Administration, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1986 other than those referred to in clause (i) and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 407(c) of this title, pursuant to requests by persons entitled to such benefits or such persons' representative payee.

Such payments shall be carried into the Treasury as the net amount of repayments due the general fund account for reimbursement of expenditures incurred in connection with the administration of subchapters II and XVIII of this chapter and chapters 2 and 21 of the Internal Revenue Code of 1986. A final accounting of such payments for any fiscal year shall be made at the earliest practicable date after the close thereof. There are hereby authorized to be made available out of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under the preceding sentence, there are hereby authorized to be made available from either or both of such Trust Funds for continuing disability reviews—

(i) for fiscal year 1996, $260,000,000;
(ii) for fiscal year 1997, $360,000,000;
(iii) for fiscal year 1998, $570,000,000;
(iv) for fiscal year 1999, $720,000,000;
(v) for fiscal year 2000, $720,000,000;
(vi) for fiscal year 2001, $720,000,000; and
(vii) for fiscal year 2002, $720,000,000.

For purposes of this subparagraph, the term "continuing disability review" means a review conducted pursuant to section 421(i) of this title and a review or disability eligibility redetermination conducted to determine the continuing disability and eligibility of a recipient of benefits under the supplemental security income program under subchapter XVI of this chapter, including any review or redetermination conducted pursuant to section 207 or 208 of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296).

(B) After the close of each fiscal year—

(i) the Commissioner of Social Security shall determine—

(I) the portion of the costs, incurred during such fiscal year, of administration of this subchapter, subchapter VIII of this chapter, subchapter XVI of this chapter, and subchapter XVIII of this chapter for which the Commissioner is responsible and of carrying out the functions of the Social Security Administration, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)) and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 407(c) of this title, pursuant to requests by persons entitled to such benefits or such persons' representative payee, which should have been borne by the general fund of the Treasury.

(II) the portion of such costs which should have been borne by the Federal Old-Age and Survivors Insurance Trust Fund,

(III) the portion of such costs which should have been borne by the Federal Disability Insurance Trust Fund,

(IV) the portion of such costs which should have been borne by the Federal Hospital Insurance Trust Fund, and

(V) the portion of such costs which should have been borne by the Federal Supplementary Medical Insurance Trust Fund (and, of such portion, the portion of such costs

\[1^1\] So in original. Two cls. (i) and (iii) have been enacted.

\[2^2\] So in original. Probably should be "(vii)".
which should have been borne by the Medicare Prescription Drug Account in such Trust Fund), and

(ii) the Secretary of Health and Human Services shall determine—

(I) the amount of such costs which should have been borne by the Federal Hospital Insurance Trust Fund, and

(II) the portion of such costs which should have been borne by the Federal Hospital Insurance Trust Fund, and

(III) the portion of such costs which should have been borne by the Federal Supplementary Medical Insurance Trust Fund (and, of such portion, the portion of such costs which should have been borne by the Medicare Prescription Drug Account in such Trust Fund).

(C) After the determinations under subparagraph (B) have been made for any fiscal year, the Commissioner of Social Security and the Secretary shall each certify to the Managing Trustee the amounts, if any, which should be transferred between the Trust Funds, and the amounts, if any, which should be transferred between the Trust Funds and the general fund of the Treasury, in order that each of the Trust Funds and the general fund of the Treasury have borne their proper share of the costs, incurred during such fiscal year, for—

(i) the parts of the administration of this subchapter, subchapter VIII of this chapter, subchapter XVI of this chapter, and subchapter XVIII of this chapter for which the Commissioner of Social Security is responsible,

(ii) the parts of the administration of subchapter XVIII of this chapter for which the Secretary is responsible, and

(iii) carrying out the functions of the Social Security Administration, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)) and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 407(c) of this title, pursuant to requests by persons entitled to such benefits or such persons' representative payee.

The Managing Trustee shall transfer any such amounts in accordance with any certification so made.

(D) The determinations required under subclauses (IV) and (V) of subparagraph (B)(i) shall be made in accordance with the cost allocation methodology in existence on August 15, 1994, until such time as the methodology for making the determinations required under such subclauses is revised by agreement of the Commissioner and the Secretary, except that the determination of the amounts to be borne by the general fund of the Treasury with respect to expenditures incurred in carrying out the functions of the Social Security Administration specified in section 432 of this title and the functions of the Social Security Administration in connection with the withholding of taxes from benefits as described in section 407(c) of this title shall be made pursuant to the applicable method prescribed under paragraph (4).

(2) The Managing Trustee is directed to pay from time to time from the Trust Funds into the Treasury the amount estimated by him as taxes imposed under section 3301(a) of the Internal Revenue Code of 1986 which are subject to refund under section 6413(c) of such Code with respect to wages (as defined in section 3121 of such Code). Such taxes shall be determined on the basis of the records of wages maintained by the Commissioner of Social Security in accordance with the wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code, and the Commissioner of Social Security shall furnish the Managing Trustee such information as may be required by the Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections. Payments pursuant to the first sentence of this paragraph shall be made from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund in the ratio in which amounts were appropriated to such Trust Funds under clause (3) of subsection (a) of this section and clause (1) of subsection (b) of this section.

(3) Repayments made under paragraph (1) or (2) of this subsection shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under either such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

(4) The Commissioner of Social Security shall utilize the method prescribed pursuant to this paragraph, as in effect immediately before August 15, 1994, for determining the costs which should be borne by the general fund of the Treasury of carrying out the functions of the Commissioner, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). The Board of Trustees of such Trust Funds shall prescribe the method of determining the costs which should be borne by the general fund of the Treasury of carrying out the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 407(c) of this title, pursuant to requests by persons entitled to such benefits or such persons' representative payee. If at any time or times thereafter the Boards of Trustees of such Trust Funds consider such action advisable, they may modify the method of determining such costs.

(h) Benefit payments

Benefit payments required to be made under section 423 of this title, and benefit payments...
required to be made under subsection (b), (c), or (d) of section 402 of this title to individuals entitled to benefits on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, shall be made only from the Federal Disability Insurance Trust Fund. All other benefit payments required to be made under this subchapter (other than section 426 of this title) shall be made only from the Federal Old-Age and Survivors Insurance Trust Fund.

(i) Gifts and bequests

(1) The Managing Trustee may accept on behalf of the United States money gifts and bequests made unconditionally to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust Fund (and for the Medicare Prescription Drug Account and the Transitional Assistance Account in such Trust Fund) or to the Social Security Administration, the Department of Health and Human Services, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through such Funds.

(2) Any such gift accepted pursuant to the authority granted in paragraph (1) of this subsection shall be deposited in—

(A) the specific trust fund designated by the donor or
(B) if the donor has not so designated, the Federal Old-Age and Survivors Insurance Trust Fund.

(j) Travel expenses

There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund (as determined appropriate by the Commissioner of Social Security), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Commissioner of Social Security in connection with disability determinations under this subchapter, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 410(i) of this title) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this subchapter. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Commissioner of Social Security) because of such person’s health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person’s health condition, as specified in such regulations. The amount available for payment under this subsection for travel by a representative to attend an administrative proceeding before an administrative law judge or other adjudicator shall not exceed the maximum amount allowable under this subsection for such travel originating within the geographic area of the office having jurisdiction over such proceeding.

(k) Experiment and demonstration project expenditures

Expenditures made for experiments and demonstration projects under section 1395i of this title shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security.

(l) Interfund borrowing

(1) If at any time prior to January 1988 the Managing Trustee determines that borrowing authorized under this subsection is appropriate in order to best meet the need for financing the benefit payments from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, the Managing Trustee may borrow such amounts as he determines to be appropriate from the other such Trust Fund, or, subject to paragraph (5), from the Federal Hospital Insurance Trust Fund established under section 1395i of this title, for transfer to and deposit in the Trust Fund whose need for financing is involved.

(2) In any case where a loan has been made to a Trust Fund under paragraph (1), there shall be transferred on the last day of each month after such loan is made, from the borrowing Trust Fund to the lending Trust Fund, the total interest accrued to such day with respect to the unrepaid balance of such loan at a rate equal to the rate which the lending Trust Fund would earn on the amount involved if the loan were an investment under subsection (d) of this section (even if such an investment would earn interest at a rate different than the rate earned by investments redeemed by the lending fund in order to make the loan).

(a)(A) If in any month after a loan has been made to a Trust Fund under paragraph (1), the Managing Trustee determines that the assets of such Trust Fund are sufficient to permit repayment of all or part of any loans made to such Fund under paragraph (1), he shall make such repayments as he determines to be appropriate.

(B)(i) If on the last day of any year after a loan has been made under paragraph (1) by the Federal Hospital Insurance Trust Fund to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, the Managing Trustee determines that the OASDI trust fund ratio exceeds 15 percent, he shall transfer from the borrowing Trust Fund to the Federal Hospital Insurance Trust Fund an amount that—

(I) together with any amounts transferred from another borrowing Trust Fund under this paragraph for such year, will reduce the OASDI trust fund ratio to 15 percent; and

(II) does not exceed the outstanding balance of such loan.

(ii) Amounts required to be transferred under clause (i) shall be transferred on the last day of the first month of the year succeeding the year
in which the determination described in clause (i) is made.

(iii) For purposes of this subparagraph, the term "OASDI trust fund ratio" means, with respect to any calendar year, the ratio of—

(I) the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as of the last day of such calendar year, to

(II) the amount estimated by the Commissioner of Social Security to be the total amount to be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during the calendar year following such calendar year for all purposes authorized by this section (other than payments of interest on, and repayments of loans from, the Federal Hospital Insurance Trust Fund under paragraph (1), but excluding any transfer payments between such trust funds and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account).

(C)(i) The full amount of all loans made under paragraph (1) (whether made before or after January 1, 1983) shall be repaid at the earliest feasible date and in any event no later than December 31, 1989.

(ii) For the period after December 31, 1987, and before January 1, 1990, the Managing Trustee shall transfer each month to the Federal Hospital Insurance Trust Fund from any Trust Fund with any amount outstanding on a loan made from the Federal Hospital Insurance Trust Fund under paragraph (1) an amount not less than an amount equal to (I) the amount owed to the Federal Hospital Insurance Trust Fund by such Trust Fund at the beginning of such month (plus the interest accrued on the outstanding balance of such loan during such month), divided by (II) the number of months elapsed since the preceding month and before January 1990. The Managing Trustee may, during this period, transfer larger amounts than prescribed by the preceding sentence.

(4) The Board of Trustees shall make a timely report to the Congress of any amounts transferred (including interest payments) under this subsection.

(5)(A) No amounts may be borrowed from the Federal Hospital Insurance Trust Fund under paragraph (1) during any month if the Hospital Insurance Trust Fund ratio for such month is less than 10 percent.

(B) For purposes of this paragraph, the term "Hospital Insurance Trust Fund ratio" means, with respect to any month, the ratio of—

(i) the balance in the Federal Hospital Insurance Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to such Trust Fund under this subsection, as of the last day of the second month preceding such month, to

(ii) the amount obtained by multiplying by twelve the total amount which has been previously credited pursuant to paragraph (1), but excluding any transfer payments between such trust funds and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account.

(m) Accounting for unnegotiated benefit checks

(1) The Secretary of the Treasury shall implement procedures to permit the identification of each check issued for benefits under this subchapter that has not been presented for payment by the close of the sixth month following the month of its issuance.

(2) The Secretary of the Treasury shall, on a monthly basis, credit each of the Trust Funds for the amount of all benefit checks (including interest thereon) drawn on such Trust Fund more than 6 months previously but not presented for payment and not previously credited to such Trust Fund, to the extent provided in advance in appropriation Acts.

(3) If a benefit check is presented for payment to the Treasury and the amount thereof has been previously credited pursuant to paragraph (2) to one of the Trust Funds, the Secretary of the Treasury shall nevertheless pay such check, if otherwise proper, on such Trust Fund, and notify the Commissioner of Social Security.

(4) A benefit check bearing a current date may be issued to an individual who did not negotiate the original benefit check and who surrenders such check for cancellation if the Secretary of the Treasury determines it is necessary to effect proper payment of benefits.

(n) Payments to Funds in satisfaction of obligations

Not later than July 1, 2004, the Secretary of the Treasury shall transfer, from amounts in the general fund of the Treasury that are not otherwise appropriated—

(1) $624,971,854 to the Federal Old-Age and Survivors Insurance Trust Fund; 

(2) $105,379,671 to the Federal Disability Insurance Trust Fund; and

(3) $173,306,134 to the Federal Hospital Insurance Trust Fund.

Amounts transferred in accordance with this subsection shall be in satisfaction of certain outstanding obligations for deemed wage credits for 2000 and 2001.

Subchapter A of chapter 9 of the Internal Revenue Code of 1939, referred to in subsec. (a)(1) to (3), was comprised of sections 160 to 1432, and was repealed (subject to certain exceptions) by section 7851(a)(3) of the Internal Revenue Code of 1986.

Sections 1426 and 1420(c) of the Internal Revenue Code of 1939, referred to in subsec. (a)(3), were a part of subchapter E of chapter 1 of the Internal Revenue Code of 1986.

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For purposes of this subparagraph, the term ‘continuing disability review’ means a review conducted pursuant to section 421(i) of this title and a review or disability determination conducted to determine the continuing disability and eligibility of a recipient of benefits under the supplemental security income program under subchapter XVI of this chapter, including an initial review or redetermination conducted pursuant to section 207 or 208 of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296).


Subsec. (d). Pub. L. 103–296, § 301(a), inserted after fifth sentence “Each obligation issued for purchase by the Trust Funds under the second sentence of this subsection shall be evidenced by a paper instrument in the form of a bond, note, or certificate of indebtedness issued by the Secretary of the Treasury setting forth the principal amount, date of maturity, and interest rate of the obligation, and stating on its face that the obligation shall be incontestable in the hands of the Trust Fund to which it is issued, that the obligation is supported by the faith and credit of the United States, and that the United States is pledged to the payment of the obligation with respect to both principal and interest.”

Subsec. (f). Pub. L. 103–296, § 301(b), inserted at end “Payment from the general fund of the Treasury to either of the Trust Funds of any such interest or principal of paper checks drawn on such general fund to the order of such Trust Fund.”

Subsec. (g)(1)(A). Pub. L. 103–296, § 107(b)(4)(C), in text as amended by Pub. L. 103–296, § 321(c)(1)(A)(i)(III), substituted “subchapters II and XVI” for “subchapters II, XVI, and XVIII” in second sentence and amended last sentence generally. Prior to amendment, last sentence read as follows: “There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this subchapter, subchapter XVI, and subchapter XVIII of this chapter for which the Secretary of Health and Human Services is responsible and of carrying out the functions of the Department of Health and Human Services, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1986 other than those referred to in clause (i) of the first sentence of this subparagraph.”


Subsec. (g)(1)(A)(ii). Pub. L. 103–296, § 107(b)(4)(A), substituted “the Managing Trustee, the Commissioner of Social Security, and the Secretary of Health and Human Services” for “by him and the Secretary of Health and Human Services” and “by the Department of Health and Human Services for the administration of subchapter XVIII of this chapter, and by the Department of the Treasury for the administration of subchapters XI and XVIII of this chapter” for “by the Managing Trustee, the Secretary of Health and Human Services and the Secretary of Health and Human Services for the administration of subchapter XVIII of this chapter”.

Subsec. (g)(1)(A)(iii). Pub. L. 103–296, § 107(b)(4)(B), substituted “method prescribed by the Board of Trustees under subparagraph (A)” for “method prescribed by the Board of Trustees under subparagraph (A)(i)”, “Commissioner of Social Security” for “Secretary of Health and Human Services”, and “Social Security Administration” for “Department of Health and Human Services”.

Subsec. (g)(1)(B). Pub. L. 103–296, § 107(b)(4)(A), added subpar. (B) and struck out former subpar. (B), as amended by Pub. L. 103–296, § 321(c)(1)(A)(IV), which read as follows: “After the close of each fiscal year the Secretary of Health and Human Services shall determine the portion of the costs, incurred during such fiscal year, of administration of this subchapter, subchapter XVI, and subchapter XVIII of this chapter and of carrying out the functions of the Department of Health and Human Services, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1986 other than those referred to in clause (i) of the first sentence of subpar. (A), which should have been borne by the general fund in the Treasury and the portion of such costs which should have been borne by each of the Trust Funds; except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 432 of this title shall be made pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this sub-
section. After such determination has been made, the Secretary of Health and Human Services shall certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other of such Trust Funds and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund in the Treasury in order to insure that each of the Trust Funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year, for the part of the administration of this subchapter, subchapter XVI and subchapter XVIII of this chapter for which the Secretary of Health and Human Services is responsible and of carrying out the functions of the Department of Health and Human Services, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.”  


Subsec. (g)(1)(C), (D). Pub. L. 103–296, §107(b)(4)(A), added subpars. (C) and (D).  

Pub. L. 103–296, §321(c)(1)(B)(i), in first sentence substituted “section 310(a) of the Internal Revenue Code of 1986 which are subject to refund under section 6413(c) of such Code with respect to wages (as defined in section 1426 of the Internal Revenue Code of 1986 and section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1950.” in place of “section 310(a) which are subject to refund under section 6413(c) of the Internal Revenue Code of 1954 with respect to wages (as defined in section 1426 of the Internal Revenue Code of 1939 and section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1950.” and in second sentence substituted “wages reported to the Secretary of the Treasury or his delegate pursuant to section 4130(e)” for “wages reported to the Commissioner of Internal Revenue pursuant to section 1420(c) of the Internal Revenue Code of 1939 and section 3121 of the Internal Revenue Code of 1954”.

Pub. L. 103–296, §107(b)(5), in second sentence substituted “maintained by the Commissioner of Social Security” for “established and maintained by the Secretary of Health and Human Services” and “Commissioner of Social Security shall furnish” for “Secretary shall furnish”.  

Subsec. (g)(4). Pub. L. 103–296, §107(b)(6), amended generally par. (4) as amended by Pub. L. 103–296, §321(c)(1)(C). Prior to amendment, par. (4) read as follows: “If at any time or times the Boards of Trustees of such Trust Funds deem such action advisable, they may modify the method prescribed by such Boards of determining the costs which should be borne by the general fund in the Treasury in the carrying out of the functions of the Department of Health and Human Services specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)).”  

Pub. L. 103–296, §321(c)(1)(C), substituted “If at any time or times the Boards of Trustees of such Trust Funds deem such action advisable, they may modify the method prescribed by such Boards for determining the costs which should be borne by the general fund in the Treasury in carrying out the functions of the Department of Health and Human Services, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)).” for “If at any time or times the Boards of Trustees of such Trust Funds deem such action advisable, they may modify the method prescribed by such Boards for determining the costs which should be borne by the general fund in the Treasury in the carrying out of the functions of the Department of Health and Human Services, specified in section 432 of this title, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)).”  

Pub. L. 103–296, §107(b)(7), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Coverage Reserve Fund, and the Federal Catastrophic Drug Insurance Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to any one or more of such Trust Funds or to the Department of Health and Human Services, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through such Funds.”  

Subsec. (j). Pub. L. 103–296, §107(b)(8), substituted “Commissioner of Social Security” for “Secretary” wherever appearing.  

Subsec. (k). Pub. L. 103–296, §107(b)(9), substituted “Commissioner of Social Security” for “Secretary”.

Subsec. (m)(3). Pub. L. 103–296, §107(b)(10), substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”.

1990—Subsec. (a). Pub. L. 101–508, §5116(a), in first sentence following cl. (4), substituted “from time to time” for “on the first day of each calendar month” in two places and “paid to or deposited into the Treasury for” for “to be paid to or deposited into the Treasury during such month”, and in last sentence substituted “Fund. Notwithstanding the preceding sentence, in any case in which the Secretary of the Treasury determines that the assets of either such Trust Fund would otherwise be inadequate to meet such Fund’s obligations for any month, the Secretary of the Treasury shall transfer to such Trust Fund on the first day of such month the amount which would have been transferred to such Fund under this section as in effect on October 1, 1990; and for “Fund;”.”

Subsec. (c). Pub. L. 101–508, §13304, inserted after first sentence following cl. (5) “Such statement shall include a finding by the Board of Trustees as to whether the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, individually and collectively, are in close actuarial balance (as defined by the Board of Trustees).”  

Subsec. (j). Pub. L. 101–508, §13106(c), inserted at end “The amount available for payment under this sub-section for travel by a representative to attend an administrative proceeding before an administrative law judge or other adjudicator shall not exceed the maximum amount allowable under this subsection for such travel originating within the geographic area of the office having jurisdiction over such proceeding.”

1989—Subsecs. (g)(1)(A), (1)(B), Pub. L. 101–234 repealed Pub. L. 100–360, §321(c)(1), and provided that the provisions of law amended or repealed by such section are restored or revived as if such section had not been enacted, see 1988 Amendment note below.

1988—Subsec. (c). Pub. L. 100–647 inserted after first sentence “A member of the Board of Trustees serving as a member of the public and nominated and confirmed to fill a vacancy occurring during a term shall be nominated and confirmed only for the remainder of such term. An individual nominated and confirmed as a member of the public may serve in such position after the expiration of such member’s term until the earlier of the time at which the member’s successor takes office or the time at which a report of the Board is first issued under paragraph (2) after the expiration of the member’s term.”


1986—Subsec. (c). Pub. L. 99–272, in provisions following par. (5), substituted “Provided, That the certification shall not refer to economic assumptions underlying the Trustee's report, and shall” for “Provided, That the certification shall not refer to economic assumptions underlying the Trustee’s report, and shall”.


made unconditionally to any one or more of such Trust Funds or to the Department of Health and Human Services, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through such Funds.”
ning after December 31, 1984, and before January 1, 1990, and (K) 1.650 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1988' for "(G) 0.850 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1986, (I) 0.960 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1985, and before January 1, 2011, and (J) 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2010".


Subsec. (b)(2)(E) to (J). Pub. L. 92–233, § 7(b), substituted in subsections in cl. (E) "January 1, 1973" for "January 1, 1978"; cl. (F) "0.815 of 1 per centum" for "0.84 per centum" and "as reported for any taxable year beginning after December 31, 1973, and before January 1, 1978" for "as reported for any taxable year beginning after December 31, 1973, and before January 1, 1977," cl. (G) "0.850 of 1 percentum" for "0.885 per centum" and "taxable year beginning after December 31, 1977, and before January 1, 2011," cl. (H) "1.4" for "1.1" in cl. (F), and added cls. (I) and (J).

1972—Subsec. (a). Pub. L. 92–603, § 132(a), inserted "such gifts and bequests as may be made as provided in subsection (i)(1) of this section, and after in addition, in provisions preceding par. (1).

Subsec. (b). Pub. L. 92–603, § 132(b), inserted "such gifts and bequests as may be made as provided in subsection (i)(1) of this section, and after "consist of" in provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 92–603, § 136(a), substituted "1.1" for "1.0" in cl. (E), "1.15" for "1.1" in cl. (F), and "1.5" for "1.4" in cl. (G).

Pub. L. 92–336, § 205(a), struck out "and" before "(D)," inserted reference to wages paid before January 1, 1973, in cl. (D), and added cl. (E), (F), and (G).

Subsec. (b)(2). Pub. L. 92–603, § 136(b), substituted "0.765" for "0.75" in cl. (E), "0.84" for "0.825" in cl. (F), and "0.915" for "0.95" in cl. (G).

Pub. L. 92–336, § 205(b), struck out "and" before "(D)," inserted reference to self-employment income before January 1, 1973, in cl. (D), and added cl. (E), (F), and (G).

Subsec. (g)(1)(A). Pub. L. 92–603, § 305(a), inserted references to subsection XVI of this chapter and provisions relating to the general revenues of the United States with respect to subsection XVII of this chapter and to the appropriations made pursuant to section 1381 of this title.


1969—Subsec. (b)(1). Pub. L. 90–248, § 110(a)(1), designated existing provisions as cl. (A) and (B), inserted "and before January 1, 1968," after "1965," in cl. (B), and added cl. (C).

Subsec. (b)(2). Pub. L. 90–248, § 110(b), inserted "April" for "March".

Subsec. (c). Pub. L. 90–248, § 119(b), inserted penultimate sentence for inclusion in reports of board of trustees to Congress of an actuarial analysis of the benefit disbursements made from the Federal Old-Age and Survivors Insurance Trust Fund with respect to disabled beneficiaries.

1968—Subsec. (a)(3). Pub. L. 89–97, § 108(a)(1), inserted "other than sections 3101(b) and 3111(b)" after "chapter" in two places.

Subsec. (a)(4). Pub. L. 89–97, § 108(a)(2), inserted "other than section 1601(b)(1)" after "chapter 2" and "such subchapter or chapter".

Subsec. (b)(1). Pub. L. 89–97, § 305(a), inserted and before January 1, 1966," after "December 31, 1956," and "and 0.75 of 1 per centum of the wages (as so defined) paid after December 31, 1965, and so reported," after "1954,"

Subsec. (b)(2). Pub. L. 89–97, § 306(b), inserted and before January 1, 1966, and 0.525 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1965," after "December 31, 1965," and added cl. (D).

Subsec. (c). Pub. L. 89–97, § 327, extended from once each six months to once each calendar year the minimum number of times the Board of Trustees must meet.

Subsec. (g)(1). Pub. L. 89–97, § 108(a)(3), included the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund among the Trust Funds available for reimbursement of the Treasury for administrative costs of this subchapter and subchapter XVIII of this chapter, deleted references to administrative costs of subchapter VIII of this chapter and subchapter E of chapter 1 and subchapter 9 of the Internal Revenue Code of 1939, and also provided for adjustment among the Trust Funds during each fiscal year so that the Funds bear the proportionate share of the administrative costs.

Subsec. (g)(2). Pub. L. 89–97, § 108(a)(4), inserted "imposed under section 3101(a)" after "the amount estimated by him as taxes".

Subsec. (h). Pub. L. 89–97, § 108(a)(5), inserted "other than section 426 of this title" after "this subchapter".

1960—Subsec. (c). Pub. L. 86–778, § 701(a)–(c), required the Board of Trustees to meet not less frequently than once each six months, struck out provisions from cl. (3) which required the Board to report immediately to the Congress whenever the Board is of the opinion that during the ensuing five fiscal years either of the Trust Funds will exceed three times the highest annual expenditures from such Trust Fund anticipated during that five-fiscal-year period, and added cl. (5).

Subsec. (d). Pub. L. 86–778, § 701(d), substituted "shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four
years from the end of such calendar month” for “bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue” and substituted provisions authorizing the purchase of other interest-bearing obligations of the United States then forming a part of the Public Debt that are not due or callable until after the expiration of five years from the date of original issue and substituted provisions requiring the issuance of obligations which the Managing Trustee determined that the purchase of other obligations was not in the public interest.

Subsec. (e). Pub. L. 88–778, §701(e), substituted “public-debt obligations” for “special obligations” in two places.

1959—Subsec. (d). Pub. L. 86–346 substituted “on original issue at issue price” for “on original issue at par”.

1958—Subsec. (b). Pub. L. 85–840 provided that benefit payments required to be made under subsection (b), (c), or (d) of section 402 of this title to individuals entitled to benefits on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits be made only from the Federal Disability Insurance Trust Fund.

1956—Act Aug. 1, 1956, amended section generally, inserting references to taxes imposed by the Internal Revenue Code of 1954, substituting “Secretary of Health, Education, and Welfare” for “Federal Security Administrator,” creating the Federal Disability Insurance Trust Fund, requiring obligations issued for purchase by the Trust Funds to have maturities fixed with due regard for the needs of the Trust Funds, authorizing to be made available for expenditure out of the Trust Funds such amounts as Congress deems necessary to pay costs of administration and collection, and requiring the Secretary of Health, Education, and Welfare to analyze costs of administration so that each Trust Fund may be charged with its proper share.

1955—Subsec. (c). Act Aug. 28, 1954, §109(a)(1)–(9), substituted “such amounts as may be appropriated to, or deposited in, the Trust Fund” for “such amounts as may be appropriated to the Trust Fund” in second sentence, simplified the accounting and collection processes required for determining the amounts appropriated to the trust fund, as set out in third sentence, and struck out fourth sentence authorizing appropriation of additional funds.

(b). Act Aug. 28, 1950, §109(a)(4)–(8), substituted “Federal Security Administrator” for “Chairman of the Social Security Board”, changed filing date for annual report from first day of each regular session of Congress to March 1 of each year, added par. (4), inserted sentence to require report to be printed as a House document, and made Commissioner of Social Security the Secretary of the Board of Trustees.

Subsec. (f). Act Aug. 28, 1950, §109(a)(9), changed reference in text from Title II of the Federal Insurance Contributions Act to subchapter A of chapter 9 and subchapter E of chapter 1 of the Internal Revenue Code of 1939 to avoid confusion and to include the new provisions of such Code relating to the collection of taxes from the self-employed.

1944—Subsec. (a). Act Feb. 25, 1944, inserted sentence authorizing appropriation of additional funds.


EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–277, div. J, title IV, §405(c), Oct. 21, 1998, 112 Stat. 2681–82, provided that: “The amendments made by this section (amending this section and sections 406, 1320a–6, 1385, and 1395i of this title) shall apply with respect to determinations made on or after July 1, 1991, and to reimbursement for travel expenses incurred on or after April 1, 1991.”

EFFECTIVE DATE OF 1994 AMENDMENTS

Section 3(c) of Pub. L. 103–387 provided that: “The amendments made by this section (amending this section) shall apply with respect to wages paid after December 31, 1993, and self-employment income for taxable years beginning after such date.”

Section 110 of title I of Pub. L. 103–296 provided that:

“(a) IN GENERAL.—Except as otherwise provided in this title, this title [see Tables for classification], and the amendments made by such title, shall take effect March 31, 1995.

“(b) TRANSITION RULES.—Section 106 [amending section 5315 of Title 5, Government Organization and Employees, and enacting provisions set out as a note under section 901 of this title] shall take effect on the date of the enactment of this Act [Aug. 15, 1994].

“(c) EXCEPTIONS.—The amendments made by section 103 [amending section 903 of this title], subsections (b)(4) and (c) of section 105 [enacting provisions set out in a note under section 901 of this title], and subsections (a)(1), (e)(1), (e)(2), (e)(3), and (b)(2) of section 108 [enacting section 913 of this title and amending sections 5312, 5313, and 5315 of Title 5 and section 11 of Pub. L. 95–552, Inspector General Act of 1978, set out in the Appendix to Title 5] shall take effect on the date of the enactment of this Act.

Section 301(c) of Pub. L. 103–296 provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply with respect to obligations issued, and payments made, after 60 days after the date of the enactment of this Act [Aug. 15, 1994].

“(2) TREATMENT OF OUTSTANDING OBLIGATIONS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as applicable, a paper instrument, in the form of a bond, note, or certificate of indebtedness, for each obligation which has been issued to the Trust Fund under section 203(d) of the Social Security Act [subsec. (d) of this section] and which is outstanding as of such date. Each such document shall set forth the principal amount, date of maturity, and interest rate of the obligation, and shall state on its face that the obligation shall be incontestable in the hands of the Trust Fund to which it was issued, that the obligation is supported by the full faith and credit of the United States, and that the United States is pledged to the payment of the obligation with respect to both principal and interest.

Section 321(c)(1)(B)(i) of Pub. L. 103–296 provided that: “The amendments made by clause (i) [amending this section] shall apply only with respect to periods beginning on or after the date of the enactment of this Act [Aug. 15, 1994].”

EFFECTIVE DATE OF 1990 AMENDMENT

Section 5108(d) of Pub. L. 101–508 provided that: “The amendments made by this section [amending this section and sections 406, 1320a–6, 1385, and 1395i of this title] shall apply with respect to determinations made on or after July 1, 1991, and to reimbursement for travel expenses incurred on or after April 1, 1991.”

Section 5115(c)(b)(i) of Pub. L. 101–508 provided that: “The amendments made by this section [amending this section] shall become effective on the first day of the month following the month in which this Act is enacted [November 1991].”

Amendment by section 13304 of Pub. L. 101–508 effective for annual reports of the Board of Trustees issued in or after calendar year 1991, see section 13306 of Pub. L. 101–508, set out as a note under section 632 of Title 2, The Congress.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 202(b) of Pub. L. 101–234 provided that: “The provisions of subsection (a) [set out below] shall take effect January 1, 1990, and the repeal of section 211 of
MCCA [Pub. L. 100–360, which amended sections 1395r, 1395w, and 1395nnm of this title and enacted provisions set out as a note under section 1395r of this title] shall apply to premiums for months beginning after December 31, 1989.’’

EFFECTIVE DATE OF 1988 AMENDMENT
Section 8005(b) of Pub. L. 100–647 provided that: ‘‘The amendments made by this section [amending this section and sections 1385i and 1395t of this title] shall apply to members of the Boards of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, of the Federal Hospital Insurance Trust Fund, and of the Federal Supplementary Medical Insurance Trust Fund serving on such Boards of Trustees as members of the public on or after the date of the enactment of this Act [Nov. 10, 1988].’’

EFFECTIVE DATE OF 1986 AMENDMENT
Section 921(c) of Pub. L. 99–272 provided that: ‘‘The amendments made by this section [amending this section and sections 1396i and 1396j of this title] shall become effective on the date of the enactment of this Act [Apr. 7, 1986].’’

EFFECTIVE DATE OF 1984 AMENDMENT
Section 2661 of Pub. L. 98–369 provided that: ‘‘(a) Except as otherwise specifically provided, the amendments made by sections 2661 and 2662 [amending this section and sections 402, 403, 405, 409, 410, 415, 416, 423, 428, and 429 of this title and sections 86, 134, 135a, 3121, 3306, and 3307 of Title 26, Internal Revenue Code, enacting provisions set out as notes under sections 402 and 403 of this title and sections 3121 and 3306 of Title 26, and amending provisions set out as notes under sections 415 and 402 of this title, section 3121 of Title 26, and section 3233 [now 5123] of Title 38, Veterans’ Benefits] shall be effective as though they had been included in the enactment of the Social Security Amendments of 1939 Public Law 98–21.

(b) Except to the extent otherwise specifically provided in this subtitle [subtitle D (§§2661–2664) of Pub. L. 98–369], the amendments made by section 2663 [amending this section and sections 602, 603, 604, 608–610, 411, 413, 415, 416–418, 421–423, 426, 428, 430, 431, 433, 502, 503, 602, 603, 606, 607, 609, 610, 614, 615, 620, 631, 632, 633, 634, 636, 641, 643–645, 652–654, 656, 660, 662, 674, 902, 903, 907, 1101, 1104, 1108, 1301, 1302, 1306, 1307, 1314–1316, 1320, 1320a–5, 1320b–1, 1381a–1382a, 1382c, 1382d, 1382e, 1382f, 1383, 1385i, 1385n–1, 1386u, 1396, 1397d, and 1397e of this title, and repealing sections 1331–1338 of this title, and enacting provisions set out as notes under sections 1301 and 1307 of this title] shall be effective as of the date of the enactment of this Act [July 18, 1984]; but none of such amendments shall be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date.’’

EFFECTIVE DATE OF 1983 AMENDMENT
Section 141(c) of Pub. L. 98–21 provided that: ‘‘The amendments made by this section [amending this section and section 1396i of this title] shall become effective on the first day of the month following the month in which this Act is enacted [April 1983].’’

Section 154(e) of Pub. L. 98–21 provided that: ‘‘The amendments made by this section [amending this section and sections 1395i and 1395t of this title] shall take effect on the date of the enactment of this Act [Apr. 20, 1983].’’

Section 341(d) of Pub. L. 98–21 provided that: ‘‘The amendments made by this section [amending this section and section 1395i of this title] shall become effective on the date of enactment of this Act [Apr. 20, 1983].’’

EFFECTIVE DATE OF 1981 AMENDMENT
Section 1(c) of Pub. L. 97–123 provided that: ‘‘The amendments made by this section [amending this section and section 1395i of this title] shall be effective on the date of the enactment of this Act [Dec. 29, 1981].’’

EFFECTIVE DATE OF 1980 AMENDMENT
Section 2 of Pub. L. 96–463 provided that: ‘‘The amendments made by the first section of this Act [amending this section] shall apply with respect to remuneration paid, and taxable years beginning after December 31, 1979.’’

EFFECTIVE DATE OF 1977 AMENDMENT
Amendment by Pub. L. 95–216 applicable with respect to remuneration paid or received, and taxable years beginning after 1977, see section 194 of Pub. L. 95–216, set out as a note under section 1401 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1972 AMENDMENT
Section 132(f) of Pub. L. 92–603 provided that: ‘‘The amendments made by this section [amending this section and sections 1396i and 1396j of this title] shall apply with respect to gifts and bequests received after the date of enactment of this Act [Oct. 30, 1972].’’

Section 305(c) of Pub. L. 92–603 provided that: ‘‘The provisions of this section [amending this section and enacting provisions set out as a note under this section] shall become effective on the date of enactment of this Act [Oct. 30, 1972].’’

EFFECTIVE DATE OF 1960 AMENDMENT
Section 701(f) of Pub. L. 86–778 provided that: ‘‘The amendments made by this section [amending this section] shall take effect on the first day of the first month beginning after the date of the enactment of this Act [Sept. 13, 1960].’’

EFFECTIVE DATE OF 1958 AMENDMENT
Amendment by 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 OF 1939 AMENDMENT
Section 201 of act Aug. 10, 1939, provided that the amendment made by that section is effective Jan. 1, 1940.

CONSTRUCTION OF 1994 AMENDMENT
Section 321(d) of Pub. L. 103–296 provided that:

‘‘(1) The preceding provisions of this section [amending this section and sections 402, 403, 405, 408 to 411, 413, 415, 416, 418, 423, 428, 430, and 432 of this title, and enacting provisions set out as notes under this section and sections 402 and 430 of this title] shall be construed only as technical and clerical corrections and as reflecting the original intent of the provisions amended thereby.

‘‘(2) Any reference in title II of the Social Security Act [this subchapter] to the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.] shall be construed to include a reference to the Internal Revenue Code of 1954 to the extent necessary to carry out the provisions of paragraph (1).’’
PROTECTION OF SOCIAL SECURITY

Pub. L. 110–234, title XV, §15361, May 22, 2008, 122 Stat. 1527, and Pub. L. 110–216, §4(a), title XV, §15361, June 18, 2008, 122 Stat. 1664, 2289, provided that: "To ensure that the assets of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401) are not reduced as a result of the enactment of this Act [see Tables for classification], the Secretary of the Treasury shall transfer annually from the general revenues of the Federal Government to those trust funds the following amounts:

"(1) For fiscal year 2009, $5,000,000.
"(2) For fiscal year 2010, $9,000,000.
"(3) For fiscal year 2011, $5,000,000.
"(4) For fiscal year 2012, $7,000,000.
"(5) For fiscal year 2013, $8,000,000.
"(6) For fiscal year 2014, $8,000,000.
"(7) For fiscal year 2015, $8,000,000.
"(8) For fiscal year 2016, $6,000,000.
"(9) For fiscal year 2017, $7,000,000.


NO IMPACT ON SOCIAL SECURITY TRUST FUNDS


"(a) IN GENERAL.—Nothing in this Act [see Tables for classification] (or an amendment made by this Act) shall be construed to alter or amend title II of the Social Security Act [this subchapter] (or any regulation promulgated under that Act [this chapter]).

"(b) TRANSFERS.—

"(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

"(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act."

IMPACT OF PUB. L. 107–134 ON SOCIAL SECURITY TRUST FUNDS


"(a) IN GENERAL.—Nothing in this Act [see Short Title of 2002 Amendment note set out under section 1 of Title 11, Internal Revenue Code] (or an amendment made by this Act) shall be construed to alter or amend title II of the Social Security Act (42 U.S.C. 401) [or any regulation promulgated under that Act [this chapter]].

"(b) TRANSFERS.—

"(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

"(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

that the income and balances of such trust funds are not reduced as a result of the enactment of this Act."
TRANSFER OF EQUIVALENT OF 1983 TAX INCREASES TO PAYOR FUNDS; REPORTS


“(1) IN GENERAL.—(A) There are hereby appropriated to each payor fund amounts equivalent to (i) the aggregate increase in tax liabilities under chapter 1 of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.] which is attributable to the application of sections 86 and 871(a)(3) of such Code (as added by this section) [26 U.S.C. 86, 871(a)(3)] to payments from such payor fund, less (ii) the amounts equivalent to the aggregate increase in tax liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the amendments to section 86 of such Code made by section 13215 of the Revenue Reconciliation Act of 1993 [Pub. L. 103–66].

“(B) There are hereby appropriated to the hospital insurance trust fund amounts equal to the increase in tax liabilities described in subparagraph (A)(ii). Such appropriated amounts shall be transferred from the general fund of the Treasury on the basis of estimates of such tax liabilities made by the Secretary of the Treasury. Transfers shall be made pursuant to a schedule made by the Secretary of the Treasury that takes into account estimated timing of collection of such liabilities.

“(2) TRANSFERS.—The amounts appropriated by paragraph (1)(A) to any payor fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in such paragraph. Any such quarterly payment shall be made on the first day of such quarter and shall take into account social security benefits estimated to be received during such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

“(3) DEFINITIONS.—For purposes of this subsection—

“(A) PAYOR FUND.—The term ‘payor fund’ means any trust fund or account from which payments of social security benefits are made.

“(B) HOSPITAL INSURANCE TRUST FUND.—The term ‘hospital insurance trust fund’ means the fund established pursuant to section 1817 of the Social Security Act [section 1395i of this title].

“(C) SOCIAL SECURITY BENEFITS.—The term ‘social security benefits’ has the meaning given such term by section 88(d)(1) of the Internal Revenue Code of 1986 [26 U.S.C. 86(d)(1)].

“(4) REPORTS.—The Secretary of the Treasury shall submit annual reports to the Congress and to the Secretary of Health and Human Services and the Railroad Retirement Board on—

“(A) the transfers made under this subsection during the year, and the methodology used in determining the amount of such transfers and the funds or account to which made, and

“(B) the anticipated operation of this subsection during the next 5 years.”

[For termination, effective May 15, 2000, of provisions relating to submission of annual reports to Congress in section 121(e)(4) of Pub. L. 98–21, set out above, see section 3005 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and item 17 on page 143 of House Document No. 103–7.]

REIMBURSEMENT TO TRUST FUNDS FOR UNNEGOTIATED BENEFIT CHECKS

Section 152(c) of Pub. L. 98–21 provided that:

“(1) The Secretary of the Treasury shall transfer from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund and to the Federal Disability Insurance Trust Fund, in the month following the month in which this Act is enacted [April 1983] and in each of the succeeding 30 months, such sums as may be necessary to reimburse such Trust Funds in the total amount of all checks (including negotiable checks) which he and the Secretary of Health and Human Services jointly determine to be unnegotiated benefit checks, to the extent provided in advance in appropriation Acts. After any amounts authorized by this subsection have been transferred to a Trust Fund with respect to any benefit check, the provisions of paragraphs (3) and (4) of section 201(m) of the Social Security Act [subsec. (m)(3), (4) of this section] (as added by subsection (a) of this section) shall be applicable to such check.

“(2) As used in paragraph (1), the term ‘unnegotiated benefit checks’ means checks for benefits under title II of the Social Security Act [this subchapter] which are issued prior to the twenty-fourth month following the month in which this Act is enacted [April 1983], which remain unclaimed after the sixth month following the date on which they were issued, and with respect to which no transfers have previously been made in accordance with the first sentence of such paragraph.”

STUDY OF FLOAT PERIOD OF MONTHLY INSURANCE BENEFIT CHECKS

Section 153 of Pub. L. 98–21 directed Secretary of Health and Human Services and Secretary of the Treasury jointly to undertake a thorough study with respect to period of time (referred to as “float period”) between issuance of checks from general fund of Treasury in payment of monthly insurance benefits under title II of the Social Security Act [this subchapter] and transfer to general fund from Federal Old-Age and Survivors Insurance Trust Fund or Federal Disability Insurance Trust Fund, as applicable, of amounts necessary to compensate general fund for issuance of such checks, with Secretaries to submit a report to President an Congress not later than twelve months after Apr. 20, 1983, on their findings as to necessity of making adjustments in procedures governing payment of monthly insurance benefits.

DUE DATE FOR 1983 REPORT ON OPERATION AND STATUS OF TRUST FUND

Section 154(d) of Pub. L. 98–21 provided that notwithstanding sections 401(c)(2), 1396(b)(2), and 1396t(b)(2) of this title, the annual reports of the Boards of Trustees of the Trust Funds which are required in calendar year 1983 under those sections may be filed at any time not later than forty-five days after Apr. 20, 1983.

STUDY RELATING TO ESTABLISHMENT OF TIME LIMITATIONS FOR DECISIONS ON CLAIMS FOR BENEFITS; REPORT

Section 308 of Pub. L. 96–265 directed Secretary of Health and Human Services to submit to Congress, no later than July 1, 1980, a report recommending establishment of appropriate time limitations governing decisions on claims for benefits under this subchapter, taking into account both need for expeditious processing of claims for benefits and need to assure that all such claims will be thoroughly considered and accurately determined.

EFFECTS OF CERTAIN AMENDMENTS BY PUB. L. 96–265; REPORT

Section 312 of Pub. L. 96–265 directed Secretary of Health and Human Services to submit to Congress, not later than Jan. 1, 1985, a full and complete report as to effects produced by reason of preceding provisions of this Act and amendments made thereby (see Tables for classification).

APPOINTMENT AND COMPENSATION OF INDIVIDUALS NECESSARY TO ASSIST THE BOARD OF TRUSTEES

Section 8(e) of Pub. L. 94–292 provided that: “Any persons the Board of Trustees finds necessary to employ to assist it in performing its functions under section
201(g)(4) of the Social Security Act [subsec. (g)(4) of this section] may be appointed without regard to the civil service or classification laws, shall be compensated, while so employed, at rates fixed by the Board of Trustees, but not exceeding $100 per day, and, while away from their homes or regular places of business, they may be allowed traveling expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

METHOD OF DETERMINING COSTS PRESCRIBED BY THE BOARD OF TRUSTEES CERTIFICATION AND TRANSFER OF FUNDS

Section 8(f) of Pub. L. 94–202, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The Secretary shall not make any estimates pursuant to section 201(g)(1)(A)(i) of the Social Security Act [subsec. (g)(1)(A)(i) of this section] before the Board of Trustees prescribes the method of determining costs as is provided in section 201(g)(4) of such Act [subsec. (g)(4) of this section]. The determinations pursuant to section 201(g)(1)(B) of the Social Security Act [subsec. (g)(1)(B) of this section] with respect to the carrying out of the functions of the Department of Health, Education, and Welfare [now Health and Human Services] specified in section 232 of such Act [section 332 of this title] shall relate to the administration of provisions of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (other than those referred to in clause (i) of the first sentence of section 201(g)(1)(A) of the Social Security Act [subsec. (g)(1)(A) of this section]), during fiscal years ending before the Board of Trustees prescribes the method of making such determinations, shall be made after the Board of Trustees has prescribed such method.

The Secretary shall not make any estimates pursuant to section 201(g)(1)(A) of the Social Security Act [subsec. (g)(1)(A) of this section] before the Board of Trustees prescribes the method of determining costs as is provided in section 201(g)(4) of such Act [subsec. (g)(4) of this section]. The determinations pursuant to section 201(g)(1)(B) of the Social Security Act [subsec. (g)(1)(B) of this section] with respect to the carrying out of the functions of the Department of Health, Education, and Welfare [now Health and Human Services] shall certify to the Managing Trustee the amounts that should be transferred from the general fund in the Treasury to the Trust Funds (as referred to in section 201(g)(1)(A) of the Social Security Act [subsec. (g)(1)(A) of this section]) to insure that the general fund in the Treasury bears its proper share of the costs of carrying out such functions in such fiscal years. The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made."

ADDITIONS FROM TRUST FUNDS FOR ADMINISTRATIVE EXPENSES

Section 335(b) of Pub. L. 92–603 provided that: "(1) Sums appropriated pursuant to section 1601 of the Social Security Act [section 1601 of this title] shall be utilized from time to time, in amounts certified under the second sentence of section 201(g)(1)(A) of such Act [subsec. (g)(1)(A) of this section], to repay the Trust Funds for expenditures made from such Funds in any fiscal year under section 201(g)(1)(A) of such Act (as amended by subsection (a) of this section) on account of the costs of administering of title XVI of such Act [subchapter XVI of this chapter] (as added by section 301 of this Act).

(2) If the Trust Funds have not theretofore been repaid for expenditures made in any fiscal year (as described in paragraph (1)) to the extent necessary on account of—

(A) expenditures made from such Funds prior to the end of such fiscal year to the extent that the amount of such expenditures exceeded the amount of the expenditures which would have been made from such Funds if subsection (a) had not been enacted,

(B) the additional administrative expenses, if any, resulting from the excess expenditures described in subparagraph (A), and

(C) any loss in interest to such Funds resulting from such excess expenditures and such administrative expenses in order to place each such Fund in the same position (at the end of such fiscal year) as it would have been in if such excess expenditures had not been made, the amendments made by subsection (a) shall cease to be effective at the close of the fiscal year following such fiscal year.

(3) As used in this subsection, the term 'Trust Funds' has the meaning given it in section 201(g)(1)(A) of the Social Security Act [subsec. (g)(1)(A) of this section]."

ADDITIONS FROM TRUST FUNDS FOR ADMINISTRATIVE PURPOSES; FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DERIVED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of section 335(b) of Pub. L. 92–603, set out as a note above, relating to advances from trust funds for administrative purposes, see section 335(11) of Pub. L. 94–274, title II, Apr. 21, 1976, 89 Stat. 390, set out as a note under section 343 of Title 7, Agriculture.

GIFTS AND BEQUESTS FOR THE USE OF THE UNITED STATES AND FOR EXCLUSIVELY PUBLIC PURPOSES

Section 123(g) of Pub. L. 92–603 provided that: "For the purpose of Federal income, estate, and gift taxes, any gift or bequest to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust Fund, or to the Department of Health, Education, and Welfare [now Health and Human Services], or any part or officer thereof, for the benefit of any of such Funds or any activity financed through any of such Funds, which is accepted by the Managing Trustee of such Trust Funds under the authority of section 201(i) of the Social Security Act [subsec. (i) of this section], shall be considered as a gift or bequest to or for the use of the United States and as made for exclusively public purposes."

TAXES ON SERVICES RENDERED BY EMPLOYEES OF INTERNATIONAL ORGANIZATIONS PRIOR TO JAN. 1, 1946

Section 5(b) of act Dec. 29, 1945, ch. 652, title I, 59 Stat. 671, prohibited collection of tax under title VIII or IX of the Social Security Act or under the Federal Insurance Contributions Act or the Federal Unemployment Tax Act with respect to services rendered prior to January 1, 1946, which were described in paragraph (16) of sections 1236(b) and 1007(b) of the Internal Revenue Code of 1939, and authorized refund of taxes collected.

EXECUTIVE ORDER No. 12335


§ 401a. Omitted

CODIFICATION

§ 402. Old-age and survivors insurance benefit payments

(a) Old-age insurance benefits

Every individual who—

(1) is a fully insured individual (as defined in section 415(a) of this title),
(2) has attained age 62, and
(3) has filed application for old-age insurance benefits or was entitled to disability insurance benefits for the month preceding the month in which he attained retirement age (as defined in section 416(l) of this title),

shall be entitled to an old-age insurance benefit for each month, beginning with—

(A) in the case of an individual who has attained retirement age (as defined in section 416(l) of this title), the first month in which such individual meets the criteria specified in paragraphs (1), (2), and (3), or
(B) in the case of an individual who has attained age 62, but has not attained retirement age (as defined in section 416(l) of this title), the first month throughout which such individual meets the criteria specified in paragraphs (1) and (2) (if in that month he meets the criterion specified in paragraph (3)),

and ending with the month preceding the month in which he dies. Except as provided in subsection (q) and subsection (w) of this section, such individual’s old-age insurance benefit for any month shall be equal to his primary insurance amount (as defined in section 415(a) of this title) for such month.

(b) Wife’s insurance benefits

(1) The wife (as defined in section 416(b) of this title) and every divorced wife (as defined in section 416(d) of this title) of an individual entitled to old-age or disability insurance benefits, if such wife or such divorced wife—

(A) has filed application for wife’s insurance benefits,
(B) has attained age 62 or (in the case of a wife) has in her care (individually or jointly with such individual) at the time of filing such application a child entitled to a child’s insurance benefit, and
(C) in the case of a divorced wife, is not married,

(D) is not entitled to old-age or disability insurance benefits, or is entitled to old-age or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of such individual,

shall (subject to subsection (s) of this section) be entitled to a wife’s insurance benefit for each month, beginning with—

(i) in the case of a wife or divorced wife (as so defined) of an individual entitled to old-age benefits, if such wife or divorced wife has attained retirement age (as defined in section 416(l) of this title), the first month in which she meets the criteria specified in subparagraphs (A), (B), (C), and (D), or
(ii) in the case of a wife or divorced wife (as so defined) of—

(I) an individual entitled to old-age insurance benefits, if such wife or divorced wife has not attained retirement age (as defined in section 416(l) of this title), or
(II) an individual entitled to disability insurance benefits,

the first month throughout which she is such a wife or divorced wife and meets the criteria specified in subparagraphs (B), (C), and (D) (if in such month she meets the criterion specified in subparagraph (A)),

whichever is earlier, and ending with the month preceding the month in which any of the following occurs—

(E) she dies,
(F) such individual dies,
(G) in the case of a wife, they are divorced and either (i) she has not attained age 62, or
(ii) she has attained age 62 but has not been married to such individual for a period of 10 years immediately before the date the divorce became effective,
(H) in the case of a divorced wife, she marries a person other than such individual,
(I) in the case of a wife who has not attained age 62, no child of such individual is entitled to a child’s insurance benefit,
(J) she becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or
(K) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

(2) Except as provided in subsections (k)(5) and (q) of this section, such wife’s insurance benefit for each month shall be equal to one-half of the primary insurance amount of her husband (or, in the case of a divorced wife, her former husband) for such month.

(3) In the case of any divorced wife who marries—

(A) an individual entitled to benefits under subsection (c), (f), (g), or (h) of this section, or
(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d) of this section,

such divorced wife’s entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) (but subject to subsection (s) of this section), not be terminated by reason of such marriage.

(4)(A) Notwithstanding the preceding provisions of this subsection, except as provided in subparagraph (B), the divorced wife of an individual who is not entitled to old-age or disability insurance benefits, but who has attained age 62 and is a fully insured individual (as defined in section 414 of this title), if such divorced wife—
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(i) meets the requirements of subparagraphs (A) through (D) of paragraph (1), and
(ii) has been divorced from such insured individual for not less than 2 years,

shall be entitled to a wife’s insurance benefit under this subsection for each month, in such amount, and beginning and ending with such months, as determined (under regulations of the Commissioner of Social Security) in the manner otherwise provided for wife’s insurance benefits under this subsection, as if such insured individual had become entitled to old-age insurance benefits on the date on which the divorced wife first meets the criteria for entitlement set forth in clauses (i) and (ii).

(B) A wife’s insurance benefit provided under this paragraph which has not otherwise terminated in accordance with subparagraph (E), (F), (H), or (J) of paragraph (1) shall terminate with the month preceding the first month in which the insured individual is no longer a fully insured individual.

(c) Husband’s insurance benefits

(1) The husband (as defined in section 416(f) of this title) and every divorced husband (as defined in section 416(d) of this title) and every divorced husband (as defined in section 414 of this title), if such divorced husband has not attained retirement age (as defined in section 416(f) of this title), shall be entitled to a husband’s insurance benefit for each month, beginning with—

(A) has filed application for husband’s insurance benefits,

(B) has attained age 62 or (in the case of a husband) has in his care (individually or jointly with such individual) at the time of filing such application a child entitled to child’s insurance benefits, or is entitled to old-age or disability insurance benefits, or is entitled to old-age or disability insurance benefits on the basis of the wages and self-employment income of such individual,

(C) in the case of a divorced husband, is not married, and

(D) is not entitled to old-age or disability insurance benefits, or is entitled to old-age or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of such individual,

shall (subject to subsection(s) of this section) be entitled to a husband’s insurance benefit for each month, beginning with—

(i) in the case of a husband or divorced husband (as so defined) of an individual who is entitled to an old-age insurance benefit, if such husband or divorced husband has attained retirement age (as defined in section 416(l) of this title), the first month in which he meets the criteria specified in subparagraphs (A), (B), (C), and (D), or

(ii) in the case of a husband or divorced husband (as so defined) of—

(I) an individual entitled to old-age insurance benefits, if such husband or divorced husband has not attained retirement age (as defined in section 416(l) of this title), or

(II) an individual entitled to disability insurance benefits, the first month throughout which he is such a husband or divorced husband and meets the criteria specified in subparagraphs (B), (C), and (D) (if in such month he meets the criterion specified in subparagraph (A)),

whichever is earlier, and ending with the month preceding the month in which any of the following occurs:

(E) he dies,

(F) such individual dies,

(G) in the case of a husband, they are divorced and either (i) he has not attained age 62, or (ii) he has attained age 62 but has not been married to such individual for a period of 10 years immediately before the divorce became effective,

(H) in the case of a divorced husband, he marries a person other than such individual,

(I) in the case of a husband who has not attained age 62, no child of such individual is entitled to a child’s insurance benefit,

(J) he becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

(K) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

(2) Except as provided in subsections (k)(5) and (q) of this section, such husband’s insurance benefit for each month shall be equal to one-half of the primary insurance amount of his wife (or, in the case of a divorced husband, his former wife) for such month.

(3) In the case of any divorced husband who marries—

(A) an individual entitled to benefits under subsection (b), (e), (g), or (h) of this section, or

(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d) of this section, by reason of paragraph (1)(B)(ii) thereof,

such divorced husband’s entitlement to benefits under this subsection, notwithstanding the provisions of paragraph (1) (but subject to subsection (s) of this section), shall not be terminated by reason of such marriage.

(4)(A) Notwithstanding the preceding provisions of this subsection, except as provided in subparagraph (B), the divorced husband of an individual who is not entitled to old-age or disability insurance benefits, but who has attained age 62 and is a fully insured individual (as defined in section 414 of this title), if such divorced husband—

(i) meets the requirements of subparagraphs (A) through (D) of paragraph (1), and

(ii) has been divorced from such insured individual for not less than 2 years,

shall be entitled to a husband’s insurance benefit under this subsection for each month, in such amount, and beginning and ending with such months, as determined (under regulations of the Commissioner of Social Security) in the manner otherwise provided for husband’s insurance benefits under this subsection, as if such insured individual had become entitled to old-age insurance benefits on the date on which the divorced husband first meets the criteria for entitlement set forth in clauses (i) and (ii).

(B) A husband’s insurance benefit provided under this paragraph which has not otherwise terminated in accordance with subparagraph (E), (F), (H), or (J) of paragraph (1) shall termi-
nate with the month preceding the first month in which the insured individual is no longer a fully insured individual.

(d) Child’s insurance benefits

(1) Every child (as defined in section 416(e) of this title) of an individual entitled to old-age or disability insurance benefits, or of an individual who dies a fully or currently insured individual, if such child—
   (A) has filed application for child’s insurance benefits,
   (B) at the time such application was filed was unmarried and (i) either had not attained the age of 18 or was a full-time elementary or secondary school student and had not attained the age of 19, or (ii) is under a disability (as defined in section 423(d) of this title) which began before he attained the age of 22, and
   (C) was dependent upon such individual—
      (i) if such individual is living, at the time he attains the age of 19, or (ii) is under a disability (as so defined) at the time he attained the age of 18, but only if he was not under a disability (as so defined) at or prior to the time he attained (or would attain) the age of 22—
         (i) the termination month, subject to section 423(e) of this title (and for purposes of this subparagraph, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 422(c)(4)(A) of this title, the termination month shall be the earlier of (1) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 36 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity),
      or (if later) the earlier of—
         (i) the first month during no part of which he is a full-time elementary or secondary school student, or
         (ii) the month in which he attains the age of 19,
   but only if he was not under a disability (as so defined) in such earlier month; or
   (H) if the benefits under this subsection are based on the wages and self-employment income of a stepparent who is subsequently divorced from such child’s natural parent, the month after the month in which such divorce becomes final.

Entitlement of any child to benefits under this subsection on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits shall also end with the month before the first month for which such individual is not entitled to such benefits unless such individual is, for such later month, entitled to old-age insurance benefits or unless he dies in such month. No payment under this paragraph may be made to a child who would not meet the definition of disability in section 423(d) of this title except for paragraph (1)(B) thereof for any month in which he engages in substantial gainful activity.

(2) Such child’s insurance benefit for each month shall, if the individual on the basis of whose wages and self-employment income the child is entitled to such benefit has not died prior to the end of such month, be equal to one-half of the primary insurance amount of such individual for such month. Such child’s insurance benefit for each month shall, if such individual has died in or prior to such month, be equal to three-fourths of the primary insurance amount of such individual.

(3) A child shall be deemed dependent upon his father or adopting father or his mother or adopting mother at the time specified in paragraph (1)(C) of this subsection unless, at such time, such individual was not living with or contributing to the support of such child and—
(A) such child is neither the legitimate nor adopted child of such individual, or
(B) such child has been adopted by some other individual.

For purposes of this paragraph, a child deemed to be a child of a fully or currently insured individual pursuant to section 416(h)(2)(B) or section 416(h)(2)(C) of this title shall be deemed to be the legitimate child of such individual.

(4) A child shall be deemed dependent upon his stepfather or stepmother at the time specified in paragraph (1)(C) of this subsection if, at such time, the child was receiving at least one-half of his support from such stepfather or stepmother.

(5) In the case of a child who has attained the age of eighteen and who marries—

(A) an individual entitled to benefits under subsection (a), (b), (c), (e), (f), (g), or (h) of this section or under section 423(a) of this title, or

(B) another individual who has attained the age of eighteen and is entitled to benefits under this subsection,

such child’s entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection but subject to subsection (s) of this section, not be terminated by reason of such marriage.

(6) A child whose entitlement to child’s insurance benefits on the basis of the wages and self-employment income of an insured individual terminated with the month preceding the month in which such child attained the age of 18, or with a subsequent month, may again become entitled to such benefits (provided no event specified in paragraph (1)(D) has occurred) beginning with the first month thereafter in which he—

(A) is a full-time elementary or secondary school student and has not attained the age of 19, or (ii) is under a disability (as defined in section 423(d) of this title) and has not attained the age of 22, or

(B) is under a disability (as so defined) which began (i) before the close of the 84th month following the month in which his most recent entitlement to child’s insurance benefits terminated because he ceased to be under such disability, or (ii) after the close of the 84th month following the month in which his most recent entitlement to child’s insurance benefits terminated because he ceased to be under such disability due to performance of substantial gainful activity, but only if he has filed application for such re-entitlement. Such reentitlement shall end with the month preceding whichever of the following first occurs:

(C) the first month in which an event specified in paragraph (1)(D) occurs;

(D) the earlier of (i) the first month during no part of which he is a full-time elementary or secondary school student or (ii) the month in which he attains the age of 19, but only if he is not under a disability (as so defined) in such earlier month; or

(E) if he was under a disability (as so defined), the termination month (as defined in paragraph (1)(G)(i)), subject to section 423(c) of this title, or (if later) the earlier of—

(i) the first month during no part of which he is a full-time elementary or secondary school student, or

(ii) the month in which he attains the age of 19.

(7) For the purposes of this subsection—

(A) A “full-time elementary or secondary school student” is an individual who is in full-time attendance as a student at an elementary or secondary school, as determined by the Commissioner of Social Security (in accordance with regulations prescribed by the Commissioner) in the light of the standards and practices of the schools involved, except that no individual shall be considered a “full-time elementary or secondary school student” if he is paid by his employer while attending an elementary or secondary school at the request, or pursuant to a requirement, of his employer. An individual shall not be considered a “full-time elementary or secondary school student” for the purpose of this section while that individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense (committed after the effective date of this sentence) which constituted a felony under applicable law. An individual who is determined to be a full-time elementary or secondary school student shall be deemed to be such a student throughout the month with respect to which such determination is made.

(B) Except to the extent provided in such regulations, an individual shall be deemed to be a full-time elementary or secondary school student during any period of nonattendance at an elementary or secondary school at which he has been in full-time attendance if (i) such period is 4 calendar months or less, and (ii) he shows to the satisfaction of the Commissioner of Social Security that he intends to continue to be in full-time attendance at an elementary or secondary school immediately following such period. An individual who does not meet the requirement of clause (ii) with respect to such period of nonattendance shall be deemed to have met such requirement (as of the beginning of such period) if he is in full-time attendance at an elementary or secondary school immediately following such period.

(C)(i) An “elementary or secondary school” is a school which provides elementary or secondary education, respectively, as determined under the law of the State or other jurisdiction in which it is located.

(ii) For the purpose of determining whether a child is a “full-time elementary or secondary school student” or “intends to continue to be in full-time attendance at an elementary or secondary school”, within the meaning of this subsection, there shall be disregarded any education provided, or to be provided, beyond grade 12.

(D) A child who attains age 19 at a time when he is a full-time elementary or secondary school student (as defined in subparagraph (A) of this paragraph and without application of subparagraph (B) of such paragraph) but has not (at such time) completed the requirements for, or received, a diploma or equivalent certificate from a secondary school (as defined in subsection (a), (b), (c), (e), (f), (g), or (h) of this section or under section 423(a) of this title, or (if later) the earlier of—

(i) the first month during no part of which he is a full-time elementary or secondary school student, or

(ii) the month in which he attains the age of 19.

1 See References in Text note below.
subsection (C)(i)) shall be deemed (for purposes of determining whether his entitlement to benefits under this subsection has terminated under paragraph (1)(F) and for purposes of determining his initial entitlement to such benefits under clause (i) of paragraph (1)(B)) not to have attained such age until the first day of the first month following the end of the quarter or semester in which he is enrolled at such time (or, if the elementary or secondary school (as defined in this paragraph) in which he is enrolled is not operated on a quarter or semester system, until the first day of the first month following the completion of the course in which he is so enrolled or until the first day of the third month beginning after such time, whichever first occurs).

(8) In the case of—
(A) an individual entitled to old-age insurance benefits (other than an individual referred to in subparagraph (B)), or
(B) an individual entitled to disability insurance benefits, or an individual entitled to old-age insurance benefits who was entitled to disability insurance benefits for the month preceding the first month for which he was entitled to old-age insurance benefits,

a child of such individual adopted after such individual became entitled to such old-age or disability insurance benefits shall be deemed not to meet the requirements of clause (i) or (iii) of paragraph (1)(C) unless such child—
(C) is the natural child or stepchild of such individual (including such a child who was legally adopted by such individual), or
(D)(i) was legally adopted by such individual in an adoption decreed by a court of competent jurisdiction within the United States, and
(ii) in the case of a child who attained the age of 18 prior to the commencement of proceedings for adoption, the child was living with or receiving at least one-half of the child’s support from such individual for the year immediately preceding the month in which the adoption is decreed.

(9)(A) A child who is a child of an individual under clause (3) of the first sentence of section 416(e) of this title and is not a child of such individual under clause (1) or (2) of such first sentence shall be deemed not to be dependent on such individual at the time specified in subparagraph (1)(C) of this subsection unless (i) such child was living with such individual in the United States and receiving at least one-half of his support from such individual for the year immediately before the month in which such individual became entitled to old-age insurance benefits or disability insurance benefits or died, or (II) if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, or disability insurance benefits, or died, for the year immediately before the month in which such period of disability began, and (ii) the period during which such child was living with such individual began before the child attained age 18.

(B) In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for substantially all of the period which begins on the date of such child’s birth.

(10) For purposes of paragraph (1)(H)—
(A) each stepparent shall notify the Commissioner of Social Security of any divorce upon such divorce becoming final; and
(B) the Commissioner shall annually notify any stepparent of the rule for termination described in paragraph (1)(H) and of the requirement described in subparagraph (A).

(e) Widow’s insurance benefits

(1) The widow (as defined in section 416(c) of this title) and every surviving divorced wife (as defined in section 416(d) of this title) of an individual who died a fully insured individual, if such widow or such surviving divorced wife—
(A) is not married,
(B)(i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 423(d) of this title) which began before the end of the period specified in paragraph (4),
(C)(i) has filed application for widow’s insurance benefits,
(ii) was entitled to wife’s insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which such individual died, and—
(I) has attained retirement age (as defined in section 416(l) of this title),
(II) is not entitled to benefits under subsection (a) of this section or section 423 of this title, or
(III) has in effect a certificate (described in paragraph (8)) filed by her with the Commissioner of Social Security, in accordance with regulations prescribed by the Commissioner of Social Security, in which she elects to receive widow’s insurance benefits (subject to reduction as provided in subsection (q) of this section), or
(iii) was entitled, on the basis of such wages and self-employment income, to mother’s insurance benefits for the month preceding the month in which she attained retirement age (as defined in section 416(l) of this title), and
(D) is not entitled to old-age insurance benefits or is entitled to old-age insurance benefits each of which is less than the primary insurance amount (as determined after application of subparagraphs (B) and (C) of paragraph (2)) of such deceased individual,
shall be entitled to a widow’s insurance benefit for each month, beginning with—
(E) if she satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which she becomes so entitled to such insurance benefits, or
(F) if she satisfies subparagraph (B) by reason of clause (ii) thereof—
(I) the first month after her waiting period (as defined in paragraph (5)) in which she be-
comes so entitled to such insurance benefits, or
(ii) the first month during all of which she
is under a disability (and in which she
becomes so entitled to such insurance benefits,
but only if she was previously entitled to in-
surance benefits under this subsection on the
basis of being under a disability and such
first month occurs (I) in the period specified
in paragraph (4) and (II) after the month in
which a previous entitlement to such bene-
fits on such basis terminated, and
and ending with the month preceding the first
month in which any of the following occurs: she
remarries, dies, becomes entitled to an old-age
insurance benefit equal to or exceeding the pri-
mary insurance amount (as determined after
application of subparagraphs (B) and (C) of para-
graph (2) of such deceased individual, or, if she
became entitled to such benefits before she at-
tained age 60, subject to section 423(e) of this
title, the termination month (unless she attains
retirement age (as defined in section 416(i) of
this title) on or before the last day of such ter-
mination month). For purposes of the preceding
sentence, the termination month for any indi-
vidual shall be the third month following the
month in which her disability ceases; except
that, in the case of an individual who has a pe-
riod of trial work which ends as determined by
application of section 422(c)(4)(A) of this title,
the termination month shall be the earlier of (I)
the third month following the earliest month
after the end of such period of trial work with
respect to which such individual is determined
to no longer be suffering from a disabling phys-
ical or mental impairment, or (II) the third
month following the earliest month in which
such individual engages or is determined able to
engage in substantial gainful activity, but in no
event earlier than the first month occurring
after the 36 months following such period of
trial work in which she engages or is determined
able to engage in substantial gainful activity,
and
(2)(A) Except as provided in subsection (k)(6)
of this section, subsection (q) of this section,
and subparagraph (D) of this paragraph, such
widow’s insurance benefit for each month shall
be equal to the primary insurance amount (as
determined for purposes of this subsection after
application of subparagraphs (B) and (C)) of such
deceased individual.
(B)(i) For purposes of this subsection, in any
case in which such deceased individual dies be-
fore attaining age 62 and section 415(a)(1) of this
title (as in effect after December 1978) is appli-
cable in determining such individual’s primary in-
surance amount—
(I) such primary insurance amount shall be
determined under the formula set forth in sec-
tion 415(a)(1)(B)(i) and (ii) of this title which is
applicable to individuals who initially become
eligible for old-age insurance benefits in the
second year after the year specified in clause
(ii),
(II) the year specified in clause (i) shall be
substituted for the second calendar year speci-
fied in section 415(b)(3)(A)(ii)(I) of this title, and
(III) such primary insurance amount shall be
increased under section 415(i) of this title as if
it were the primary insurance amount referred
in paragraph (4) of section 415(f)(4)(A)(i)(II) of this title, except
that it shall be increased only for years begin-
ing after the first year after the year specified in clause (ii).
(ii) The year specified in this clause is the ear-
lier of—
(I) the year in which the deceased individual
attained age 60, or would have attained age 60
had he lived to that age, or
(II) the second year preceding the year in
which the widow or surviving divorced wife
first meets the requirements of paragraph (1)(B)
or the second year preceding the year in
which the deceased individual died, whichever
is later.
(iii) This subparagraph shall apply with re-
spect to any benefit under this subsection only
to the extent its application does not result in a
primary insurance amount for purposes of this
subsection which is less than the primary in-
surance amount otherwise determined for such
deceased individual under section 415 of this title.
(C) If such deceased individual was (or upon
application would have been) entitled to an
old-age insurance benefit which was increased (or
subject to being increased) on account of de-
layed retirement under the provisions of sub-
section (w) of this section, then, for purposes of
this subsection, such individual’s primary in-
surance amount, if less than the old-age insurance
benefit (increased, where applicable, under sec-
tion 415(f)(5), 415(f)(6), or 415(f)(9)(B) of this title
and under section 415(i) of this title as if such
individual were still alive in the case of an indi-
vidual who has died) which he was receiving (or
would upon application have received) for the
month prior to the month in which he died, shall
be deemed to be equal to such old-age insurance
benefit, and (notwithstanding the provisions of
paragraph (3) of such subsection (w) of this sec-
ction) the number of increment months shall in-
clude any month in the months of the calendar
year in which he died prior to the month in
which he died, which satisfy the conditions in
paragraph (2) of such subsection (w) of this sec-
ction.
(D) If the deceased individual (on the basis of
whose wages and self-employment income a
widow or surviving divorced wife is entitled to
widow’s insurance benefits under this sub-
section) was, at any time, entitled to an old-age
insurance benefit which was reduced by reason
of the application of subsection (q) of this sec-
tion, the widow’s insurance benefit of such
widow or surviving divorced wife for any month
shall, if the amount of the widow’s insurance
benefit of such widow or surviving divorced wife
(as determined under subparagraph (A) and after
application of subsection (q) of this section) is
greater than—
(i) the amount of the old-age insurance ben-
fit to which such deceased individual would
have been entitled (after application of sub-
section (q) of this section) for such month if
such individual were still living and section
415(f)(5), 415(f)(6), or 415(f)(9)(B) of this title
were applied, where applicable, and
(ii) 82% of the primary insurance amount (as determined without regard to sub-
paragraph (C)) of such deceased individual,
be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii).

(3) For purposes of paragraph (1), if—
(A) a widow or surviving divorced wife marries after attaining age 60 (or after attaining age 50 if she was entitled before such marriage occurred to benefits based on disability under this subsection), or
(B) a disabled widow or disabled surviving divorced wife described in paragraph (1)(B)(ii) marries after attaining age 50,
such marriage shall be deemed not to have occurred.

(4) The period referred to in paragraph (1)(B)(ii), in the case of any widow or surviving divorced wife, is the period beginning with whichever of the following is the latest:
(A) the month in which occurred the death of the fully insured individual referred to in paragraph (1) on whose wages and self-employment income her benefits are or would be based, or
(B) the last month for which she was entitled to mother’s insurance benefits on the basis of the wages and self-employment income of such individual, or
(C) the month in which a previous entitlement to widow’s insurance benefits on the basis of such wages and self-employment income terminated because her disability had ceased,
and ending with the month before the month in which she attains age 60, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

(5)(A) The waiting period referred to in paragraph (1)(F), in the case of any widow or surviving divorced wife, is the earliest period of five consecutive calendar months—
(i) throughout which she has been under a disability, and
(ii) which begins not earlier than with whichever of the following is the later: (I) the first day of the seventeenth month before the month in which her application is filed, or (II) the first day of the fifth month before the month in which the period specified in paragraph (4) begins.

(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widow or surviving divorced wife 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 Commissioner of Social Security under an agreement referred to in section 1382e(a) of this title (or in section 212(b) of Public Law 93–66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.

(f) Widower’s insurance benefits

(1) The widower (as defined in section 416(g) of this title) and every surviving divorced husband (as defined in section 416(d) of this title) of an individual who died a fully insured individual, if such widower or such surviving divorced husband—
(A) is not married,
(B)(i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 423(d) of the Social Security Amendments of 1972), such benefits shall not be reetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 415(i)(3) of this title) or any increase in benefits made under or pursuant to section 415(i) of this title, including for this purpose the increase provided effective for March 1974, as though such reredetermination had been made.

(7) Any certificate filed pursuant to paragraph (1)(C)(ii)(III) shall be effective for purposes of this subsection—
(A) for the month in which it is filed and for any month thereafter, and
(B) for months, in the period designated by the individual filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;
except that such certificate shall not be effective for any month before the month in which she attains age 62.

(8) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(i) if such individual is 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 Commissioner of Social Security under an agreement referred to in section 1382e(a) of this title (or in section 212(b) of Public Law 93–66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.

(1) The widower (as defined in section 416(g) of this title) and every surviving divorced husband (as defined in section 416(d) of this title) of an individual who died a fully insured individual, if such widower or such surviving divorced husband—
(A) is not married,
(B)(i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 423(d) of the title) which began before the end of the period specified in paragraph (4)
(C)(i) has filed application for widower’s insurance benefits,
(ii) was entitled to husband’s insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which such individual died, and—
(I) has attained retirement age (as defined in section 416(l) of this title).
(II) is not entitled to benefits under subsection (a) of this section or section 423 of this title, or
(III) has in effect a certificate (described in paragraph (8)) filed by him with the Commissioner of Social Security, in accordance with regulations prescribed by the Commissioner of Social Security, in which he elects to receive widower’s insurance benefits (subject to reduction as provided in subsection (q) of this section), or
(iii) was entitled, on the basis of such wages and self-employment income, to father’s insur-
ance benefits for the month preceding the month in which he attained retirement age (as defined in section 416(l) of this title), and

(D) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than the primary insurance amount (as determined after application of subparagraphs (B) and (C) of paragraph (3)) of such deceased individual,

shall be entitled to a widower’s insurance benefit for each month, beginning with—

(1) the first month after his waiting period (as defined in paragraph (5)) in which he becomes so entitled to such insurance benefits, or

(ii) the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph (4) and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: he remarries, dies, or becomes entitled to an old-age insurance benefit equal to or exceeding the primary insurance amount (as determined after application of subparagraphs (B) and (C) of paragraph (3))\(^1\) of such deceased individual, or, if he became entitled to such benefits before he attained age 60, subject to section 423(e) of this title, the termination month (unless he attains retirement age (as defined in section 416(l)) of this title) on or before the last day of such termination month. For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 422(c)(4)(A) of this title, the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 36 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.

(2)(A) Except as provided in subsection (k)(5) of this section, subsection (q) of this section, and subparagraph (D) of this paragraph, such widower’s insurance benefit for each month shall be equal to the primary insurance amount (as determined for purposes of this subsection after application of subparagraphs (B) and (C)) of such deceased individual.

(B)(i) For purposes of this subsection, in any case in which such deceased individual dies before attaining age 62 and section 415(a)(1) of this title (as in effect after December 1978) is applicable in determining such individual’s primary insurance amount—

(I) such primary insurance amount shall be determined under the formula set forth in section 415(a)(1)(B)(i) and (ii) of this title which is applicable to individuals who initially become eligible for old-age insurance benefits in the second year after the year specified in clause (ii),

(ii) the year specified in clause (ii) shall be substituted for the second calendar year specified in section 415(b)(3)(A)(ii)(I) of this title, and

(iii) such primary insurance amount shall be increased under section 415(i) of this title as if it were the primary insurance amount referred to in section 415(i)(2)(A)(ii)(II) of this title, except that it shall be increased only for years beginning after the first year after the year specified in clause (ii).

(ii) The year specified in this clause is the earlier of—

(I) the year in which the deceased individual attained age 60, or would have attained age 60 had she lived to that age, or

(II) the second year preceding the year in which the widower or surviving divorced husband first meets the requirements of paragraph (1)(B) or the second year preceding the year in which the deceased individual died, whichever is later.

(iii) This subparagraph shall apply with respect to any benefit under this subsection only to the extent its application does not result in a primary insurance amount for purposes of this subsection which is less than the primary insurance amount otherwise determined for such deceased individual under section 415 of this title.

(C) If such deceased individual was (or upon application would have been) entitled to an old-age insurance benefit which was increased (or subject to being increased) on account of delayed retirement under the provisions of subsection (w) of this section, then, for purposes of this subsection, such individual’s primary insurance amount, if less than the old-age insurance benefit (increased, where applicable, under section 415(f)(5), 415(f)(6), or 415(f)(9)(B) of this title and under section 415(i) of this title as if such individual were still alive in the case of an individual who has died) which she was receiving (or would upon application have received) for the month prior to the month in which she died, shall be deemed to be equal to such old-age insurance benefit, and (notwithstanding the provisions of paragraph (3) of such subsection (w) of this section) the number of increment months shall include any month in the months of the calendar year in which she died, prior to the month in which she died, which satisfy the conditions in paragraph (2) of such subsection (w) of this section.

(D) If the deceased individual (on the basis of whose wages and self-employment income a widower or surviving divorced husband is entitled to widower’s insurance benefits under this sub-
section) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q) of this section, the widower's insurance benefit of such widower or surviving divorced husband for any month in which such certificate is filed; and if the amount of the widower's insurance benefit of such widower or surviving divorced husband (as determined under subparagraph (A) and after application of subsection (q) of this section) is greater than—

(i) the amount of the old-age insurance benefit to which such deceased individual would have been entitled (after application of subsection (q) of this section) for such month if such individual were still living and section 415(f)(5), 415(f)(6), or 415(f)(9)(B) of this title were applied, where applicable, and

(ii) 82% of the primary insurance amount (as determined without regard to subparagraph (C)) of such deceased individual;

be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii), under subparagraph (A)

(3) For purposes of paragraph (1), if—

(A) a widower or surviving divorced husband marries after attaining age 60 (or after attaining age 50 if he was entitled before such marriage occurred to benefits based on disability under this subsection), or

(B) a disabled widower or surviving divorced husband described in paragraph (1)(B)(ii) marries after attaining age 50,

such marriage shall be deemed not to have occurred.

(4) The period referred to in paragraph (1)(B)(ii), in the case of any widower or surviving divorced husband, is the period beginning with whichever of the following is the latest:

(A) the month in which occurred the death of the fully insured individual referred to in paragraph (1) on whose wages and self-employment income his benefits are or would be based,

(B) the last month for which he was entitled to father's insurance benefits on the basis of wages and self-employment income of such individual, or

(C) the month in which a previous entitlement to widower's insurance benefits on the basis of such wages and self-employment income terminated because his disability had ceased,

and ending with the month before the month in which he attains age 60, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

(5)(A) The waiting period referred to in paragraph (1)(F), in the case of any widower or surviving divorced husband, is the earliest period of five consecutive calendar months—

(i) throughout which he has been under a disability, and

(ii) which begins not earlier than with whichever of the following is the later: (I) the fifteenth day of the seventeenth month before the month in which his application is filed, or (II) the first day of the fifth month before the month in which the period specified in paragraph (4) begins.

(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widower or surviving divorced husband 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 1332(a) of this title (or payments of the type described in section 212(a) of Public Law 93–66) which are paid by the Commissioner of Social Security under an agreement referred to in section 1332(a) of this title (or in section 212(b) of Public Law 93–66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.

(6) In the case of an individual entitled to monthly insurance benefits payable under this section for any month prior to January 1973 whose benefits were not redetermined under section 102(g) of the Social Security Amendments of 1972, such benefits shall not be redetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 415(i)(3) of this title) or any increase in benefits made under or pursuant to section 415(i) of this title, including for this purpose the increase provided effective for March 1974, as though such redetermination had been made.

(7) Any certificate filed pursuant to paragraph (1)(C)(ii)(III) shall be effective for purposes of this subsection—

(A) for the month in which it is filed and for any month thereafter, and

(B) for months, in the period designated by the individual filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which he attains age 62.

(8) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under subchapter XVI of this chapter, or State supplementary payments of the type referred to in section 1332(a) of this title (or payments of the type described in section 212(a) of Public Law 93–66) which are paid by the Commissioner of Social Security under an agreement referred to in section 1332(a) of this title (or in section 212(b) of Public Law 93–66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.

(g) Mother's and father's insurance benefits

(1) The surviving spouse and every surviving divorced parent (as defined in section 416(d) of this title) of an individual who died a fully or currently insured individual, if such surviving spouse or surviving divorced parent—

(A) is not married,

(B) is not entitled to a surviving spouse's insurance benefit,

(C) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than three-fourths of the primary insurance amount of such individual,

(D) has filed application for mother's or father's insurance benefits, or was entitled to a
spouse’s insurance benefit on the basis of the wages and self-employment income of such individual for the month preceding the month in which such individual died,

(E) at the time of filing such application has in her care a child of such individual entitled to a child’s insurance benefit, and

(F) in the case of a surviving divorced parent—

(i) the child referred to in subparagraph (E) is his or her son, daughter, or legally adopted child, or

(ii) the benefits referred to in such subparagraph are payable on the basis of such individual’s wages and self-employment income,

shall (subject to subsection (s) of this section) be entitled to a mother’s or father’s insurance benefit for each month, beginning with the first month in which he or she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: no child of such deceased individual is entitled to a child’s insurance benefit, such surviving spouse or surviving divorced parent becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of such deceased individual, he or she becomes entitled to a surviving spouse’s insurance benefit, he or she remarries, or he or she dies. Entitlement to such benefits shall also end, in the case of a surviving divorced parent, with the month immediately preceding the first month in which no son, daughter, or legally adopted child of such surviving divorced parent is entitled to a child’s insurance benefit on the basis of the wages and self-employment income of such deceased individual.

Such mother’s or father’s insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of such deceased individual.

(3) In the case of a surviving spouse or surviving divorced parent who marries

(A) an individual entitled to benefits under this subsection or subsection (a), (b), (c), (e), (f), or (h) of this section, or under section 423(a) of this title, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section,

the entitlement of such surviving spouse or surviving divorced parent to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection but subject to subsection (s) of this section, not be terminated by reason of such marriage.

(h) Parent’s insurance benefits

(1) Every parent (as defined in this subsection) of an individual who died a fully insured individual, if such parent—

(A) has attained age 62,

(B)(i) was receiving at least one-half of his or her support from such individual at the time of such individual’s death or, if such individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of such death, and (ii) filed proof of such support within two years after the date of such death, or, if such individual had such a period of disability, within two years after the month in which such individual filed application with respect to such period of disability or two years after the date of such death, as the case may be,

(C) has not married since such individual’s death,

(D) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than 82½ percent of the primary insurance amount of such deceased individual if the amount of the parent’s insurance benefit for such month is determinable under paragraph (2)(A) (or 75 percent of such primary insurance amount in any other case), and

(E) has filed application for parent’s insurance benefits,

shall be entitled to a parent’s insurance benefit for each month beginning with the first month after August 1950 in which such parent becomes so entitled to such parent’s insurance benefits and ending with the month preceding the first month in which any of the following occurs: such parent dies, marries, or becomes entitled to an old-age insurance benefit equal to or exceeding 82½ percent of the primary insurance amount of such deceased individual if the amount of the parent’s insurance benefit for such month is determinable under paragraph (2)(A) (or 75 percent of such primary insurance amount in any other case).

(2)(A) Except as provided in subparagraphs (B) and (C), such parent’s insurance benefit for each month shall be equal to 82½ percent of the primary insurance amount of such deceased individual.

(B) For any month for which more than one parent is entitled to parent’s insurance benefits on the basis of such deceased individual’s wages and self-employment income, such benefit for each such parent for such month shall (except as provided in subparagraph (C)) be equal to 75 percent of the primary insurance amount of such deceased individual.

(C) In any case in which—

(i) any parent is entitled to a parent’s insurance benefit for a month on the basis of a deceased individual’s wages and self-employment income, and

(ii) another parent of such deceased individual is entitled to a parent’s insurance benefit for such month on the basis of such wages and self-employment income, and on the basis of an application filed after such month and after the month in which the application for the parent’s benefits referred to in clause (i) was filed,

the amount of the parent’s insurance benefit of the parent referred to in clause (i) for the month referred to in such clause shall be determined under subparagraph (A) instead of subparagraph (B) and the amount of the parent’s insurance benefit of a parent referred to in clause (ii) for such month shall be equal to 150 percent of the primary insurance amount of the deceased individual minus the amount (before the application of section 403(a) of this title) of the benefit for
such month of the parent referred to in clause (i).

(3) As used in this subsection, the term "parent" means the mother or father of an individual, a stepparent of an individual by a marriage contracted before such individual attained the age of sixteen, or an adopting parent by whom an individual was adopted before he attained the age of sixteen.

(4) In the case of a parent who marries—

(A) an individual entitled to benefits under this subsection or subsection (b), (c), (e), (f), or (g) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section,

such parent's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection but subject to subsection (s) of this section, not be terminated by reason of such marriage.

(i) Lump-sum death payments

Upon the death, after August 1950, of an individual who died a fully or currently insured individual, an amount equal to three times such individual's primary insurance amount (as determined without regard to the amendments made by section 2201 of the Omnibus Budget Reconciliation Act of 1981, relating to the repeal of the minimum benefit provisions), or an amount equal to $255, whichever is the smaller, shall be paid in a lump sum to the person, if any, determined by the Commissioner of Social Security to be the widow or widower of the deceased and to have been living in the same household with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid—

(1) to a widow (as defined in section 416(c) of this title) or widower (as defined in section 416(g) of this title) who is entitled (or would have been so entitled had a timely application been filed), on the basis of the wages and self-employment income of such insured individual, to benefits under subsection (e), (f), or (g) of this section for the month in which occurred such individual's death; or

(2) if no person qualifies for payment under paragraph (1), or if such person dies before receiving payment, in equal shares to each person who is entitled (or would have been so entitled had a timely application been filed), on the basis of the wages and self-employment income of such insured individual, to benefits under subsection (d) of this section for the month in which occurred such individual's death.

No payment shall be made to any person under this subsection unless application therefor shall have been filed, by or on behalf of such person (whether or not legally competent), prior to the expiration of two years after the date of death of such insured individual, or unless such person was entitled to wife's or husband's insurance benefits, on the basis of the wages and self-employment income of such insured individual, for the month preceding the month in which such individual died. In the case of any individual who died outside the forty-eight States and the District of Columbia after December 1953 and before January 1, 1957, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa for interment or reinterment, the provisions of the preceding sentence shall not prevent payment to any person under the second sentence of this subsection if application for a lump-sum death payment with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment. In the case of any individual who died outside the fifty States and the District of Columbia after December 1956 while he was performing service, as a member of a uniformed service, to which the provisions of section 410(h)(1) of this title are applicable, and who is returned to any State, or to any Territory or possession of the United States, for interment or reinterment, the provisions of the third sentence of this subsection shall not prevent payment to any person under the second sentence of this subsection if application for a lump-sum death payment with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment.

(j) Application for monthly insurance benefits

(1) Subject to the limitations contained in paragraph (4), an individual who would have been entitled to a benefit under subsection (a), (b), (c), (d), (e), (f), (g), or (h) of this section for any month after August 1950 had he filed application therefor prior to the end of such month shall be entitled to such benefit for such month if he files application therefor prior to—

(A) the end of the twelfth month immediately succeeding such month in any case where the individual (i) is filing application for a benefit under subsection (e) or (f) of this section, and satisfies paragraph (1)(B) of such subsection by reason of clause (ii) thereof, or

(ii) is filing application for a benefit under subsection (b), (c), or (d) of this section on the basis of the wages and self-employment income of a person entitled to disability insurance benefits, or

(B) the end of the sixth month immediately succeeding such month in any case where subparagraph (A) does not apply.

Any benefit under this subchapter for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Commissioner of Social Security has certified for payment for such prior month.

(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the
Commissioner of Social Security makes a final decision on the application and no request under section 405(b) of this title for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made regardless of whether such decision becomes the final decision of the Commissioner of Social Security.

(3) Notwithstanding the provisions of paragraph (1), an individual may, at his option, waive entitlement to any benefit referred to in paragraph (1) for any one or more consecutive months (beginning with the earliest month for which such individual would otherwise be entitled to such benefit) which occur before the month in which such individual files application for such benefit; and, in such case, such individual shall not be considered as entitled to such benefits for any such month or months before such individual filed such application. An individual shall be deemed to have waived such entitlement for any such month for which such benefit would, under the second sentence of paragraph (1), be reduced to zero.

(4)(A) Except as provided in subparagraph (B), no individual shall be entitled to a monthly benefit under subsection (a), (b), (c), (e), or (f) of this section for any month prior to the month in which he or she files an application for benefits under that subsection if the amount of the monthly benefit to which such individual would otherwise be entitled for any such month would be subject to reduction pursuant to subsection (q) of this section.

(B)(i) If the individual applying for retroactive benefits is a widow, surviving divorced wife, or widower and is under a disability (as defined in section 423(d) of this title), and such individual would, except for subparagraph (A), be entitled to retroactive benefits as a disabled widow or widower or disabled surviving divorced wife for any month before attaining the age of 60, then subparagraph (A) shall not apply with respect to such month or any subsequent month.

(ii) Subparagraph (A) does not apply to a benefit under subsection (e) or (f) of this section for the month immediately preceding the month of application, if the insured individual died in that preceding month.

(iii) As used in this subparagraph, the term “retroactive benefits” means benefits to which an individual becomes entitled for a month prior to the month in which application for such benefits is filed.

(5) In any case in which it is determined to the satisfaction of the Commissioner of Social Security that an individual failed as of any date to apply for monthly insurance benefits under this subchapter by reason of misinformation provided to such individual by any officer or employee of the Social Security Administration relating to such individual’s eligibility for benefits under this subchapter, such individual shall be deemed to have applied for such benefits on the later of—

(A) the date on which such misinformation was provided to such individual, or

(B) the date on which such individual met all requirements for entitlement to such benefits (other than application therefor).

(k) Simultaneous entitlement to benefits

(1) A child, entitled to child’s insurance benefits on the basis of the wages and self-employment income of an insured individual, who would be entitled, on filing application, to child’s insurance benefits on the basis of the wages and self-employment income of some other insured individual, shall be deemed entitled, subject to the provisions of paragraph (2) of this subsection, to child’s insurance benefits on the basis of the wages and self-employment income of such other individual if an application for child’s insurance benefits on the basis of the wages and self-employment income of such other individual has been filed by any other child who would, on filing application, be entitled to child’s insurance benefits on the basis of the wages and self-employment income of both such insured individuals.

(2)(A) Any child who under the preceding provisions of this section is entitled for any month to child’s insurance benefits on the wages and self-employment income of more than one insured individual shall, notwithstanding such provisions, be entitled to only one child’s insurance benefits for such month. Such child’s insurance benefits for such month shall be the benefit based on the wages and self-employment income of the insured individual who has the greatest primary insurance amount, except that such child’s insurance benefits for such month shall be the largest benefit to which such child could be entitled under subsection (d) of this section (without the application of section 403(a) of this title) or subsection (m) of this section if entitlement to such benefit would not, with respect to any person, result in a benefit lower (after the application of section 403(a) of this title) than the benefit which would be applicable if such child were entitled on the wages and self-employment income of the individual with the greatest primary insurance amount.

Where more than one child is entitled to child’s insurance benefits pursuant to the preceding provisions of this paragraph, each such child who is entitled on the wages and self-employment income of the same insured individuals shall be entitled on the wages and self-employment income of the same such insured individual.

(B) Any individual (other than an individual to whom subsection (e)(3) or (f)(3) of this section applies) who, under the preceding provisions of this section and under the provisions of section 422 of this title, is entitled for any month to more than one monthly insurance benefit (other than an old-age or disability insurance benefit) under this subchapter shall be entitled to only one such monthly benefit for such month, such benefit to be the largest of the monthly benefits to which he (but for this subparagraph) would otherwise be entitled for such month. Any individual who is entitled for any month to more than one widow’s or widower’s insurance benefit to which subsection (e)(3) or (f)(3) of this section applies shall be entitled to only one such benefit for such month, such benefit to be the largest of such benefits.

(3)(A) If an individual is entitled to an old-age or disability insurance benefit for any month and to any other monthly insurance benefit for
such month, such other insurance benefit for such month, after any reduction under subsection (q), subsection (e)(2) or (f)(2) of this section, and any reduction under section 403(a) of this title, shall be reduced, but not below zero, by an amount equal to such old-age or disability insurance benefit (after reduction under such subsection (q) of this section).

(B) If an individual is entitled for any month to a widow’s or widower’s insurance benefit to which subsection (e)(3) or (f)(3) of this section applies and to any other monthly insurance benefit under this section (other than an old-age insurance benefit), such other insurance benefit for such month, after any reduction under subparagraph (A) of this paragraph, any reduction under subsection (q) of this section, and any reduction under section 403(a) of this title, shall be reduced, but not below zero, by an amount equal to such widow’s or widower’s insurance benefit after any reduction or reductions under such subparagraph (A) and such section 403(a).

(4) Any individual who, under this section and section 423 of this title, is entitled for any month to both an old-age insurance benefit and a disability insurance benefit under this subchapter shall be entitled to only the larger of such benefits for such month, except that, if such individual so elects, he shall instead be entitled to only the smaller of such benefits for such month.

(5)(A) The amount of a monthly insurance benefit of any individual for each month under subsection (b), (c), (e), (f), or (g) of this section (as determined after application of the provisions of subsection (q) of this section and the preceding provisions of this subsection) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit based in whole or in part on service which constituted “employment” as defined in section 410 of this title which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Commissioner of Social Security) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term “periodic benefit” includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(l) Entitlement to survivor benefits under railroad retirement provisions

If any person would be entitled, upon filing application therefor to an annuity under section 2 of the Railroad Retirement Act of 1974 [45 U.S.C. 231a], or to a lump-sum payment under section 6(b) of such Act [45 U.S.C. 231e(b)], with respect to the death of an employee (as defined in such Act) no lump-sum death payment, and no monthly benefit for the month in which such employee died or for any month thereafter, shall be paid under this section to any person on the basis of the wages and self-employment income of such employee.


(n) Termination of benefits upon removal of primary beneficiary

(1) If any individual is (after September 1, 1954) removed under section 1227(a) of title 8 (other than under paragraph (1)(C) of such section) or under section 1182(a)(6)(A) of title 8, then, notwithstanding any other provisions of this subchapter—

(A) no monthly benefit under this section or section 423 of this title shall be paid to such individual, on the basis of his wages and self-employment income, for any month occurring (i) after the month in which the Commissioner of Social Security is notified by the Attorney General or the Secretary of Homeland Security that such individual has been so removed, and (ii) before the month in which such individual is thereafter lawfully admitted to the United States for permanent residence,

(B) if no benefit could be paid to such individual (or if no benefit could be paid to him if he were alive) for any month by reason of subparagraph (A), no monthly benefit under this

$0.10, shall be rounded to the next higher multiple of $0.10.
section shall be paid, on the basis of his wages and self-employment income, for such month to any other person who is not a citizen of the United States and is outside the United States for any part of such month, and

(3) a lump-sum death payment shall be made on the basis of such individual’s wages and self-employment income if he dies (i) in or after the month in which such notice is received, and (ii) before the month in which he is thereafter lawfully admitted to the United States for permanent residence.

Section 403(b), (c), and (d) of this title shall not apply with respect to any such individual for any month for which no monthly benefit may be paid to him by reason of this paragraph.

(2) As soon as practicable after the removal of any individual under any of the paragraphs of section 1227(a) of title 8 (other than under paragraph (1)(C) of such section) or under section 1182(a)(6)(A) of title 8, the Attorney General or the Secretary of Homeland Security shall notify the Commissioner of Social Security of such removal.

(3) For purposes of paragraphs (1) and (2) of this subsection, an individual against whom a final order of removal has been issued under paragraph (4)(D) of section 1227(a) of title 8 (relating to participating in Nazi persecutions or genocide) shall be considered to have been removed under such paragraph (4)(D) as of the date on which such order became final.

(o) Application for benefits by survivors of members and former members of uniformed services

In the case of any individual who would be entitled to benefits under subsection (d), (e), (g), or (h) of this section upon filing proper application therefore, the filing with the Administrator of Veterans’ Affairs by or on behalf of such individual of an application for such benefits, on the form described in section 5105 of title 38, shall satisfy the requirement of such subsection (d), (e), (g), or (h) that an application for such benefits be filed.

(p) Extension of period for filing proof of support and applications for lump-sum death payment

In any case in which there is a failure—

(1) to file proof of support under subparagraph (B) of subsection (h)(1) of this section, or under clause (B) of subsection (f)(1) of this section as in effect prior to the Social Security Act Amendments of 1950, within the period prescribed by such subparagraph or clause, or

(2) to file, in the case of a death after 1946, application for a lump-sum death payment under subsection (i) of this section, or under subsection (g) of this section as in effect prior to the Social Security Act Amendments of 1950, within the period prescribed by such subsection,

any such proof or application, as the case may be, which is filed after the expiration of such period shall be deemed to have been filed within such period if it is shown to the satisfaction of the Commissioner of Social Security that there was good cause for failure to file such proof or application within such period. The determination of what constitutes good cause for purposes of this subsection shall be made in accordance with regulations of the Commissioner of Social Security.

(q) Reduction of benefit amounts for certain beneficiaries

(1) Subject to paragraph (9), if the first month for which an individual is entitled to an old-age, wife’s, husband’s, widow’s, or widower’s insurance benefit is a month before the month in which such individual attains retirement age, the amount of such benefit for such month and for any subsequent month shall be, subject to the succeeding paragraphs of this subsection, be reduced by—

(A) % of 1 percent of such amount if such benefit is an old-age insurance benefit, % of 1 percent of such amount if such benefit is a wife’s or husband’s insurance benefit, or % of 1 percent of such amount if such benefit is a widow’s or widower’s insurance benefit, multiplied by

(B)(i) the number of months in the reduction period for such benefit (determined under paragraph (6)), if such benefit is for a month before the month in which such individual attains retirement age, or

(ii) if less, the number of such months in the adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is (I) for the month in which such individual attains age 62, or (II) for the month in which such individual attains retirement age.

(2) If an individual is entitled to a disability insurance benefit for a month after a month for which such individual was entitled to an old-age insurance benefit, such disability insurance benefit for each month shall be reduced by the amount such old-age insurance benefit would be reduced under paragraphs (1) and (4) for such month had such individual attained retirement age (as defined in section 402(l) of this title) in the first month for which he most recently became entitled to a disability insurance benefit.

(3)(A) If the first month for which an individual both is entitled to a wife’s, husband’s, widow’s, or widower’s insurance benefit and has attained age 62 (in the case of a wife’s or husband’s insurance benefit) or age 50 (in the case of a widow’s or widower’s insurance benefit) is a month for which such individual is also entitled to—

(i) an old-age insurance benefit (to which such individual was first entitled for a month before he attains retirement age (as defined in section 416(l) of this title)), or

(ii) a disability insurance benefit,

then in lieu of any reduction under paragraph (1) (but subject to the succeeding paragraphs of this subsection) such wife’s, husband’s, widow’s, or widower’s insurance benefit for each month shall be reduced as provided in subparagraph (B), (C), or (D).

(B) For any month for which such individual is entitled to an old-age insurance benefit and is not entitled to a disability insurance benefit, such individual’s wife’s or husband’s insurance benefit shall be reduced by the sum of—

(i) the amount by which such old-age insurance benefit is reduced under paragraph (1) for such month, and

(ii) if such individual is entitled to an old-age insurance benefit and is not entitled to a disability insurance benefit, % of the amount of such benefit.
(ii) the amount by which such wife’s or husband’s insurance benefit would be reduced under paragraph (1) for such month if it were equal to the excess of such wife’s or husband’s insurance benefit (before reduction under this subsection) over such old-age insurance benefit (before reduction under this subsection).

(C) For any month for which such individual is entitled to a disability insurance benefit, such individual’s wife’s, husband’s, widow’s, or widower’s insurance benefit shall be reduced by the sum of—

(i) the amount by which such disability insurance benefit is reduced under paragraph (2) for such month (if such paragraph applied to such benefit), and

(ii) the amount by which such wife’s, husband’s, widow’s, or widower’s insurance benefit would be reduced under paragraph (1) for such month if it were equal to the excess of such wife’s, husband’s, widow’s, or widower’s insurance benefit (before reduction under this subsection) over such disability insurance benefit (before reduction under this subsection).

(D) For any month for which such individual is entitled neither to an old-age insurance benefit nor to a disability insurance benefit, such individual’s wife’s, husband’s, widow’s, or widower’s insurance benefit shall be reduced by the amount by which it would be reduced under paragraph (1).

(E) Notwithstanding subparagraph (A) of this paragraph, if the first month for which an individual is entitled to an old-age insurance benefit to which such individual was first entitled for that month or for a month before she or he became entitled to a widow’s or widower’s benefit, the reduction in such widow’s or widower’s insurance benefit shall be determined under paragraph (1).

(4) If—

(A) an individual is or was entitled to a benefit subject to reduction under paragraph (1) or (3) of this subsection, and

(B) such benefit is increased by reason of an increase in the primary insurance amount of the individual on whose wages and self-employment income such benefit is based,

then the amount of the reduction of such benefit (after the application of any adjustment under paragraph (7) for each month beginning with the month of such increase in the primary insurance amount shall be computed under paragraph (1) or (3), whichever applies, as though the increased primary insurance amount had been in effect for and after the month for which the individual first became entitled to such monthly benefit reduced under such paragraph (1) or (3).

(5)(A) No wife’s or husband’s insurance benefit shall be reduced under this subsection—

(i) for any month before the first month for which there is in effect a certificate filed by him or her with the Commissioner of Social Security, in accordance with regulations prescribed by the Commissioner of Social Security, in which he or she elects to receive wife’s or husband’s insurance benefits reduced as provided in this subsection, or

(ii) for any month in which he or she has in his or her care (individually or jointly with the person on whose wages and self-employment income the wife’s or husband’s insurance benefit is based) a child of such person entitled to child’s insurance benefits.

(B) Any certificate described in subparagraph (A)(i) shall be effective for purposes of this subsection (and for purposes of preventing deductions under section 408(c)(2) of this title)—

(i) for the month in which it is filed and for any month thereafter, and

(ii) for months, in the period designated by the individual filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed; except that such certificate shall not be effective for any month before the month in which he or she attains age 62, nor shall it be effective for any month to which subparagraph (A)(ii) applies.

(C) If an individual does not have in his or her care a child described in subparagraph (A)(ii) in the first month for which he or she is entitled to a wife’s or husband’s insurance benefit, and if such first month is a month before the month in which he or she attains retirement age (as defined in section 416(i) of this title), he or she shall be deemed to have filed in such first month the certificate described in subparagraph (A)(i).

(D) No widow’s or widower’s insurance benefit for a month in which he or she has in his or her care a child of his or her deceased spouse (or deceased former spouse) entitled to child’s insurance benefits shall be reduced under this subsection below the amount to which he or she would have been entitled had he or she been entitled for such month to mother’s or father’s insurance benefits on the basis of his or her deceased spouse’s (or deceased former spouse’s) wages and self-employment income.

(6) For purposes of this subsection, the “reduction period” for an individual’s old-age, wife’s, husband’s, widow’s, or widower’s insurance benefit is the period—

(A) beginning—

(i) in the case of an old-age insurance benefit, with the first day of the first month for which such individual is entitled to such benefit,

(ii) in the case of a wife’s or husband’s insurance benefit, with the first day of the first month for which a certificate described in paragraph (5)(A) is effective, or

(iii) in the case of a widow’s or widower’s insurance benefit, with the first day of the first month for which such individual is entitled to such benefit or the first day of the month in which such individual attains age 60, whichever is the later, and

(B) ending with the last day of the month before the month in which such individual attains retirement age.

(7) For purposes of this subsection, the “adjusted reduction period” for an individual’s old-age, wife’s, husband’s, widow’s, or widower’s insurance benefit is the reduction period prescribed in paragraph (6) for such benefit, excluding—
(A) any month in which such benefit was subject to deductions under section 403(b), 403(c)(1), 403(d)(1), or 422(b) of this title,

(B) in the case of a wife's or husband's insurance benefits, any month in which such individual had in his or her case (individually or jointly with the person on whose wages and self-employment income such benefit is based) a child of such person entitled to child's insurance benefits,

(C) in the case of a wife's or husband's insurance benefits, any month in which the reduction in the amount of such benefit was determined under paragraph (5)(D),

(D) in the case of a widow's or widower's insurance benefits, any month in which she or he attained age 62, and also for any later month before the month in which she or he attained retirement age, for which she or he was not entitled to such benefit because of the occurrence of an event that terminated her or his entitlement to such benefits, and

(E) in the case of a widow's or widower's insurance benefits, any month after December 1977 to an individual with respect to monthly benefits payable for any month after December 1977 to the individual whose reduced benefit under this section is increased as a result of the use of an adjusted reduction period (in accordance with paragraphs (1) and (3) of this subsection), then for the first month for which such increase is effective, and for all subsequent months, the amount of such reduction (after the application of the previous sentence, if applicable) shall be determined—

(A) in the case of old-age, wife's, and husband's insurance benefits, by multiplying such amount by the ratio of (i) the number of months in the adjusted reduction period to (ii) the number of months in the reduction period,

(B) in the case of widow's and widower's insurance benefits for the month in which such individual attains age 62, by multiplying such amount by the ratio of (i) the number of months in the reduction period beginning with age 62 multiplied by \(\frac{19}{40}\) of 1 percent, plus the number of months in the adjusted reduction period prior to age 62 multiplied by \(\frac{19}{40}\) of 1 percent to (ii) the number of months in the reduction period multiplied by \(\frac{19}{40}\) of 1 percent, and

(C) in the case of widow's and widower's insurance benefits for the month in which such individual attains retirement age (as defined in section 416(l) of this title), by multiplying such amount by the ratio of (i) the number of months in the reduction period beginning with age 62 multiplied by \(\frac{19}{40}\) of 1 percent, plus the number of months in the adjusted reduction period prior to age 62 multiplied by \(\frac{19}{40}\) of 1 percent, such determination being made in accordance with the provisions of paragraph (8).

(11) When an individual is entitled to more than one monthly benefit under this subchapter and one or more of such benefits are reduced under this subsection, paragraph (10) shall apply separately to each such benefit reduced under this subsection before the application of section (k) of this section (pertaining to the method by which monthly benefits are offset when an individual is entitled to more than one kind of benefit) and the application of this paragraph shall operate in conjunction with paragraph (3).

(v) Presumed filing of application by individuals eligible for old-age insurance benefits and for wife's or husband's insurance benefits

(1) If the first month for which an individual is entitled to an old-age insurance benefit is a month before the month in which such individual attains retirement age (as defined in section
416(l) of this title), and if such individual is eligible for a wife’s or husband’s insurance benefit for such first month, such individual shall be deemed to have filed an application in such month for wife’s or husband’s insurance benefits.

(2) If the first month for which an individual is entitled to a wife’s or husband’s insurance benefit reduced under subsection (q) of this section is a month before the month in which such individual attains retirement age (as defined in section 410(d)(3) of this title), and if such individual is entitled (but for subsection (k)(4) of this section) for an old-age insurance benefit for such first month, such individual shall be deemed to have filed an application for old-age insurance benefits.

(A) in such month, or
(B) if such individual is also entitled to a disability insurance benefit for such month, in the first subsequent month for which such individual is not entitled to a disability insurance benefit.

(3) For purposes of this subsection, an individual shall be deemed eligible for a benefit for a month if, upon filing application therefor in such month, he would be entitled to such benefit for such month.

(a) Child over specified age to be disregarded for certain benefit purposes unless disabled

(1) For the purposes of subsections (b)(1), (c)(1), (g)(1), (q)(5), and (q)(7) of this section and paragraphs (2), (3), and (4) of section 403(c) of this title, a child who is entitled to child’s insurance benefits under subsection (d) of this section for any month, and who has attained the age of 16 but is not in such month under a disability (as defined in section 423(d) of this title), shall be deemed not entitled to such benefits for such month, unless he was under such a disability in the third month before such month.

(2) So much of subsections (b)(3), (c)(4), (d)(5), (g)(3), and (h)(4) of this section as precedes the semicolon, shall not apply in the case of any child unless such child, at the time of the marriage referred to therein, was under a disability (as defined in section 423(d) of this title) or had been under such a disability in the third month before the month in which such marriage occurred.

(3) The last sentence of subsection (c) of section 403 of this title, subsection (f)(1)(C) of section 403 of this title, and subsections (b)(3)(B), (c)(6)(B), (f)(3)(B), and (g)(6)(B) of section 416 of this title shall not apply in the case of any child with respect to any month referred to therein unless in such month or the third month prior thereto such child was under a disability (as defined in section 423(d) of this title).

(f) Suspension of benefits of aliens who are outside United States; residency requirements for dependents and survivors

(1) Notwithstanding any other provision of this subchapter, no monthly benefits shall be paid under this section or under section 423 of this title to any individual who is not a citizen or national of the United States for any month which is—

(A) after the sixth consecutive calendar month during all of which the Commissioner of Social Security finds, on the basis of information furnished to the Commissioner by the Attorney General or information which otherwise comes to the Commissioner’s attention, that such individual is outside the United States, and

(B) prior to the first month thereafter for all of which such individual has been in the United States.

For purposes of the preceding sentence, after an individual has been outside the United States for any period of thirty consecutive days he shall be treated as remaining outside the United States until he has been in the United States for a period of thirty consecutive days.

(2) Subject to paragraph (11), paragraph (1) of this subsection shall not apply to any individual who is a citizen of a foreign country which the Commissioner of Social Security finds has in effect a social insurance or pension system which is of general application in such country and under which—

(A) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death, and

(B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

(3) Paragraph (1) of this subsection shall not apply in any case where its application would be contrary to any treaty obligation of the United States in effect on August 1, 1956.

(4) Subject to paragraph (11), paragraph (1) of this subsection shall not apply to any benefit for any month if—

(A) not less than forty of the quarters elapsing before such month are quarters of coverage for the individual on whose wages and self-employment income such benefit is based, or

(B) the individual on whose wages and self-employment income such benefit is based has, before such month, resided in the United States for a period or periods aggregating ten years or more, or

(C) the individual entitled to such benefit is outside the United States while in the active military or naval service of the United States, or

(D) the individual on whose wages and self-employment income such benefit is based died, before such month, either (i) while on active duty or inactive duty training (as those terms are defined in section 410(l)(2) and (3) of this title) as a member of a uniformed service (as defined in section 410(m) of this title), or (ii) as the result of a disease or injury which the Secretary of Veterans Affairs determines was incurred or aggravated in line of duty while on active duty (as defined in section 410(l)(2) of this title), or an injury which he determines was incurred or aggravated in line of duty while on inactive duty training (as defined in section 410(l)(3) of this title), as a member of a uniformed service (as defined in section 410(m) of this title), if the Secretary of Veterans Af-
fairs determines that such individual was discharged or released from the period of such active duty or inactive duty training under conditions other than dishonorable, and if the Secretary of Veterans Affairs certifies to the Commissioner of Social Security his determinations with respect to such individual under this clause, or
(E) the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act of 1937 or 1974 [45 U.S.C. 228a et seq., 231 et seq.] which was treated as employment covered by this chapter pursuant to the provisions of section 5(k)(1) of the Railroad Retirement Act of 1937 [45 U.S.C. 228e(k)(1)] or section 18(2) of the Railroad Retirement Act of 1974 [45 U.S.C. 231q(2)];

except that subparagraphs (A) and (B) of this paragraph shall not apply in the case of any individual who is a citizen of a foreign country that has in effect a social insurance or pension system which is of general application in such country and which satisfies subparagraph (A) but not subparagraph (B) of paragraph (2), or who is a citizen of a foreign country that has no social insurance or pension system of general application if at any time within five years prior to the month in which the Social Security Amendments of 1967 are enacted (or the first month thereafter for which his benefits are subject to suspension under paragraph (1)) payments to individuals residing in such country were withheld by the Treasury Department under sections 3329(a) and 3330(a) of title 31.

(5) No person who is, or upon application would be, entitled to a monthly benefit under this section for December 1956 shall be deprived, by reason of paragraph (1) of this subsection, of such benefit or any other benefit based on the wages and self-employment income of the individual on whose wages and self-employment income such monthly benefit is based, for a total period of not less than 5 years for purposes of this subparagraph, a period of time for which an individual bears a spousal relationship to another person consists of a period throughout which the individual has been, with respect to such other person, a wife, a husband, a widower, a divorced wife, a divorced husband, a surviving divorced mother, a surviving divorced father, or (as applicable in the course of such period) any two or more of the foregoing.

(6) If an individual is outside the United States when he dies and no benefit may, by reason of paragraph (1) or (10) of this subsection, be paid to him for the month preceding the month in which he dies, no lump-sum death payment may be made on the basis of such individual's wages and self-employment income, for such period of not less than 5 years, or

(7) Subsections (b), (c), and (d) of section 402 of title 31 shall not apply with respect to any individual for any month for which no monthly benefit may be paid to him by reason of paragraph (1) of this subsection.

(8) The Attorney General shall certify to the Commissioner of Social Security such information regarding aliens who depart from the United States to any foreign country (other than a foreign country which is territorially contiguous to the continental United States) as may be necessary to enable the Commissioner of Social Security to carry out the purposes of this subsection and shall otherwise aid, assist, and cooperate with the Commissioner of Social Security in obtaining such other information as may be necessary to enable the Commissioner of Social Security to carry out the purposes of this subsection.

(9) No payments shall be made under part A of subchapter XVIII of this chapter with respect to items or services furnished to an individual in any month for which the prohibition in paragraph (1) against payment of benefits to him is applicable (or would be if he were entitled to any such benefits).

(10) Notwithstanding any other provision of this subchapter, no monthly benefits shall be paid under this section or under section 423 of this title, for any month beginning after June 30, 1968, to an individual who is not a citizen or national of the United States and who resides during such month in a foreign country if payments for such month to individuals residing in such country are withheld by the Treasury Department under sections 3329(a) and 3330(a) of title 31.

(11)(A) Paragraph (2) and subparagraphs (A), (B), (C), and (E) of paragraph (4) shall apply with respect to an individual’s monthly benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of this section only if such individual meets the residency requirements of this paragraph with respect to those benefits.

(B) An individual entitled to benefits under subsection (b), (c), (e), (f), or (g) of this section meets the residency requirements of this paragraph with respect to those benefits only if such individual has resided in the United States, and while so residing bore a spousal relationship to the person on whose wages and self-employment income such entitlement is based, for a total period of not less than 5 years. For purposes of this subparagraph, a period of time for which an individual bears a spousal relationship to another person consists of a period throughout which the individual has been, with respect to such other person, a wife, a husband, a widower, a divorced wife, a divorced husband, a surviving divorced wife, a surviving divorced husband, a surviving divorced mother, a surviving divorced father, or (as applicable in the course of such period) any two or more of the foregoing.

(C) An individual entitled to benefits under subsection (d) of this section meets the residency requirements of this paragraph with respect to those benefits only if—

(I) such individual has resided in the United States (as the child of the person on whose wages and self-employment income such entitlement is based) for a total period of not less than 5 years, or

(II) the person on whose wages and self-employment income such entitlement is based, and the individual’s other parent (within the meaning of subsection (h)(3) of this section), if any, have each resided in the United States for a total period of not less than 5 years (or died while residing in the United States), and

(i) in the case of an individual entitled to such benefits as an adopted child, such individual was adopted within the United States by the person on whose wages and self-employment income such entitlement is based, and has lived in the United States with such person and received at least one-half of his or her support from such person for a period (beginning before such individual attained age 18) consisting of—

(I) the year immediately before the month in which such person became eligible for old-age insurance benefits or disability insur-
ance benefits or died, whichever occurred first, or

(II) if such person had a period of disability
which continued until he or she became entitled to old-age insurance benefits or dis-
ability insurance benefits or died, the year
immediately before the month in which such
period of disability began.

(D) An individual entitled to benefits under
subsection (h) of this section meets the resi-
dency requirements of this paragraph with re-
spect to those benefits only if such individual
has resided in the United States, and while so
residing was a parent (within the meaning of
subsection (h)(3) of this section) of the person on
whose wages and self-employment income such
entitlement is based, for a total period of not
less than 5 years.

(E) This paragraph shall not apply with re-
spect to any individual who is a citizen or resi-
dent of a foreign country with which the United
States has an agreement in force concluded pur-
suant to section 433 of this title, except to the
extent provided by such agreement.

(u) Conviction of subversive activities, etc.

(1) If any individual is convicted of any offense
(committed after August 1, 1956) under—

(A) chapter 37 (relating to espionage and
censorship), chapter 105 (relating to sabotage),
or chapter 115 (relating to treason, sedition,
and subversive activities) of title 18, or

(B) section 723 of title 50,

then the court may, in addition to all other pen-
alties provided by law, impose a penalty that in
determining whether any monthly insurance
benefit under this section or section 423 of this
title, except to the extent provided by such agree-
ment—

(C) any wages paid to such individual or to
any other individual in the calendar year in
which such conviction occurs or in any prior
calendar year; and

(D) any net earnings from self-employment
derived by such individual or by any other in-
dividual during a taxable year in which such
conviction occurs or during any prior taxable
year.

(2) As soon as practicable after an additional
penalty has, pursuant to paragraph (1) of this
subsection, been imposed with respect to any in-
dividual, the Attorney General shall notify the
Commissioner of Social Security of such imposi-
tion.

(3) If any individual with respect to whom an
additional penalty has been imposed pursuant to
paragraph (1) of this subsection is granted a
pardon of the offense by the President of the United
States, such additional penalty shall not apply
for any month beginning after the date on which
such pardon is granted.

(v) Waiver of benefits

(1) Notwithstanding any other provisions of
this subchapter, and subject to paragraph (3), in
the case of any individual who files a waiver
pursuant to section 1402(g) of the Internal Re-
venue Code of 1986 and is granted a tax exemption
thereunder, no benefits or other payments shall
be payable under this subchapter to him, no pay-
ments shall be made on his behalf under part A
of subchapter XVIII of this chapter, and no bene-
fits or other payments under this subchapter
shall be payable on the basis of his wages and
self-employment income to any other person, after
the filing of such waiver.

(2) Notwithstanding any other provision of
this subchapter, and subject to paragraph (3), in
the case of any individual who files a waiver
pursuant to section 3127 of the Internal Revenue
Code of 1986 and is granted a tax exemption
thereunder, no benefits or other payments shall
be payable under this subchapter to him, no pay-
ments shall be made on his behalf under part A
of subchapter XVIII of this chapter, and no bene-
fits or other payments under this subchapter
shall be payable on the basis of his wages and
self-employment income to any other person, after
the filing of such waiver.

(3) If, after an exemption referred to in para-
graph (1) or (2) is granted to an individual, such
exemption ceases to be effective, the waiver
referred to in such paragraph shall cease to be ap-
plicable in the case of benefits and other pay-
ments under this subchapter and part A of sub-
chapter XVIII of this chapter to the extent
based on—

(A) his wages for and after the calendar year
following the calendar year in which occurs
the failure to meet the requirements of sec-
tion 1402(g) or 3127 of the Internal Revenue
Code of 1986 on which the cessation of such ex-
emption is based, and

(B) his self-employment income for and after
the taxable year in which such failure oc-

(w) Increase in old-age insurance benefit
amounts on account of delayed retirement

(1) The amount of an old-age insurance benefit
(whether a benefit based on a primary insurance
amount determined under section 415(a)(3)
of this title as in effect in December 1978 or sec-
tion 415(a)(1)(C)(i) of this title as in effect there-
after) which is payable without regard to this
subsection to an individual shall be increased by—

(A) the applicable percentage (as determined
under paragraph (6)) of such amount, multi-
plied by

(B) the number (if any) of the increment months
for such individual.

(2) For purposes of this subsection, the number
of increment months for any individual shall be
a number equal to the total number of the
months—

(A) which have elapsed after the month be-
fore the month in which such individual at-
tained retirement age (as defined in section
416(i) of this title) or (if later) December 1970
and prior to the month in which such individ-
ual attained age 70, and

(B) with respect to which—

(i) such individual was a fully insured indi-
vidual (as defined in section 414(a) of this
title),

(ii) such individual either was not entitled
to an old-age insurance benefit or, if so enti-
tled, did not receive benefits pursuant to a request by such individual that benefits not be paid, and

(iii) such individual was not subject to a penalty imposed under section 1320a–8a of this title.

(3) For purposes of applying the provisions of paragraph (1), a determination shall be made under paragraph (2) for each year, beginning with 1972, of the total number of an individual’s increment months through the year for which the determination is made and the total so determined shall be applicable to such individual’s old-age insurance benefits beginning with benefits for January of the year following the year for which such determination is made; except that the total number applicable in the case of an individual who attains age 70 after 1972 shall be determined through the month before the month in which he attains such age and shall be applicable to his old-age insurance benefit beginning with the month in which he attains such age.

(4) This subsection shall be applied after reduction under section 403(a) of this title.

(5) If an individual’s primary insurance amount is determined under paragraph (3) of section 415(a) of this title as in effect in December 1978, or section 415(a)(1)(C)(i) of this title as in effect in December 1979, or section 415(a) of this title as in effect under this paragraph for persons who first became eligible for an old-age insurance benefit in any calendar year before 1978; or

(x) Limitation on payments to prisoners, certain other inmates of publicly funded institutions, fugitives, probationers, and parolees

(1)(A) Notwithstanding any other provision of this subchapter, no monthly benefits shall be paid under this section or under section 423 of this title to any individual for any month ending with or during or beginning with or during a period of more than 30 days throughout all of which such individual—

(i) is confined in a jail, prison, or other penal institution or correctional facility pursuant to his conviction of a criminal offense.

(ii) is confined by court order in an institution at public expense in connection with—

(I) a verdict or finding that the individual is guilty but insane, with respect to a criminal offense.

(II) a verdict or finding that the individual is not guilty of such an offense by reason of insanity.

(III) a finding that such individual is incompetent to stand trial under an allegation of such an offense, or

(iv) a similar verdict or finding with respect to such an offense based on similar factors (such as a mental disease, a mental defect, or mental incompetence).

(iii) immediately upon completion of confinement as described in clause (i) pursuant to conviction of a criminal offense an element of which is sexual activity, is confined by court order in an institution at public expense pursuant to a finding that the individual is a sexually dangerous person or a sexual predator or a similar finding.

(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed, or

(v) is violating a condition of probation or parole imposed under Federal or State law.

(B)(i) For purposes of clause (i) of subparagraph (A), an individual shall not be considered confined in an institution comprising a jail, prison, or other penal institution or correctional facility during any month throughout which such individual is residing outside such institution at no expense (other than the cost of monitoring) to such institution or the penal system or to any agency to which the penal system has transferred jurisdiction over the individual.

(ii) For purposes of clauses (ii) and (iii) of subparagraph (A), an individual confined in an institution as described in such clause (ii) shall be treated as remaining so confined until—

(I) he or she is released from the care and supervision of such institution, and

(II) such institution ceases to meet the individual’s basic living needs.

(iii) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, pay the individual benefits that have been withheld
or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

(I) a court of competent jurisdiction has found the individual not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the individual for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

(II) the individual was erroneously implicated in connection with the criminal offense by reason of identity fraud.

(iv) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

(I) the offense described in clause (iv) or underlying the imposition of the probation or parole described in clause (v) was nonviolent and not drug-related, and

(II) in the case of an individual from whom benefits have been withheld or otherwise would be withheld pursuant to subparagraph (A)(v), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related.

(2) Benefits which would be payable to any individual (other than a confined individual to whom benefits are not payable by reason of paragraph (1)) under this subchapter on the basis of the wages and self-employment income of such a confined individual but for the provisions of paragraph (1), shall be payable as though such confined individual were receiving such benefits under this section or section 423 of this title.

(3)(A) Notwithstanding the provisions of section 552a of title 5 or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1306(c) of this title), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this subchapter, if the officer furnishes the information to the Commissioner that—

(i) the beneficiary is described in clause (iv) or (v) of paragraph (1)(A); and

(ii) the location or apprehension of the beneficiary is within the officer’s official duties.

(y) Limitation on payments to aliens

Notwithstanding any other provision of law, no monthly benefit under this subchapter shall be payable to any alien in the United States for any month during which such alien is not lawfully present in the United States as determined by the Attorney General.


The Railroad Retirement Act of 1947, referred to in subsec. (t)(4)(E), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 95–445, title I, §101, Oct. 16, 1978, 92 Stat. 1067, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45, Railroads. Pub. L. 95–445 completely amended and revised the Railroad Retirement Act of 1937 (approved June 24, 1937, ch. 382, 50 Stat. 397), and as thus amended and revised, the 1937 Act was redesignated the Railroad Retirement Act of 1947. Previously, the 1937 Act had completely amended and revised the Railroad Retirement Act of 1935 (approved Aug. 29, 1935, ch. 812, 49 Stat. 967). Section 201 of the 1937 Act provided that the 1935 Act, as in force prior to amendment by the 1937 Act, may be cited as the Railroad Retirement Act of 1935; and that the 1935 Act, as amended by the 1937 Act, may be cited as the Railroad Retirement Act of 1937. The Railroad Retirement Acts of 1935 and 1937 were classified to subchapter II (§226a et seq.) and subchapter III (§228a et seq.), respectively, of chapter 9 of Title 45. For further details and complete classification of these Acts to the Code, see Codification note set out preceding section 231 of Title 45, and Tables.

The month in which the Social Security Amendments of 1967 were enacted, referred to in the provisions following subsec. (t)(4)(E), is Jan. 1968, date of approval of Pub. L. 90–248.

The Internal Revenue Code of 1986, referred to in subsecs. (v) and (x)(3)(C), is classified generally to Title 26, Internal Revenue Code.

Codification

In subsec. (t)(4), (10), “sections 3329(a) and 3330(a) of title 31” substituted for “the first section of the Act of October 9, 1940 (31 U.S.C. 123)” on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Amendments

2004—Subsec. (b)(2). Pub. L. 108–203, §418(b)(1)(A), substituted “subsections (k)(5) and (q) of this section” for “subsection (q) of this section and paragraph (4) of this subsection”.

Subsec. (b)(4), (5). Pub. L. 108–203, §418(b)(1)(B), redesignated par. (5) as (4) and struck out former par. (4), which related to reduction of a husband’s insurance benefit for each month, in certain circumstances, by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the wife for such month which is based upon her earnings while in the service of the Federal Government or any State or political subdivision thereof.

Subsec. (c)(2). Pub. L. 108–203, §418(b)(2), substituted “subsections (k)(5) and (q) of this section” for “subsection (q) of this section and paragraph (4) of this subsection”, and struck out former par. (2), which related to reduction of a husband’s insurance benefit for each month, in certain circumstances, by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the husband for such month which is based upon his earnings while in the service of the Federal Government or any State or political subdivision thereof.

Subsec. (c)(3) to (5). Pub. L. 108–203, §418(b)(2)(A), redesignated pars. (4) and (5) as (3) and (4), respectively. Former par. (4) redesignated (2).


Subsec. (e)(2)(A). Pub. L. 108–203, §418(b)(3)(A), substituted “subsection (k)(5) of this section, subsection (q) of this section,” for “subsection (q) of this section, paragraph (7) of this subsection,”.

Subsec. (e)(7) to (9). Pub. L. 108–203, §418(b)(3)(B), redesignated pars. (8) and (9) as (7) and (8), respectively, and struck out former par. (7), which related to reduction of a widow’s insurance benefit for each month, in certain circumstances, by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the widow for such month which is based upon her earnings while in the service of the Federal Government or any State or political subdivision thereof.


Subsec. (f)(2). Pub. L. 108–203, §418(b)(4)(A)(i), redesignated par. (3) as (2) and struck out former par. (2), which related to reduction of a widow’s insurance benefit for each month, in certain circumstances, by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the widow for such month which is based upon her earnings while in the service of the Federal Government or any State or political subdivision thereof.

Subsec. (f)(2)(A). Pub. L. 108–203, §418(b)(4)(A)(ii), substituted “subsection (k)(5) of this section,” for “subsection (q) of this section, paragraph (2) of this subsection,”.

Subsec. (f)(3), (4). Pub. L. 108–203, §418(b)(4)(A)(iii), redesignated pars. (4) and (5) as (3) and (4), respectively. Former par. (3) redesignated (2).


Subsec. (f)(6) to (9). Pub. L. 108–203, §418(b)(4)(A)(v), redesignated pars. (7) to (9) as (6) to (8), respectively. Former par. (6) redesignated (5).

Subsec. (g)(2). Pub. L. 108–203, §418(b)(5)(A), substituted “Such” for “Except as provided in paragraph (4) of this subsection, such”.

Subsec. (g)(4). Pub. L. 108–203, §418(b)(5)(B), struck out par. (4), which related to reduction of a mother’s or father’s insurance benefit for each month, in certain circumstances, by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the individual for such month which is based upon the individual’s earnings while in the service of the Federal Government or any State or political subdivision thereof.


Pub. L. 108–203, §412(a)(1), substituted “section 1227(a) of title 8 (other than under paragraph (1)(C) of such section) or under section 1182(a)(6)(A) of title 8” for “section 1227(a) of title 8 (other than under paragraph (1)(C) or (1)(E) thereof)” in introductory provisions.


Pub. L. 108–203, §412(a)(2), substituted “section 1227(a) of title 8 (other than under paragraph (1)(C) of such sec-


Subsec. (x)(1). Pub. L. 103–387, §4(a)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Notwithstanding any other provision of this subchapter, no monthly benefits shall be paid under this section or under section 423 of this title to any individual for any month during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense which constituted a felony under applicable law, unless such individual is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for such individual by a court of law and, as determined by the Commissioner of Social Security, is expected to result in such individual being able to engage in substantial gainful activity upon release and within a reasonable time...”

Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary”.


Subsec. (y). Pub. L. 103–296, §321(c)(3), substituted “(other than under paragraph (1)(C) or (1)(E) thereof)” for “(other than under paragraph (1)(C) thereof)” in subpar. (A)(ii), redesignated cl. (ii) as (i) and struck out former cl. (i) which read as follows: “If the Administrator determines was.”

Subsec. (a)(1). Pub. L. 101–239, §10303(a), inserted “and” after comma at end of cl. (i), added cl. (ii), and struck out former cl. (ii) which related to children living with such individual in the United States and receiving at least one-half of support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from substantially all of the period which begins on the date of birth of such child...”

Subsec. (d)(5). Pub. L. 101–239, §10301(a), struck out at end “In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be entitled to both disability insurance and widow’s or widower’s insurance, reductions in benefits for individuals entitled to both disability insurance and widow’s or widower’s insurance, reductions in benefits for individuals age 62 or over who are entitled to both disability insurance and widow’s or widower’s insurance, and reductions in benefits for individuals under age 62 who are entitled to both disability insurance and widow’s or widower’s insurance...”

provided in chapter 84 of title 5 or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Federal Service Act of 1980" for "chapter 84 of title 5".


Subsec. (f)(1)(C). Pub. L. 100–647, § 8010(b)(1), redesignated former cl. (ii) as (iii), former cls. (i) and (ii), and struck out former cl. (i) which read as follows: "has filed application for widower's insurance benefits or was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which she died, and (I) has attained retirement age as defined in section 418(b)(2) of this title or (II) is not entitled to benefits under subsection (a) of this section or section 423 of this title, or".

Subsec. (g)(1)(C)(ii). Pub. L. 100–647, § 8010(b)(1), redesignated former cl. (ii) as (iii), former cls. (i) and (ii), and struck out former cl. (i) which read as follows: "has filed application for widower's insurance benefits or was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which she died, and (I) has attained retirement age as defined in section 418(b)(2) of this title or (II) is not entitled to benefits under subsection (a) of this section or section 423 of this title, or".


Subsec. (j). Pub. L. 100–647, § 8007(b), designated existing provisions as par. (1), inserted "and subject to paragraph (3)," after "Notwithstanding any other provisions of this chapter", struck out "; except that, if thereafter such individual's tax exemption under section 1402(g) ceases to be effective, such waiver shall cease to be applicable in the case of benefits and other payments under this subchapter and part A of subchapter XVIII of this chapter to the extent based on his self-employment income for and after the first taxable year for which such tax exemption ceases to be effective and on his wages for and after the calendar year (if any) which begins in or with the beginning of such taxable year" after "the filing of such waiver", and added pars. (2) and (3).

1987—Subsec. (b)(4). Pub. L. 100–203, § 9007(a), added subpars. (A) and (B), redesignated former subpar. (B) as (C), and struck out former subpar. (A) which read as follows: "The amount of a widow's insurance benefit for each month as determined after application of the provisions of subsections (q) and (k) of this section shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to such widow (or surviving divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 418(b)(2) of this title) if, on the last day she was employed by such entity, such service did not constitute "employment" as defined in section 418(b)(2) of this title for purposes of this subchapter.

Subsec. (d)(2). Pub. L. 100–647, § 8007(d), added subpars. (A) and (B), redesignated former subpar. (B) as (C), and struck out former subpar. (A) which read as follows: "The amount of a widow's insurance benefit for each month as determined after application of the provisions of subsections (q) and (k) of this section shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to such widow (or surviving divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 418(b)(2) of this title) if, on the last day she was employed by such entity, such service did not constitute "employment" as defined in section 418(b)(2) of this title for purposes of this subchapter.

Subsec. (e)(7). Pub. L. 100–203, § 9007(c), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (f)(1). Pub. L. 100–203, § 9010(a), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (f)(2). Pub. L. 100–203, § 9007(e), added subpars. (A) and (B), redesignated former subpar. (B) as (C), and struck out former subpar. (A) which read as follows: "The amount of a widow's insurance benefit for each month (as determined after application of the provisions of subsections (k) and (q) of this section, paragraph (2)(D), and paragraph (3)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to such widow for such month which is based upon her earnings while in the service of the Federal Government or any State (or any political subdivision thereof, as defined in section 418(b)(2) of this title) if, on the last day she was employed by such entity, such service did not constitute "employment" as defined in section 418(b)(2) of this title for purposes of this subchapter.

Subsec. (g)(4). Pub. L. 100–203, § 9007(c), added subpars. (A) and (B), redesignated former subpar. (B) as (C), and struck out former subpar. (A) which read as follows: "The amount of a mother's or father's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k) of this section, paragraph (2)(D), and paragraph (3)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to such individual for such month which is based upon such individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 418(b)(2) of this title) if, on the last day such individual was employed by such entity, such service did not constitute "employment" as defined in section 418(b)(2) of this title for purposes of this subchapter.

Subsec. (h). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (i)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (j)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (k)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (l)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (m)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (n)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (o)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (p)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (q)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (r)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (s)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (t)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (u)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (v)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (w)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (x)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.

Subsec. (y)(1). Pub. L. 100–203, § 9010(b), substituted "36 months" for "15 months" in subcl. (II) of last sentence.


Subsec. (d)(1)(G). Pub. L. 98–369, § 2663(a)(2)(A)(ii), in restructuring subpar. (G), struck out the comma after “age of 18”, substituted a dash for a comma after “the” or “(ii)”, or, subject to section 423(e) of this title, the termi- 

Subsec. (d)(1)(A). Pub. L. 98–369, § 2663(a)(2)(A)(i), substituted “subparagraphs” for “paragraphs” and “paragraph” for “paragraphs” in cl. (ii) of provisions following subpar. (C) and preceding subpar. (D). Subsec. (d)(1)(G). Pub. L. 98–369, § 2663(a)(2)(A)(ii), in restructuring subpar. (G), struck out the comma after “age of 18”, substituted a dash for a comma after “the” or “(ii)”, or, subject to section 423(e) of this title, the termi- 

Subsec. (d)(7)(A). Pub. L. 98–369, § 2663(a)(2)(A)(iii), substituted “the effective date of this sentence” for “the date of enactment of this paragraph” of this title. 

Subsec. (e)(1). Pub. L. 98–369, § 2661(a)(2)(B), in provisions following subpar. (F)(ii), struck out first of two commas following “age 60” and substituted “she engages” for “he engages”. Subsec. (e)(2)(A). Pub. L. 98–369, § 2661(c)(1), substituted “paragraph (7) of this subsection” for “paragraph (3) of this subsection”. Subsec. (e)(2)(C). Pub. L. 98–369, § 2661(c)(2), struck out the period after “if such deceased individual” and in- 


Subsec. (q)(1)(B). Pub. L. 98–369, § 2663(a)(2)(H), struck out “, 622, or 623” after “section 183”. Subsec. (u)(1)(A). Pub. L. 98–369, § 201(c)(1)(A), as amended by Pub. L. 98–369, § 2662(c)(1), substituted reference to retirement age as defined in section 416(l) of this title for reference to age 65 or the age of 65, whichever appearing. Subsec. (b)(1). Pub. L. 98–21, § 201(c)(1)(A), substituted reference to retirement age as defined in section 416(l) of this title for reference to age 65 in two places. Subsec. (b)(3). Pub. L. 98–21, § 307(a), struck out exception in provisions following subpar. (B) that, in the case of such a marriage to an individual entitled to benefits under subsection (d) of this section, the pre- 

Subsec. (b)(3)(A). Pub. L. 98–21, §§ 301(a)(7), 308(a), inserted references to subsecs. (c) and (g), respectively. Subsec. (b)(4)(A). Pub. L. 98–21, § 237(a), substituted “by an amount equal to two-thirds of the amount of any monthly periodic benefit” for “by an amount equal to two-thirds of the amount of any monthly periodic benefit” and inserted provision that the amount of the reduction in any benefit under this subparagraph, if not a multiple of $10, shall be rounded to the next higher multiple of $10. 

Subsec. (c)(1). Pub. L. 98–21, § 301(a)(1), inserted “and every divorced husband (as defined in section 416(d) of this title)” before “of an individual”, and “or such divorced husband” after “if such husband” in provisions preceding subpar. (A). Subsec. (c)(1)(B). Pub. L. 98–21, § 306(d), in provisions following subpar. (D) and preceding subpar. (E), inserted “(subject to subsection (e) of this section)” after “be entitled to”. Subsec. (c)(1)(C). Pub. L. 98–21, § 306(l), amended provisions following subpar. (D) generally, inserting references to a divorced husband and to subpar. (D), designating existing provisions as subpars. (E) to (G) and (J) and (k), adding subpar. (H), and revising subpar. (G). Subsec. (c)(1)(B). Pub. L. 98–21, § 306(e), inserted alternative provisions relating to the case of a husband. Subsec. (c)(1)(C). Pub. L. 98–21, § 301(a)(2)(A), (B), added subpar. (C) and redesignated former subpar. (C) as (D). Subsec. (c)(1)(D). Pub. L. 98–21, § 301(a)(8), substituted “such individual” for “his wife” after “amount of”. Subsec. (c)(1)(I). Pub. L. 98–21, § 301(a)(2)(B), redesignated former subpar. (C) as (D). Subsec. (c)(1)(K). Pub. L. 98–21, § 306(f), added subpar. (I), and redesignated subpar. (J), and redesignated subpars. (I) and (J) and (k), added subpar. (H), and redesignated subpars. (I) and (J) and (k). Subsec. (c)(2)(A). Pub. L. 98–21, § 337(a), substituted “by an amount equal to two-thirds of the amount of any monthly periodic benefit” for “by an amount equal to two-thirds of the amount of any monthly periodic benefit” and inserted provision that the amount of the reduction in any benefit under this subparagraph, if not a multiple of $10, shall be rounded to the next higher multiple of $10. Subsec. (c)(2)(B). Pub. L. 98–21, § 301(a)(6), inserted “or (divorced hus- 


(F).


Subsec. (e)(3). Pub. L. 98–21, § 131(a)(11)(A), redesignated par. (4) as (3) and substituted provision that, for purposes of par. (1), if (A) a widow or surviving divorced wife marries after attaining age 60 (or after attaining age 50 if she was entitled before such marriage occurred to benefits based on disability under this subsection, or (B) a disabled widow or disabled surviving divorced wife described in paragraph (1)(B)(ii) marries after attaining age 50, such marriage shall be deemed not to have occurred, for provision that if a widow, after attaining age 60, married, such marriage would be of purposes of this subchapter after “as defined in section 410 of this title”.

Subsec. (e)(2)(B). Pub. L. 98–21, § 133(a)(1)(A), added subpar. (B) and redesignated former subpar. (B) as (D).

Subsec. (e)(3). Pub. L. 98–21, § 131(a), added subpar. (C) and redesignated former subpar. (B) as (D).

Subsec. (e)(2)(C). Pub. L. 98–21, § 131(a)(1), added subpar. (C) and redesignated former subpar. (B) as (D).

Subsec. (e)(2)(D)(ii). Pub. L. 98–21, § 131(a)(2)(B), inserted “(as determined without regard to subparagraph (C))” after “primary insurance amount”.

Subsec. (e)(4). Pub. L. 98–21, § 131(a)(11)(A), redesignated par. (4) as (3) and substituted provision that, for purposes of par. (1), if (A) a widow or surviving divorced wife marries after attaining age 60 (or after attaining age 50 if she was entitled before such marriage occurred to benefits based on disability under this subsection, or (B) a disabled widow or disabled surviving divorced wife described in paragraph (1)(B)(ii) marries after attaining age 50, such marriage shall be deemed not to have occurred, for provision that if a widow, after attaining age 60, married, such marriage would be of purposes of this subchapter after “as defined in section 410 of this title”.

Subsec. (f)(1). Pub. L. 98–21, § 301(b)(1), inserted “and every surviving divorced husband (as defined in section 410 of this title)” before “of an individual”, and “or such surviving divorced husband” after “if such widow” in provisions preceding subpar. (A).

Subsec. (f)(2). Pub. L. 98–21, § 301(b)(2), substituted “such deceased individual” for “his deceased wife” in provisions following subpar. (F).

Subsec. (g). Pub. L. 98–21, § 301(c)(1)(A), substituted reference to retirement age as defined in section 410 of this title for reference to age 65 in provisions following subpar. (F).

Subsec. (h). Pub. L. 98–21, § 301(c)(2)(A), inserted “and every surviving divorced husband (as defined in section 410 of this title)”.

Subsec. (i)(1)(A). Pub. L. 98–21, § 302, substituted “is not married” for “has not remarried”.

Subsec. (j)(1). Pub. L. 98–21, § 301(b)(3), redesignated former subpar. (A) as (B) and former subpar. (B) as (A).

Subsec. (f)(1)(C)(i). Pub. L. 98–21, § 306(g), designated existing provisions as cl. (i). Pub. L. 98–21, § 201(c)(1)(A), inserted “such deceased individual” for “his deceased wife”. Pub. L. 98–21, § 131(b)(2)(A), inserted “as determined without regard to subparagraph (C)” after “primary insurance amount”. Subsec. (f)(1)(D). Pub. L. 98–21, § 201(c)(1)(A), which directed the substitution of “retirement age as defined in section 416(l) of this title” for “age 65” in cl. (i) was executed to those provisions after the execution of section 306(g) of Pub. L. 98–21 as the probable intent of Congress.


Pub. L. 98–21, § 131(b)(3)(D), substituted reference to par. (4) for reference to par. (5). Pub. L. 97–455, § 7(c), inserted “for purposes of this subsection” after “as defined in section 419 of this title”.

Subsec. (f)(3)(A). Pub. L. 98–21, § 131(b)(1)(B), amended subpar. (A) generally. Prior to the amendment of subpar. (A) as read as follows: “Except as provided in subsection (q) of this section, paragraph (2) of this subsection, and subparagraph (B) of this paragraph, such widower’s insurance benefit for each month shall be equal to the primary insurance amount (as determined after application of the following sentence) of his deceased wife. If such deceased individual was (or upon application would have been) entitled to an old-age insurance benefit which was increased (or subject to being increased) on account of delayed retirement under the provisions of subsection (w) of this section, then, for purposes of this subsection, such individual’s primary insurance amount, if less than the old-age insurance benefit increased, where applicable, under section 415(f)(5), 415(f)(6), or 415(f)(9)(B) of this title and under section 423(a) of this title or subsec. (d), the provisions preceding subpar. (A) are to be applied to such individual in the case of an individual who has died (which she was receiving (or would upon application have received) for the month prior to the month in which she died, shall not be deemed to be equal to such old-age insurance benefit, and (notwithstanding the provisions of paragraph (3) of subsection (w) of this section) the number of increment months shall include any month in the months of the calendar year in which she died, prior to the month in which the conditions to which the provisions of paragraph (2) of subsection (w) of this section.”


Pub. L. 98–21, § 301(b)(5), substituted “individual” for “wife” wherever appearing.


Pub. L. 98–21, § 131(b)(1)(3)(A), redesignated par. (5) as (4), and amended par. (4) so as redesignated generally, substituting provision that for purposes of par. (1), if a widower married after attaining age 60 (or after attaining age 50 if entitled before such marriage occurred to benefits based on disability under this subsection), or a disabled widower described in paragraph (1)(B)(ii) married after attaining age 50, such marriage would be deemed not to have occurred, for provision that if a widower married after attaining age 60, such marriage would be deemed not to have occurred for purposes of par. (1). Former par. (5) which had provided that if a widower, before attaining age 60, remarried an individual entitled to benefits under subsec. (b), (e), (g), or (h) or an individual who had attained the age of eighteen and was entitled to benefits under subsec. (d), such widower’s entitlement to benefits under this subsection would, notwithstanding the provisions of par. (1) of this subsection but subject to subsec. (e), not be terminated by reason of such marriage, was struck out.


Subsec. (f)(5)(B), (C). Pub. L. 98–21, § 306(b), added subpar. (B) and redesignated former subpar. (B) as (C).


Subsec. (g). Pub. L. 98–21, § 306(a)(7), inserted “or father’s” after “mother’s” wherever appearing.

Subsec. (g)(1). Pub. L. 98–21, § 306(a)(8), struck out “after August 1960” after “beginning with the first month” in provisions following subpar. (F).

Pub. L. 98–21, § 306(a)(1), (2), (5), (6), substituted “surviving spouse” for “widow”, “surviving spouse’s” for “widow’s”, “he or she” for “her”, and “parent” for “mother”, wherever appearing.

Subsec. (g)(1)(D). Pub. L. 98–21, § 306(a)(3), substituted “a spouse’s insurance benefit” for “wife’s insurance benefit” and “such individual” for “he”. Subsec. (g)(1)(E), (F)(i). Pub. L. 98–21, § 306(a)(4), substituted “his or her” for “her”.

Subsec. (g)(3). Pub. L. 98–21, § 307(a), struck out exception in provisions following subpar. (B) that in the case of such a marriage to an individual entitled to benefits under section 423(a) of this title or subsec. (d), the preceding provisions of this paragraph would not apply for months for which such individual was entitled to such benefits under section 423(a) of this title or subsec. (d) unless he ceased to be so entitled by reason of his death, or in the case of an individual entitled to benefits under section 423(a) of this title, he was entitled, for the month following such last month, to benefits under subsec. (a).

Pub. L. 98–21, § 306(a)(1), (6), substituted “surviving spouse” for “widow” and “parent” for “mother” wherever appearing.

Subsec. (g)(3)(A). Pub. L. 98–21, § 306(a)(9)(B), inserted reference to this subsection and subsec. (b) and (e).

Pub. L. 98–21, § 301(b)(6), inserted reference to subsec. (c).

Subsec. (g)(4)(A). Pub. L. 98–21, § 337(a), substituted “by an amount equal to two-thirds of the amount of any monthly periodic benefit” for “by an amount equal to the amount of any monthly periodic benefit”, and
inserted provision that the amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

Pub. L. 97–455, §7(c), inserted "for purposes of this subsection paragraph (9) and (10)" after "as defined in section 410 of this title.

Subsec. (h)(4). Pub. L. 98–21, §307(a), struck out exception in provisions following subpar. (B) that in the case of such a marriage to a male individual entitled to benefits under subsec. (d), the preceding provisions of this paragraph would not apply with respect to benefits for months after the last month for which such individual was entitled to such benefits under subsec. (d) unless he ceased to be so entitled by reason of his death.


Subsec. (j)(4)(B)(iii) to (v). Pub. L. 98–21, §334(a), added cl. (iii) and redesignated former cls. (iii) and (iv) as (iv) and (v), respectively.

Subsec. (k)(2)(B), (3)(B). Pub. L. 98–21, §131(b)(3)(P), (G), substituted references to subsecs. (e)(3) and (f)(4) for references to subsecs. (e)(4) and (f)(5), respectively, wherever appearing.

Subsec. (m). Pub. L. 98–21, §111(a)(7), 134(b), in par. (1) substituted "November" for "May" and in par. (2)(B) substituted "subsection (q)(6)(B)" for "subsection (q)(6)(A)(ii)", as subsec. (m) [notwithstanding its repeal by Pub. L. 97–123] continues to apply in certain cases by reason of section 2(j)(2)–(4) of Pub. L. 97–123, set out as an Effective Date of 1981 Amendment note under section 415 of this title. As thus amended subsec. (m) would read as follows:

"(1) In any case in which an individual is entitled to a monthly benefit under this section on the basis of a primary insurance amount computed under section 415(a) or (d) of this title, as in effect after December 1978, on the basis of the wages and self-employment income of a deceased individual for any month and no other person is (without the application of subsection (j)(1) of this section) entitled to a monthly benefit under this section for that month on the basis of such wages and self-employment income, the individual's benefit amount for that month, prior to reduction under subsection (k)(3) of this section, shall be not less than that provided by subparagraph (C)(1)(A) of section 415(a)(1) of this title for months after November of the year in which the insured individual died as though such benefit were a primary insurance amount.

"(2) In the case of any such individual who is entitled to a monthly benefit under subsection (e) or (f) of this section, such individual's benefit amount, after reduction under subsection (q)(1) of this section, shall be not less than

"(A) $84.50, if his first month of entitlement to such benefit is the month in which such individual attainted age 62 or a subsequent month, or

"(B) $84.50 reduced under subsection (q)(1) of this section as if retirement age as specified in subsection (q)(9) of this section were age 62 instead of the age specified in subsection (q)(9) of this section, if his first month of entitlement to such benefit is before the month in which he attained age 62.

"(3) In the case of any individual whose benefit amount was computed (or recomputed) under the provisions of paragraph (2) and such individual was entitled to benefits under subsection (e) or (f) of this section for a month prior to any month after July 1972 for which a general benefit increase under this subchapter (as defined in section 415(i)(3) of this title) or a benefit increase under section 415(i) of this title becomes effective, the benefit amount of such individual as computed under paragraph (2) without regard to the reduction specified in subparagraph (B) thereof shall be increased by the percentage increase applicable for such benefit increase, prior to the application of subsection (q)(1) of this section pursuant to paragraph (2)(B) and subsection (q)(4) of this section.

Subsec. (q)(1). Pub. L. 98–21, §301(b)(2), substituted "Subject to paragraph (9), if " for "I" at beginning of par. (1).

Pub. L. 98–21, §134(a)(1), struck out provisions following subpar. (B)(ii) which directed that in the case of a widow or widower whose first month of entitlement to widow's or widower's insurance benefit was a month before the month in which such widow or widower attained age 60, such benefit, reduced pursuant to preceding provisions of this paragraph (and before the application of the second sentence of paragraph (8)), had to be further reduced by 4.5% of 1 percent of the amount of such benefit, multiplied by the number of months in the additional reduction period for such benefit (determined under paragraph (8)(B)), if such benefit was for a month before the month in which such individual attained age 62, or if less, the number of months in the additional adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit was for the month in which such individual attained age 62 or any month thereafter.

Subsec. (q)(1)(B)(i). Pub. L. 98–21, §134(a)(2)(C), substituted "paragraph (6)" for "paragraph (6)(A)".

Subsec. (q)(2). Pub. L. 98–21, §134(c)(1)(A), substituted reference to retirement age as defined in section 416(l) of this title for reference to age 65.


Pub. L. 98–21, §134(c)(1)(A), as amended by Pub. L. 98–369, §2902(c)(1), substituted reference to retirement age as defined in section 416(l) of this title for reference to age 65.

Subsec. (q)(3)(E). Pub. L. 98–21, §309(b), inserted "or surviving divorced husband" after "widower".

Pub. L. 98–21, §134(a)(2)(C), substituted "paragraph (6)" for "paragraph (6)(A)(i)", (e)(6)(B), inserted "or surviving divorced husband" after "widower".

Pub. L. 98–21, §134(a)(2)(B), substituted "paragraph (6)" for "paragraph (6)(A)(i)" (or, if such paragraph does not apply, the period specified in paragraph (6)(B)) in titles.

Subsec. (q)(5). Pub. L. 98–21, §309(c)(4), substituted "he or she" for "she" wherever appearing.

Pub. L. 98–21, §309(c)(4), inserted "or husband's" after "wife's" wherever appearing.

Subsec. (q)(5)(A)(i). Pub. L. 98–21, §309(c)(2), substituted "him or her" for "her".

Subsec. (q)(5)(A)(ii). Pub. L. 98–21, §309(c)(3), substituted "the" for "her" after "income".

Subsec. (q)(5)(B)(i). Pub. L. 98–21, §309(c)(6), substituted "the individual" for "the woman".

Subsec. (q)(5)(C). Pub. L. 98–21, §309(c)(6), substituted an "individual" for an "individual".

Pub. L. 98–21, §309(c)(4)(A), substituted "individual" for "a woman".

Pub. L. 98–21, §309(c)(4)(B), substituted "his or her" for "her".

Pub. L. 98–21, §201(c)(1)(A), substituted reference to retirement age as defined in section 416(l) of this title for reference to age 65 wherever appearing.

Subsec. (q)(5)(D). Pub. L. 98–21, §309(c)(7), inserted "or widower's" after "widower's", substituted "spouse's" for "husband" wherever appearing, substituted "spouse's" for "husband's" wherever appearing, and inserted "or father's" after "mother's".

Pub. L. 98–21, §309(c)(5), substituted "his or her" for "her" in three places.

Subsec. (q)(6). Pub. L. 98–21, §134(a)(2)(A), amended par. (6) generally, striking out subpar. (A) after "this subsection and redesignated cl. (1) as cl. (A), in subpar. (A) as so redesignated, redesignated subcls. (I) to (III) as cls. (i) to (iii), respectively, redesignated former cl. (1) as cl. (A), and struck out former subpar. (B), which had provided that the "additional reduction period" for an individual's widow's or widower's insurance benefit was the period beginning with the first day of the first month for which such individual was entitled to such benefit, if such individual had not attained age 60 in such first month, and ending with the last day of the month be-
fore the month in which such individual attained age 60. Subsec. (q)(6)(A)(i). Pub. L. 98–21, § 309(d)(1), struck out "or husband's" after "old-age"
Subsec. (q)(6)(A)(ii). Pub. L. 98–21, § 309(d)(1), inserted "or husband's" after "wife's"
Subsec. (q)(7). Pub. L. 98–21, § 134(a)(3), amended provi-
sion defining "elementary or secondary school" generally, substituting refer-
ce to par. (6) for reference to par. (6)(A), and striking out provision that the additional adjusted reduc-
tion period for an individual's, widow's, or widower's insurance benefit was the additional reduction period prescribed by par. (6)(B) for such benefit, with the same exclusions as from the adjusted reduction period.
Subsec. (q)(7)(B). Pub. L. 98–21, § 309(d)(2)(A), inserted "or individual" for "she", and inserted "his or" before "her"
Subsec. (q)(7)(D). Pub. L. 98–21, § 309(d)(2)(B), inserted "or widower's" after "widow's"
Subsec. (q)(9). Pub. L. 98–21, § 201(b)(1), amended par. (9) generally, substituting provisions defining the amount of reduction for early retirement specified in par. (1) for provision that, for purposes of this subsection, the term "retirement age" meant age 65
Subsec. (q)(10). Pub. L. 98–21, § 134(a)(4)(A), in that part of second sentence preceding cl. (A) struck out "or an additional adjusted reduction period" after "the use of an adjusted reduction period"
Subsec. (q)(10)(B)(ii). Pub. L. 98–21, § 134(a)(4)(B), struck out ", plus the number of months in the ad-
justed additional reduction period multiplied by \( \frac{12}{240} \) of 1 percent" before "to (ii)"
Subsec. (q)(10)(B)(ii). Pub. L. 98–21, § 134(a)(4)(C), struck out "plus the number of months in the ad-
justed additional reduction period multiplied by \( \frac{5}{240} \) of 1 percent," after "1 percent"
Subsec. (q)(10)(C). Pub. L. 98–21, § 201(c)(1)(A), substituted reference to retirement age as defined in section 416(l) of this title for reference to age 65
Subsec. (q)(10)(C)(i). Pub. L. 98–21, § 134(a)(4)(B), struck out ", plus the number of months in the adjusted additional reduction period multiplied by \( \frac{5}{240} \) of 1 percent" before "to (ii)"
Subsec. (q)(10)(C)(i). Pub. L. 98–21, § 134(a)(4)(D), struck out "plus the number of months in the adjusted additional reduction period multiplied by \( \frac{5}{240} \) of 1 percent" after "1 percent"
Subsec. (r)(1), (2). Pub. L. 98–21, § 201(c)(1)(A), substituted reference to retirement age as defined in section 416(l) of this title for reference to age 65
Subsec. (s). Pub. L. 98–21, § 309(e)(1), inserted refer-
ce to subsec. (c)(1)
Subsec. (s)(2). Pub. L. 98–21, § 309(e)(2), inserted refer-
ce to subsec. (c)(4)
Pub. L. 98–21, § 131(c)(1), substituted "So much of sub-
sections (b)(3), (d)(5), (g)(3), and (h)(4)" for "Subsection (f)(4) and so much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4)"
Subsec. (s)(3). Pub. L. 98–21, § 309(e)(3), substituted "The last sentence" for "So much of subsections (b)(3),
(d)(5), (g)(3), and (h)(4) of this section as follows the semicolon, the last sentence".
Pub. L. 98–21, § 131(c)(2), struck out "(e)(3)" after "(d)(5)"
Subsec. (t)(1), (4). Pub. L. 98–21, § 340(b), substituted "Subject to paragraph (11), paragraph (1)" for "Paragraph (1)"
Subsec. (w)(1)(A). Pub. L. 98–21, § 114(a), substituted a definition of the multiplicant as the applicable per-
centage (as determined under paragraph (6)) of such amount for a definition of the multiplicant as \( \frac{1}{2} \) of 1 percent of such amount, or, in the case of an individual who first becomes eligible for an old-age insurance ben-
efit after December 1978, one-quarter of 1 percent of such amount.
Subsec. (w)(2)(A). Pub. L. 98–21, § 201(c)(1)(A), substi-
tuted reference to retirement age as defined in section 416(l) of this title for reference to age 65
Pub. L. 98–21, § 114(c)(1), substituted "age 70" for "age 72"
Subsec. (w)(3). Pub. L. 98–21, § 114(c)(1), substituted "age 70" for "age 72"
Subsec. (w)(6). Pub. L. 98–21, § 114(b), added par. (6)
duted in provision following par. (3) provision specifying the beginning month of entitlement in the case of an individual who has attained age 65 and in the case of an individual who has attained the age of 62, but not the age of 65, for provision specifying the beginning month of entitlement as the first month after August 1950 in which the individual becomes entitled.
Subsec. (b)(1). Pub. L. 97–35, § 220(b)(1), substituted in provision following subpar. (D) provision specifying the beginning month of entitlement in the case of a wife or divorced wife who has not attained the age of 65 or of an individual entitled to disability insurance benefits for provision specifying the beginning month of entitlement in the case of an individual who has attained age 65 and in the case of a wife or divorced wife who has not attained the age of 65 or of an individual entitled to disability insurance benefits for provision specifying the beginning month of entitlement as the first month after August 1950 in which he becomes entitled.
Subsec. (d)(1). Pub. L. 97–35, §§ 220(b)(1), 2210(a)(1), (5)(A), substituted in subpars. (B)(i), (D)(ii), (F)(i), and (G)(III) "full-time elementary or secondary school stu-
dent for "full-time student", in subpars. (B)(i), (F)(ii), and (G)(IV) "19" for "22", and in provision following subpar. (C) provision specifying the beginning month of entitlement of a child of an individual who has died and of a child of an individual entitled to an old-age insurance benefit or a disability insurance ben-
efit for provision specifying the beginning month of entitlement as the first month after August 1950 in which such child becomes entitled to bene-
tage.
tuted "full-time elementary or secondary school student and has not attained the age of 19, or (ii) is under a disability (as defined in section 423(d) of this title) and has not attained the age of 22" for "full-time student or is under a disability (as defined in section 423(d) of this title), and (ii) had not attained the age of 22".
Subsec. (d)(6)(D), (E). Pub. L. 97–35, §§ 2210(a)(3), (4)(A), substituted in cl. (i) "full-time elementary or second-
ary school student" for "full-time student" and in cl. (ii) "19" for "22".
Subsec. (d)(7)(A). Pub. L. 97–35, §§ 220(d)(2), 2210(a)(1), (2), substituted "full-time elementary or secondary school student" for "full-time student" wherever appearing, "elementary or secondary school" for "educational institution" wherever appearing, and "schools involved" for "institutions involved" and inserted provi-
sion that an individual who is determined to be a full-
time elementary or secondary school student be deemed to be such a student throughout the month with respect to which such determination is made.
tuted "full-time elementary or secondary school student" for "full-time student" and "elementary or second-
ary school" for "educational institution" wherever appearing.
Subsec. (d)(7)(C). Pub. L. 97–35, § 2210(a)(3), substituted provision defining "elementary or secondary school" and provision that for the purpose of determining whether a child is a "full-time elementary or secondary school student" or "intends to continue to be in full-
time attendance at an elementary or secondary school" there be disregarded any education provided, or to be provided, beyond grade 12 for provision defining the term "educational institution".
or secondary school student" for "full-time student", "diploma or equivalent certificate from a secondary school (as defined in subparagraph (C)(i))" for "degree from a four-year college or university", "elementary or secondary school" for "educational institution".


Subsec. (c)(1). Pub. L. 95–216, § 330(1)(i), struck out subpart (B) inserted "and" after "62."

Subsec. (c)(2). Pub. L. 95–216, § 330(1)(i), substituted provisions relating to reduction of the amount of the husband's insurance benefit for each month as determined after application of the provisions of subsec. (a) and (k) of this section for provisions relating to applicability of provisions of former subsec. (c)(1)(C) of this section, as subject to subsec. (a) of this section.

Subsec. (c)(3). Pub. L. 95–216, § 334(b)(3), inserted reference to par. (2) of this subsection.

Subsec. (e)(2)(A). Pub. L. 95–216, § 204(a), substituted "living and section 415(f)(5) or (6) of this title were applied, where applicable, and for "living, and."

Subsec. (e)(3). Pub. L. 95–216, § 338(a)(2), substituted "If a widow, before attaining age 60, or a surviving divorced wife," for "In the case of a widow or surviving divorced wife who".

Subsec. (e)(4). Pub. L. 95–216, § 338(a)(3), struck out reference to an individual (other than one described in subsec. (e)(3)(A) or (B) of this subsection) as the husband, and provisions relating to benefits during the marriage.


Subsec. (f)(1). Pub. L. 95–216, § 334(d)(1), struck out subpar. (D) which related to receipt of support by the widower in accordance with regulations promulgated by the Secretary, and redesignated former subpars. (E) to (G) as to (F), respectively.

Subsec. (f)(2). Pub. L. 95–216, § 334(d)(2), substituted provisions relating to reduction of the amount of the widower's insurance benefit for each month as determined after application of the provisions of subsec. (k) and (q) of this section and pars. (3)(B) and (5) of this subsec., for provisions relating to applicability of former subsec. (f)(1)(D) of this section, as subject to subsec. (e)(3)(A).

Subsec. (f)(3)(A). Pub. L. 95–216, §§ 204(c), 334(d)(3), 336(b)(1), inserted "(as determined after application of the following sentence)" after "primary insurance amount", provisions relating to entitlement to monthly benefits ceased to an old-age insurance benefit which was increased or was to be increased on account of delayed retirement, and substituted reference to par. (b) of this subsection, and struck out reference to par. (4) of this subsection.


Subsec. (f)(4). Pub. L. 95–216, § 336(b)(2), substituted "If a widow, before attaining age 60," for "In the case of a widower who".

Subsec. (f)(5). Pub. L. 95–216, § 336(b)(3), struck out reference to an individual (other than one described in subsec. (f)(4)(A) or (B) of this section) as the wife, and provisions relating to benefits during the marriage.


Subsec. (g)(2). Pub. L. 95–216, § 334(e)(1), substituted "Except as provided in paragraph (4) of this subsection, such" for "Such".


Subsec. (j)(1). Pub. L. 95–216, § 330(1)(i), substituted "Subject to the limitations contained in paragraph (4) of this subsection, an" for "An".


Subsec. (m)(1). Pub. L. 95–216, § 205(a), substituted provisions relating to entitlement to monthly benefits under this section on the basis of primary insurance.
amounts computed under section 415(a) or (d) of this title as in effect after Dec., 1978, for provisions relating to entitlement to monthly benefits under this section on the basis of wages and self-employment income of deceased individuals for any month.

Subsec. (p)(1). Pub. L. 95–216, §334(d)(5), struck out references to subsecs. (c)(1)(C) and (f)(1)(D)(i) or (ii) of this section.

Subsec. (q)(3)(H). Pub. L. 95–216, §331(c)(2), inserted “‘for that month or” after “first entitled”.

Subsec. (q)(4). Pub. L. 95–216, §331(a), substituted provisions setting forth factors for the computation of the amount of the reduction of the benefit for each month beginning with the month of the increase in the primary insurance amount, after application of any adjustment under par. (7) of this subsec., for provisions setting forth factors for the computation of the amount of the reduction of the benefit for each month.

Subsec. (q)(7)(C). Pub. L. 95–216, §331(c)(1), substituted “of the occurrence of an event that terminated her or his entitlement to such benefits” for “for the spouse on whose wages and self-employment income such benefits were based ceased to be under a disability”.

Subsec. (q)(10), (11). Pub. L. 95–216, §331(b), added pars. (10) and (11).

Subsec. (s)(3). Pub. L. 95–216, §334(d)(6), substituted “‘So’ for “Subsections (c)(2)(B) and (f)(2)(B) of this section, so””.

Subsec. (u)(1)(C). Pub. L. 95–216, §331(c)(1), substituted “The amount of an old-age insurance benefit (other than a benefit based on a primary insurance amount determined under section 415(a)(3) of this title) which is payable without regard to section 415(a)(3) of this title) which is payable without regard to this subsection to such individual”.


Subsec. (w)(5). Pub. L. 95–216, §203(2), (3), inserted “as in effect in December 1978 or section 415(a)(1)(C)(i)(II) of this title as in effect thereafter” which is payable without regard to this subsection to an individual” for “If the first month for which an old-age insurance benefit becomes payable to an individual is not earlier than the month in which such individual attains age 66 (or his benefit payable at such age is not reduced under section (u) of this section), the amount of the old-age insurance benefit (other than a benefit based on a primary insurance amount determined under section 415(a)(3) of this title) which is payable without regard to this subsection to such individual”.


Subsec. (w)(5). Pub. L. 95–216, §203(2), (3), inserted “as in effect in December 1978, or section 415(a)(1)(C)(i)(II) of this title as in effect thereafter,” after “(3) of section 415(a) of this title” and “(whether before, in, or after December 1978)” after “under section 415(a) of this title”.

1974—Subsec. (l). Pub. L. 93–445 substituted “annuity under section 2 of the Railroad Retirement Act of 1974,” or to a lump-sum payment under section 6(b) of such Act unless the facts with respect to the death of an employee (as defined in such Act)” for “annuity under section 5 of the Railroad Retirement Act of 1937 or to a lump-sum payment under subsection (f)(1) of such section with respect to the death of an employee (as defined in such Act)”.


Subsec. (f)(8). Pub. L. 93–233, §1(g), added par. (8).


1972—Subsec. (a). Pub. L. 92–603, §106(b), inserted reference to subsection (w) of this section.

Subsec. (b)(1). Pub. L. 92–603, §114(a), struck out subpart. (D) which covered support aspects involved with a surviving divorced wife and designated subpars. (E) through (G) as subpars. (D) through (F), respectively.


Subsec. (f)(1). Pub. L. 92–603, §§102(b)(1), 107(a)(1), (2), substituted “age 60” for “age 62” in subpart (B). (B) of this section, and substituted “the primary insurance amount for ‘82% percent of the primary insurance amount’” in subpart (E) and provisions following subpart (G), substituted “and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) of this section or section 423 of this title, at end of subpart (C), and substituted “age 65” for “age 62” and inserted “,if he became entitled to such benefits before he attained age 66,” before “the third month” in provisions following subpart (G).

Subsec. (f)(3). Pub. L. 92–603, §102(b)(2), designated existing provisions as subpart. (A), added subpar. (B), in subpar. (A) as so designated inserted reference to subpar. (B) of this par., and substituted “the primary insurance amount” for “82% percent of the primary insurance amount”.

Subsec. (f)(5). Pub. L. 92–603, §105(a)(3), substituted “the age of 60” for “the age of 62”.


Subsec. (g)(1)(F). Pub. L. 92–603, §114(c), struck out cl. (i) covering the support aspects of a surviving divorced mother and redesignated cl. (ii) and (iii) as cl. (i) and (ii), respectively.

Subsec. (k)(2)(A). Pub. L. 92–603, §110(a), inserted provisions establishing exceptions to rule that a child’s benefits in the case where the child is entitled on more than one wage record shall be based on wages and self-employment of the insured individual with greatest primary insurance amount.

Subsec. (k)(3)(A). Pub. L. 92–603, §102(d), inserted reference to subsection (o)(2) or (f)(3) of this section.

Subsec. (m). Pub. L. 92–603, §102(f), amended subsec. (m) generally to increase the minimums on survivor’s benefits.

Subsec. (q)(1). Pub. L. 92–603, §102(e)(1), generally provided for an increase in widow’s and widower’s insurance benefits through the insertion of provisions covering such benefits in subpar. (A), and in provisions preceding subpar. (C), and through the substitution of a fraction in subpar. (C) for a fraction.

Subsec. (q)(3). Pub. L. 92–603, §102(e)(2), (5), redesignated existing provisions of subpars. (E)(1) and (F)(1) as subcls. (1) and (2) and in subcls. (1) of each such subpar. as so redesignated substituted “would be reduced under paragraph (1) if the period specified in paragraph (6)(B) ended with the month before the month in which she or he attained age 62” for “was reduced for the month in which such individual attained retirement age”, substituted in subpar. (G) “as if the period specified in paragraph (6)(B) ended with the month before” for “had such individual attained age 62 in”, and added subpar. (H).

Subsec. (q)(7). Pub. L. 92–603, §102(e)(3), divided existing source references for “adjusted reduction period” and “additional adjusted reduction period” into separate references to subpars. (A) and (B) of par. (6) in the provisions preceding subpar. (A) and, in subpar. (E), substituted “attained age 62, and also for any later month before the month in which he attained retirement age,” for “attained retirement age”.

Subsec. (q)(9). Pub. L. 92–603, §102(e)(4), struck out provisions which had set age 62 as the meaning of “retirement age” with respect to a widow’s and widower’s insurance benefits.

Subsec. (a). Pub. L. 92–603, §108(e), struck out “which began before he attained such age” after “disability (as defined in section 423(d) of this title)”; in par. (1) and struck out “which began before such child attained the age of 18” after “disability (as defined in section 423(d) of this title)” in pars. (2) and (3).


Subsec. (i)(4). Pub. L. 92–223, §1(a), (b), redesignated former cl. (3) as (4) and included reference to cl. (3) in the second sentence.

Subsec. (b)(2). Pub. L. 91–172, §104(c), removed $105 ceiling on insurance benefits of wives.

Subsec. (c)(3). Pub. L. 91–172, §104(a), removed $105 ceiling on insurance benefits of husbands.


Subsec. (d)(1)(B). Pub. L. 90–248, §158(c)(1), substituted “section 423(d)” for “section 423(c)”.

Subsec. (d)(3). Pub. L. 90–248, §151(a), inserted in first sentence “or his mother or adopting mother” after “adopting father”, and struck out in second sentence, “if such individual is the child’s father,” after “title shall”.


Subsec. (d)(5) to (8). Pub. L. 90–248, §151(c), struck out former par. (5) which provided that “(i) where a child is deemed dependent on his mother or adopting mother if she is currently insured, and (2) a child is deemed dependent on a mother who is not currently insured only if she is contributing one-half of the child’s support or, if the child is not living with his father nor being supported by him, only if she is then living with or supporting the child, and redesignated former pars. (6) to (9) as (5) to (8), respectively.

Subsec. (d)(8). Pub. L. 90–248, §§112(a), 151(c), added subpar. (E) and redesignated former par. (9) as (8), respectively. Former par. (8) redesignated (7).

Subsec. (d)(9). Pub. L. 90–248, §151(c), (d)(1), redesignated former par. (10) as (9) and substituted “paragraph (8)” for “paragraph (9)”. Former par. (9) redesignated (8).

Subsec. (d)(10). Pub. L. 90–248, §151(c), redesignated former par. (10) as (9).

Subsec. (e)(1). Pub. L. 90–248, §104(a)(2), set out part of text formerly following subpar. (E) after subpar. (G) and inserted therein: “or, if she became entitled to such benefits before she attained age 60, the third month following the month in which her disability ceases (unless she attains age 62 on or before the last day of such third month)”.

Subsec. (e)(1)(B). Pub. L. 90–248, §104(a)(1), provided that a widow or surviving divorced wife may become entitled to widow’s insurance benefits if she is disabled and her disability began within the period specified in subsec. (e)(5) even though she has not attained age 60.

Subsec. (e)(1)(F). Pub. L. 90–248, §104(a)(2), designated part of material formerly following subpar. (E) as subpar. (F) and inserted provision requiring satisfaction with subpar. (B) clause (1).


Subsec. (e)(4). Pub. L. 90–248, §103(c), provided that a remarried widow’s insurance benefit may not exceed $105.


Subsec. (f)(1). Pub. L. 90–248, §157(b)(1), struck out in text preceding subpar. (A) “and currently” before “insured individual” and in cl. (ii) of subpar. (D) “, and she was a currently insured individual,” after “from such individual”.

Subsec. (f)(1)(B). Pub. L. 90–248, §104(b)(1), provided that a dependent widowed may become entitled to widower’s insurance benefits if he is disabled and his disability began within the specified period even though such individual has not attained age 62.

Subsec. (f)(1)(C). Pub. L. 90–248, §104(b)(2), set out part of text formerly following subpar. (E) after subpar. (G) and inserted: “or the third month following the month in which his disability ceases (unless she attains age 62 on or before the last day of such third month)”.

Subsec. (f)(1)(F). Pub. L. 90–248, §104(b)(2), designated part of text formerly following subpar. (F) as subpar. (F) and inserted provision requiring satisfaction with subpar. (B) clause (1).


Subsec. (f)(2). Pub. L. 90–248, §157(b)(2), substituted in text preceding subpar. (A) “The provisions of subparagraph (D) of his subsection” for “The requirement in paragraph (1) of this subsection that the deceased fully insured individual also be a currently insured individual, and the provisions of subparagraph (D) of such paragraph”.

Subsec. (f)(6), (7). Pub. L. 90–248, §104(b)(4), added pars. (6) and (7).

Subsec. (q). Pub. L. 90–248, §104(c)(1), substituted “Reduction of benefit amounts for certain beneficiaries for second period of old-age, disability, wife’s, husband’s, or widow’s insurance benefit amounts” in heading.

Subsec. (q)(1). Pub. L. 90–248, §104(c)(2)–(4), substituted “widower’s” for “or widower’s” in text preceding subpar. (A), “widower’s or widow’s” for “or widow’s” in subpar. (A), and added subpar. (C) and (D) provisions for further reduction of a widow’s or widower’s insurance benefit.

Subsec. (q)(3)(A). Pub. L. 90–248, §104(c)(5), substituted “widower’s or widow’s” for “or widow’s” wherever appearing.

Subsec. (q)(3)(D). Pub. L. 90–248, §104(c)(7), substituted “widower’s or widow’s” for “or widow’s”.

Subsec. (q)(3)(E). Pub. L. 90–248, §104(c)(8), inserted “in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower” after “(e)(1) of this section”, and “or he” after “she”, and substituted “widow’s or widower’s” for “widower’s” wherever appearing.

Subsec. (q)(3)(F). Pub. L. 90–248, §104(c)(9), inserted “in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower” after “(e)(2) of this section”, and “or he” after “she”, and substituted “widow’s or widower’s” for “widower’s” wherever appearing.

Subsec. (q)(3)(G). Pub. L. 90–248, §104(c)(10), inserted “in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower” before “(e)(3) of this section”, and “or she” before “he”, and substituted “widow’s or widower’s” for “widower’s” wherever appearing.

Subsec. (q)(6). Pub. L. 90–248, §104(c)(11), extended definition of “reduction period” to apply to widow’s insurance benefit, inserted second alternative in subpar. (A)(i) that the reduction period for a widow’s or widower’s insurance benefit begins with the “first day of the month in which such individual attains age 60, whichever is the later”, substituted paragraph “(5)” for “(4)” in item (II) of subpar. (A)(i), and added subpar. (B).

Subsec. (q)(7). Pub. L. 90–248, §104(c)(12), in text preceding subpar. (A), inserted “or additional adjusted reduction period” after “the adjusted reduction period”, “or additional reduction period (as the case may be)” after “the reduction period”, and substituted “widower’s, or widow’s” for “or widow’s”, and in subpar. (E) substituted “widower’s or widow’s” “she or he”, and “her or his” for “widower’s”, “she”, and “her”, respectively.


Subsec. (s). Pub. L. 90–248, §158(c)(2), substituted “section 423(d)” for “section 423(c)” in pars. (1) to (3).


Subsec. (t)(1). Pub. L. 90–248, §162(a)(1), provided that “For purposes of the preceding sentence, after an individual has been outside the United States for any period of thirty consecutive days he shall be treated as remaining outside the United States until he has been in the United States for a period of thirty consecutive days.”

Subsec. (t)(4). Pub. L. 90–248, §162(b)(1), provided for exception to application of subpars. (A) and (B) of par. (4).


1965—Subsec. (b)(1). Pub. L. 89–97, §308(a), made provisions applicable to divorced wife by inclusion of references to divorced wife in provisions preceding subpar. (A), substituted “such individual” for “her husband” in subpars. (B), (E), (G), (J) to (L); inserted in subpar. (B) “(in the case of a widow)” after “age 62 or”; added subpars. (C) and (D); redesignated former subpar. (C) as (E); in provisions after subpar. (E), inserted “subject to subsection (s) of this section” and struck out “after August 1950” after “begins with the first month that the deceased individual was entitled to receive” in designated existing provisions as subpars. (F), (G), (J) to (L); and substituted provisions designated as subpars. (H) and (I) for former provisions reading “they are divorced from a divorced wife”的.

Subsec. (b)(2). Pub. L. 89–97, §308(a), inserted “(or, in the case of a divorced wife, her former husband)”.

Subsec. (b)(3). Pub. L. 89–97, §308(a), added par. (3).

Subsec. (c)(1). Pub. L. 89–97, §308(d)(1), substituted “divorced” for “divorced from a divorced wife” in provisions following subpar. (D).

Subsec. (c)(2). Pub. L. 89–97, §§306(c)(2), 334(e), inserted in text preceding subpar. (A) “subject to subsection (s) of this section” after “shall”, and added subpar. (C).

Subsec. (d)(1). Pub. L. 89–97, §§306(a)(1), (2), 323(a)(1), 343(a), inserted in subpart. (B)(i) and (ii) “or was a full-time student and had not attained the age of 22” and “which began before he attained the age of 22”, respectively, and substituted “is” for “was” in subpar. (C), substituted “preceding whichever of the following first occurs” for “preceding the first month in which any of the following occurs” following provisions of subpar. (C), substituted provisions designated in subpar. (E), “but only if he (i) is not under a disability (as so defined) at the time he attains such age, and (ii) is not a full-time student during any part of such month” for former provision and is not under a disability (as defined in section 423(c) of this title), which began before he attained such age”, added subpars. (F) and (G), and repealed the second sentence which provided for the termination of entitlement of any child to benefits under this subsection with the month preceding the third month following the month in which he ceases to be under a disability after the month in which he attains age eighteen; struck out the last sentence which related to adoptions by disabled workers; and substituted “uncle, brother, or sister” for “or uncle” in subpar. (D), respectively.

Subsec. (d)(3). Pub. L. 89–97, §308(b), inserted “subject to subsection (s) of this section” after “notwithstanding the provisions of paragraph (1) of this subsection”.

Subsec. (d)(6). Pub. L. 89–97, §308(c)(3), inserted in text following subpar. (B) “subject to subsection (a)” after “notwithstanding the provisions of paragraph (1) of this subsection”.

Subsec. (d)(8). Pub. L. 89–97, §308(d)(2)(A), inserted reference to subsec. (b) of this section.

Subsec. (d)(7). Pub. L. 89–97, §308(b)(3), added pars. (7) and (8).

Subsec. (d)(9). Pub. L. 89–97, §323(a)(2), added pars. (9) and (10).

Subsec. (e)(1). Pub. L. 89–97, §§307(a)(1), 308(b)(1), substituted “age 60” for “age 62” in subpar. (B); and inserted references to surviving divorced wife in the provisions preceding subpar. (A), substituted in subpar. (A) “is not married” for “has not remarried”, added subpar. (D), redesignated former subpar. (D) as (E) substituted in subpar. (E) and following provision “such deceased individual”; “her deceased husband”; and struck out from provisions following subpar. (E) “after August 1950” after “beginning with the first month”, respectively.

Subsec. (e)(2). Pub. L. 89–97, §§307(a)(2), 308(b)(2), 334(a)(2), inserted introductory phrase “Except as provided in subsection (q) of this section”; substituted “such deceased individual” for “her deceased husband”; and inserted “and paragraph (4) of this subsection” before the comma, respectively.

Subsec. (e)(3). Pub. L. 89–97, §§306(c)(4), 308(b)(2), (3), inserted “subject to subsection (s) of this section” after “notwithstanding the provisions of paragraph (1) of this section” following subpar. (B); repealed former par. (3) which provided for reinstatement of benefits to a widow if she
married a person who died within one year and was not a fully insured individual; and redesignated former par. (4) as (3), and substituted “widow or surviving divorced woman” for “widow” and “widow’s” respectively.


Former par. (4) redesignated (3).

Subsec. (f)(1). Pub. L. 89–97, §333(c)(5), 333(f). Inserted in text preceding subpar. (A) “subject to subsection (a) of this section” after “shall” and added subpar. (C).

Subsec. (f)(3). Pub. L. 89–97, §333(b)(2), substituted “Except as provided in paragraph (5), such insurance benefit amounts” for “Such insurance benefit amounts”.

Subsec. (f)(4). Pub. L. 89–97, §306(c)(6), inserted in text following subpar. (B) “subject to subsection (a) of this section” after “notwithstanding the provisions of paragraph (1) of this subsection”.


Subsec. (g)(5). Pub. L. 89–97, §308(b)(1), added par. (5).

Subsec. (g)(11). Pub. L. 89–97, §§306(c)(7), 306(d)(3)–(5), inserted “subject to subsection (a) of this section” after “shall” in provisions following subpar. (F); substituted “surviving divorced mother” for “former wife divorced” in incorporated existing provisions in cls. (i), (ii), and (III), and substituted provisions of ct. (i) to (III) for receipt of one-half of support under administrative regulations and substantial contributions pursuant to written agreement or court order for former provision for receipt of one-half of support pursuant to agreements or court order; and substituted “surviving divorced mother” for “former wife divorced” twice in provisions before subpar. (A) and three times in provisions following subpar. (F), respectively.

Subsec. (g)(3). Pub. L. 89–97, §§306(c)(8), 306(d)(5), (13). Inserted “subject to subsection (a) of this section” after “notwithstanding the provisions of paragraph (1) following subpar. (B), substituted “surviving divorced mother” for “former wife divorced” in two places, and redesignated former par. (4) as (3), respectively. Pub. L. 89–97, §306(d)(12), repealed former par. (3) which had provided that:

“In the case of any widow or former wife divorced of an individual—

(A) who marries another individual, and

(B) whose marriage to the individual referred to in subparagraph (A) is terminated by his death but she is not, and upon filing application therefor in the month in which the death occurred, entitled to benefits for such month or the basis of his wages and self-employment income, the marriage to the individual referred to in clause (A) shall for purpose of paragraph (1) be deemed not to have occurred. No benefits shall be payable under this subsection by reason of the preceding sentence for any month prior to whichever of the following is the latest: (i) the month in which the death referred to in subparagraph (B) of the preceding sentence occurs; (ii) the twelfth month before the month in which such widow or former wife divorced files application for purposes of this paragraph or (i) September 1958.”


Subsec. (h)(4). Pub. L. 89–97, §306(c)(9), inserted in text following subpar. (B) “subject to subsection (a) of this section” after “notwithstanding the provisions of paragraph (1) of this subsection”.


Subsec. (j)(1). Pub. L. 89–97, §303(d), inserted “under this subchapter” after “any benefit”.

Subsec. (j)(2). Pub. L. 89–97, §328(a), provided that an application for monthly benefits filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application only if the applicant satisfies the requirements for such benefits before the first month in which the applicant shall be deemed to have been filed in the first month if the applicant is found to satisfy the requirements for entitlement.

Subsec. (k)(2)(B). Pub. L. 89–97, §333(c)(1), inserted “other than an individual to whom subsection (b) of this section applies” after “Any individual” and inserted provision limiting to the largest of such benefits any individual who is entitled for any month to a widow’s or widow’s benefit for which subsections (e)(4) or (f)(5) of this section applies.

Subsec. (k)(3). Pub. L. 89–97, §333(c)(2), designated existing provisions as subpar. (A) and added subpar. (B).


Subsec. (p). Pub. L. 89–97, §324(a), removed the 2-year limit on the allowed extension during which, for good cause shown, applications or proof may be filed and still be deemed filed within the prescribed period for filing applications or proof.

Subsec. (q). Pub. L. 89–97, §303(b), substituted “Reduction of old-age, disability, wife’s, husband’s, or widow’s insurance benefit amounts” for “Adjustment of old-age, wife’s or husband’s insurance benefit amounts in accordance with age of beneficiary” in heading.

Subsec. (q)(1). Pub. L. 89–97, §307(b)(1), made provisions preceding subpar. (A) and the % of 1 percent reduction in subpar. (A) applicable to widow’s insurance benefit, substituted “benefit” for “benefit” throughout provisions preceding subpar. (A) and subpar. (B)(i) and (ii), substituted “(b)” and “(g)” for “(5)” and “(6)” in subpar. (B)(i) and (ii) “any month” for “any other month” in subpar. (B)(ii).

Subsec. (q)(2). Pub. L. 89–97, §304(c), added par. (2) and redesignated former par. (2) as (3).

Subsec. (q)(3)(A). Pub. L. 89–97, §§304(c), 307(b)(2), redesignated former par. (2) as (3), and made provisions of subpar. (A) applicable to widow’s insurance benefit and inserted “in the case of a widow’s or husband’s insurance benefit or age 60 (in the case of a widow’s insurance benefit)” after “age 62”, respectively. Former par. (3) redesignated (4).

Subsec. (q)(3)(B). Pub. L. 89–97, §304(c), (d), redesignated former par. (2) as (3), and substituted “benefit” “benefit” for “benefit” the first time it appeared and inserted in cls. (1) and (ii) “for such month” after “paragraph (1)”, respectively. Former par. (3) redesignated (4).

Subsec. (q)(3)(C). Pub. L. 89–97, §304(c), (e), redesignated former par. (2) as (3), and made provisions of subpar. (B) applicable to widow’s insurance benefit, inserted cl. (i), incorporated existing provisions in cl. (ii), and inserted in such cl. (ii) “for such month” and “benefit” “benefit” for reduction under this subsection” after “for any beneficiary” respectively. Former par. (3) redesignated (4).

Subsec. (q)(3)(D). (E). Pub. L. 89–97, §§304(c), 307(b), (3), (4), redesignated former par. (2) as (3), made provisions of subpar. (D) applicable to widow’s insurance benefit and added subpar. (E), respectively. Former par. (3) redesignated (4).

Subsec. (q)(3)(F). (G). Pub. L. 89–97, §304(c), (f), redesignated former par. (2) as (3) and added subsparys. (F) and (G), respectively. Former par. (3) redesignated (4).

Subsec. (q)(4). Pub. L. 89–97, §304(c), (g), redesignated former par. (3) as (4) and renumbered in text following subpar. (B) cross references to par. (2) as (3) in three places, and substituted in subpar. (A) “under paragraph (1) or (3) of this section” for “under this subsection”, respectively. Former par. (4) redesignated (5).

Subsec. (q)(5)(D). Pub. L. 89–97, §§304(c), 307(b)(5), redesignated former par. (4) as (5) and added subpar. (D), respectively. Former par. (5) redesignated (6).

Subsec. (q)(6). Pub. L. 89–97, §§304(c), 307(b)(6), redesignated former par. (5) as (6) and renumbered in subpar. (A)(ii) cross reference to par. (4) as (6), and made provisions preceding subpar. (A) and provisions of subpar. (A)(i) applicable to widow’s insurance benefit and substituted in subpar. (B) “retirement age” for “age 65”, respectively. Former par. (6) redesignated (7).

Subsec. (q)(7). Pub. L. 89–97, §§304(c), 307(b)(7), redesignated former par. (6) as (7) and renumbered in text preceding subpar. (A) cross reference to par. (5) as (6),
added subpar. (F), and made provisions preceding subpar. (A) applicable to widow’s insurance benefit and added subpars. (D), (E), respectively. Former par. (7), redesignated (8).

Subsec. (q)(8). Pub. L. 89–97, § 304(c), (1), redesignated former par. (7) and (8) and renumbered cross reference to par. (2) as (3), and substituted “(1)”, “(2)”, for “(1)”, “(2)”, respectively, an individual.


Subsec. (s)(2). Pub. L. 89–97, § 304(d), inserted “‘(but for subpar. (k)(4) of this section)’ after ‘‘eligible’’.


Subsec. (u). Pub. L. 89–97, § 104(a)(2), inserted “‘in determining whether such individual is entitled to insurance benefits under part A of subchapter XVII of this chapter for any such month.’’.


1961—Subsec. (a)(2). Pub. L. 87–64, § 110(a), substituted ‘‘has attained age 62’’ for ‘‘has attained retirement age (as defined in section 416(a) of this title)’’.

Subsec. (b)(1). Pub. L. 87–64, § 102(a), (e), (1), (2), substituted ‘‘age 62’’ for ‘‘retirement age’’ in two places, ‘‘less than one-half of the primary insurance amount of her husband’’ for ‘‘less than one-half of an old-age or disability insurance benefit of her husband’’, and ‘‘equal to or exceeds one-half of the primary insurance amount of her husband’’ for ‘‘equal to or exceeds one-half of an old-age or disability insurance benefit of her husband’’. 1960—Subsec. (b)(2). Pub. L. 87–64, § 102(b)(1), extended application of the subsection to divorced or married women.

Subsec. (c)(1). Pub. L. 87–64, § 102(a), (e), (4), (5), substituted “has attained age 62” for “has attained retirement age” in cl. (B), “based on a primary insurance amount which is less than one-half” in cl. (D), and “based on a primary insurance amount which is equal to or exceeds one-half” for “equal to or exceeding one-half” in closing provision.


Subsec. (c)(3). Pub. L. 87–64, § 102(e)(6), substituted “Except as provided in subsection (q) of this section, such” for “Such”.

Subsec. (d)(1). Pub. L. 87–64, §§ 102(a), 104(d)(1), substituted “has attained age 62” for “has attained retirement age” in subpar. (B), “attainment of age 62” for “attainment of retirement age” and “attained age 62” for “attained retirement age” in subpar. (C), and “three-fourths” for “three-fourths” in subpar. (D) and in closing provisions.

Subsec. (d)(2). Pub. L. 87–64, § 104(a)(6), substituted “‘32 percent’ for ‘‘three-fourths’’.

Subsec. (d)(3). Pub. L. 87–64, § 104(d)(2), substituted “has attained age 62” for “has attained retirement age” in subpar. (B), “32 percent” for “three-fourths” in subpar. (D) and in closing provisions.

Subsec. (d)(4). Pub. L. 87–64, § 102(a), substituted “attainment of age 62” for “attainment of retirement age”.

Subsec. (e)(3). Pub. L. 87–64, § 106, substituted “‘three-fourths’ for ‘‘three-fourths’’.

Subsec. (h)(1). Pub. L. 87–64, §§ 102(a), 104(d)(2), substituted “has attained age 62” for “has attained retirement age” in subpar. (A), and “32 percent of the primary insurance amount of such deceased individual if the amount of the parent’s insurance benefit for such month is determinable under paragraph (2)(A) or (2)(B)” for “three-fourths of the primary insurance amount of such deceased individual in any other case” for “three-fourths of the primary insurance amount of such deceased individual” in subpar. (D) and in closing provisions.

Subsec. (h)(2). Pub. L. 87–64, § 104(c), designated existing provisions as subpar. (A), increased the benefit from three-fourths to 82 percent of the primary insurance amount and added subpar. (B).

Subsec. (j). Pub. L. 87–64, § 102(b)(3), added provisions which formerly authorized waiver of old-age benefits or wife’s benefits by a woman to permit waiver of any benefit by any individual.

Subsec. (k). Pub. L. 87–64, § 102(b)(1), among other changes, authorized adjustment of the old-age insurance benefits for men and of the husband’s insurance benefits for months prior to the month in which the individual attains age 65, simplified the formula for benefits by cases where an individual is entitled to a disability insurance benefit for months prior to the month in which an application for a reduced wife’s or husband’s insurance benefit is effective, that the individual will be deemed to have filed an application for old-age insurance benefit in the first subsequent month for which the individual is not entitled to a disability insurance benefit.

Subsec. (l). Pub. L. 87–64, § 102(b)(1), tied the waiver authority to the individual entitled to disability insurance benefits for the same month for which an application for a reduced wife’s or husband’s disability insurance benefit is effective.

Subsec. (m). Pub. L. 87–64, §§ 102(b), redesignated paragraphs (1), (2), respectively.


Subsec. (o). Pub. L. 87–64, § 102(b)(3), redesignated paragraphs (5), (6), respectively.

Subsec. (p). Pub. L. 87–64, § 102(b)(4), redesignated paragraphs (7), (8), respectively.

Subsec. (q). Pub. L. 87–64, § 102(b)(5), redesignated paragraphs (9), (10), respectively.

Subsec. (r). Pub. L. 87–64, § 102(b)(6), redesignated paragraphs (11), (12), respectively.

Subsec. (s). Pub. L. 87–64, § 102(b)(7), redesignated paragraphs (13), (14), respectively.

Subsec. (t). Pub. L. 87–64, § 102(b)(8), redesignated paragraphs (15), (16), respectively.

Subsec. (u). Pub. L. 87–64, § 102(b)(9), redesignated paragraphs (17), (18), respectively.

Subsec. (v). Pub. L. 87–64, § 102(b)(10), redesignated paragraphs (19), (20), respectively.

Subsec. (w). Pub. L. 87–64, § 102(b)(11), redesignated paragraphs (21), (22), respectively.

Subsec. (x). Pub. L. 87–64, § 102(b)(12), redesignated paragraphs (23), (24), respectively.

Subsec. (y). Pub. L. 87–64, § 102(b)(13), redesignated paragraphs (25), (26), respectively.

Subsec. (z). Pub. L. 87–64, § 102(b)(14), redesignated paragraphs (27), (28), respectively.

Subsec. (AA). Pub. L. 87–64, § 102(b)(15), redesignated paragraphs (29), (30), respectively.

Subsec. (BB). Pub. L. 87–64, § 102(b)(16), redesignated paragraphs (31), (32), respectively.
Subsec. (i). Pub. L. 85–840, § 305(a), substituted "forty-nine States" for "forty-eight States".


Another par. (3), which was added by Pub. L. 85–788, was repealed by Pub. L. 85–840, § 303(b), effective with respect to benefits payable for any month following August 1958.


Subsec. (h)(1). Pub. L. 85–840, § 304(a)(1), struck out from opening clause provisions which prevented payment of a parent's benefit if the deceased individual left a widow who met the conditions in subsec. (e)(1)(D) of this section, a widow who met the conditions in subsec. (f)(1)(D) of this section, an unmarried child who attained the age of eighteen and was under a disability which began before he attained such age and was dependent on such individual under subsec. (d)(3), (4), or (5) of this section, or an unmarried child who had attained the age of eighteen and was under a disability which began before he attained such age and was dependent on such individual under subsec. (d)(6) of this section.

Subsec. (h)(1)(B). Pub. L. 85–840, § 205(g), inserted provisions entitling a parent to an insurance benefit if the parent was receiving at least one-half of his support from the individual, if the individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of his death.

Subsec. (i). Pub. L. 85–840, § 305(a), added par. (3).

Paragraph (3), which was added by Pub. L. 85–788, was repealed by Pub. L. 85–840, § 303(b), effective with respect to benefits payable for any month following August 1958.


Subsec. (h)(1). Pub. L. 85–840, § 304(a)(1), struck out from opening clause provisions which prevented payment of a parent's benefit if the deceased individual left a widow who met the conditions in subsec. (e)(1)(D) of this section, a widow who met the conditions in subsec. (f)(1)(D) of this section, an unmarried child who attained the age of eighteen and was under a disability which began before he attained such age and was dependent on such individual under subsec. (d)(3), (4), or (5) of this section, or an unmarried child who had attained the age of eighteen and was under a disability which began before he attained such age and was dependent on such individual under subsec. (d)(6) of this section.

Subsec. (h)(1)(B). Pub. L. 85–840, § 205(g), inserted provisions entitling a parent to an insurance benefit if the parent was receiving at least one-half of his support from the individual, if the individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of his death.

Paragraph (3), which was added by Pub. L. 85–788, was repealed by Pub. L. 85–840, § 303(b), effective with respect to benefits payable for any month following August 1958.


Subsec. (h)(1). Pub. L. 85–840, § 304(a)(1), struck out from opening clause provisions which prevented payment of a parent's benefit if the deceased individual left a widow who met the conditions in subsec. (e)(1)(D) of this section, a widow who met the conditions in subsec. (f)(1)(D) of this section, an unmarried child who attained the age of eighteen and was under a disability which began before he attained such age and was dependent on such individual under subsec. (d)(3), (4), or (5) of this section, or an unmarried child who had attained the age of eighteen and was under a disability which began before he attained such age and was dependent on such individual under subsec. (d)(6) of this section.

Subsec. (h)(1)(B). Pub. L. 85–840, § 205(g), inserted provisions entitling a parent to an insurance benefit if the parent was receiving at least one-half of his support from the individual, if the individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of his death.

Paragraph (3), which was added by Pub. L. 85–788, was repealed by Pub. L. 85–840, § 303(b), effective with respect to benefits payable for any month following August 1958.


Subsec. (h)(1). Pub. L. 85–840, § 304(a)(1), struck out from opening clause provisions which prevented payment of a parent's benefit if the deceased individual left a widow who met the conditions in subsec. (e)(1)(D) of this section, a widow who met the conditions in subsec. (f)(1)(D) of this section, an unmarried child who attained the age of eighteen and was under a disability which began before he attained such age and was dependent on such individual under subsec. (d)(3), (4), or (5) of this section, or an unmarried child who had attained the age of eighteen and was under a disability which began before he attained such age and was dependent on such individual under subsec. (d)(6) of this section.

Subsec. (h)(1)(B). Pub. L. 85–840, § 205(g), inserted provisions entitling a parent to an insurance benefit if the parent was receiving at least one-half of his support from the individual, if the individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of his death.

Paragraph (3), which was added by Pub. L. 85–788, was repealed by Pub. L. 85–840, § 303(b), effective with respect to benefits payable for any month following August 1958.


Subsec. (h)(1). Pub. L. 85–840, § 304(a)(1), struck out from opening clause provisions which prevented payment of a parent's benefit if the deceased individual left a widow who met the conditions in subsec. (e)(1)(D) of this section, a widow who met the conditions in subsec. (f)(1)(D) of this section, an unmarried child who attained the age of eighteen and was under a disability which began before he attained such age and was dependent on such individual under subsec. (d)(3), (4), or (5) of this section, or an unmarried child who had attained the age of eighteen and was under a disability which began before he attained such age and was dependent on such individual under subsec. (d)(6) of this section.

Subsec. (h)(1)(B). Pub. L. 85–840, § 205(g), inserted provisions entitling a parent to an insurance benefit if the parent was receiving at least one-half of his support from the individual, if the individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of his death.

Paragraph (3), which was added by Pub. L. 85–788, was repealed by Pub. L. 85–840, § 303(b), effective with respect to benefits payable for any month following August 1958.


Subsec. (h)(1). Pub. L. 85–840, § 304(a)(1), struck out from opening clause provisions which prevented payment of a parent's benefit if the deceased individual left a widow who met the conditions in subsec. (e)(1)(D) of this section, a widow who met the conditions in subsec. (f)(1)(D) of this section, an unmarried child who attained the age of eighteen and was under a disability which began before he attained such age and was dependent on such individual under subsec. (d)(3), (4), or (5) of this section, or an unmarried child who had attained the age of eighteen and was under a disability which began before he attained such age and was dependent on such individual under subsec. (d)(6) of this section.

Subsec. (h)(1)(B). Pub. L. 85–840, § 205(g), inserted provisions entitling a parent to an insurance benefit if the parent was receiving at least one-half of his support from the individual, if the individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of his death.
creased to the first figure in column IV of the table in section 415(a) of this title" for "increased to $3000".

Subsec. (g). Pub. L. 85–586, § 3(b), increased the total 


Subsec. (k)(3). Act Aug. 1, 1956, ch. 836, § 102(d)(9), inserted provisions requiring reduction under subsection (q) of this section, and provided that the reduction should not be below zero.

Subsec. (m). Act Aug. 1, 1956, ch. 836, § 102(d)(10), inserted references to subsection (q) of this section.


Subsecs. (q) to (s). Act Aug. 1, 1956, ch. 836, § 102(c), added subsecs. (q) to (s).

Subsecs. (t), (u). Act Aug. 1, 1956, ch. 836, §§ 118(a), 121(a), added subsecs. (t) and (u). 1955—Subsec. (t). Act Aug. 9, 1955, made subsection applicable to cases of deaths occurring before April 1955.

1954—Subsec. (e)(1)(C). Act Sept. 1, 1954, § 110(a), provided that applications for widow's insurance benefits would not be required if the widow was entitled to a mother's insurance benefit in the month prior to the month in which she attained retirement age.

Subsec. (g)(1)(D). Act Sept. 1, 1954, § 110(b), provided that applications for mother's insurance benefits would not be required if the widow was entitled to a woman's insurance benefit for the month preceding the month in which the insured individual died.

Subsec. (i). Act Sept. 1, 1954, §§ 102(d)(2), 110(c), inserted "or an amount equal to $250, whichever is the smaller" after "primary insurance amount," and provided that an application for a lump-sum death payment would not be required from an individual who was entitled to widow's or husband's insurance benefits for the month preceding the month in which the insured individual died.


Subsecs. (m), (n). Act Sept. 1, 1954, §§ 102(d)(1), 107, added subsecs. (m) and (n), respectively.


1950—Subsec. (a). Act Aug. 28, 1950, changed the name of the benefit provided by this subsection from "primary insurance benefit" to "old-age insurance benefit", and continued the conditions under which an individual becomes entitled to the benefits.

Subsec. (b). Act Aug. 28, 1950, continued the conditions required for the wife to be entitled to the benefits.

Subsec. (c). Act Aug. 28, 1950, provided benefits for the dependent husband of a female old-age insurance beneficiary who was currently insured at the time of her entitlement to the old-age insurance benefit.

Subsec. (d). Act Aug. 28, 1950, increased the total amount of the family benefits in a survivor family in
which there is at least one entitled child by one-fourth of the worker’s old-age benefit and restates the circumstances under which a child is deemed dependent upon an individual.

Subsec. (e). Act Aug. 28, 1950, permitted a wife entitled to wife’s insurance benefits to become entitled to widow’s insurance benefits upon the husband’s death without filing a new application.

Subsec. (f). Act Aug. 28, 1950, provided benefits for the dependent widower of a woman who is fully and currently insured at the time of her death.

Subsec. (g). Act Aug. 28, 1950, changed title of widow’s current insurance benefits to mother’s insurance benefits and provided for payment of such benefits to the divorced wife of a deceased insured worker if she had been receiving at least half her support from the worker, and if she is caring for her son, daughter, or legally adopted child who is receiving benefits on the worker’s wage record.

Subsec. (h). Act Aug. 28, 1950, changed the requirement that a parent must have been chiefly dependent upon and supported by the wage earner to the requirement that the parent only need have been receiving one-half his support in order for the parent to be found a dependent.

Subsec. (i). Act Aug. 28, 1950, limited the amount of the lump-sum death payment to three times the worker’s primary insurance amount instead of six times the amount.

Subsec. (j). Act Aug. 28, 1950, increased from 3 to 6 the number of months for which benefits may be paid retroactively to individuals who failed to file their applications as soon as they were otherwise eligible.

Subsecs. (k), (l). Act Aug. 28, 1950, added subsecs. (k) and (l).

1966—Subsec. (c). Act Aug. 10, 1946, §402, changed par. (1) to prevent termination of benefits on adoption by a stepparent, grandparent, aunt or uncle and changed par. (3)(c) to omit qualification as to the time of such individual’s death and to require the child to be chiefly supported by the stepfather.

Subsec. (g). Act Aug. 10, 1946, §403(a), provided that benefit payments to parents are prevented only if the individual leaves a widow or child who could become entitled to benefits and required parents to be chiefly instead of wholly dependent.

Subsec. (h). Act Aug. 10, 1946, §404(a), required that a widow or widower must have been living with deceased at time of death to be entitled to a lump sum payment and provided that the payment will be made to the person or persons equitably entitled thereto in the proportion and to the extent that he or they have paid the burial expenses.

Subsec. (i). Act Aug. 10, 1946, §405(a), extended provision for payment of benefits retroactively for three months to the primary beneficiary and provided that retroactive benefits shall be reduced so as not to render erroneous any benefit previously paid.


CHANGE OF NAME

Reference to Administrator of Veterans’ Affairs deemed to refer to Secretary of Veterans Affairs pursuant to section 10 of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans’ Benefits.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–203, title IV, §418(c), Mar. 2, 2004, 118 Stat. 533, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 426 of this title] shall apply with respect to applications for benefits under title II of the Social Security Act [this subchapter] filed on or after the first day of the first month that begins after the date of enactment of this Act [Mar. 2, 2004], except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(k)(5)(A) of the Social Security Act [subsec. (k)(5)(A) of this section] (in the matter preceding clause (i) thereof) if the last day of such service occurs before July 1, 2004.

“(2) TRANSITIONAL RULE.—In the case of any individual whose last day of service described in subparagraph (A) of section 202(k)(5) of the Social Security Act [as added by subsection (a) of this section] occurs within 5 years after the date of enactment of this Act—

“(A) the 60-month period described in such subparagraph (A) shall be reduced (but not to less than 1 month) by the number of months of such service (in the aggregate and without regard to whether such months of service were continuous) which—

“(i) were performed by the individual under the same retirement system on or before the date of enactment of this Act, and

“(ii) constituted ‘employment’ as defined in section 210 of the Social Security Act [section 410 of this title]; and

“(B) months of service necessary to fulfill the 60-month period as reduced by subparagraph (A) of this paragraph must be performed after the date of enactment of this Act.”

Pub. L. 108–203, title IV, §420(b), Mar. 2, 2004, 118 Stat. 535, provided that: “The amendments made by subsection (a) [amending this section] shall be effective with respect to benefits payable for months beginning with the 7th month that begins after the date of enactment of this Act [Mar. 2, 2004].”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–182, §5, Apr. 7, 2000, 114 Stat. 199, provided that: “The amendments made by this Act [amending this section and section 403 of this title] shall apply with respect to taxable years ending after December 31, 1999.”

EFFECTIVE DATE OF 1999 AMENDMENTS

Pub. L. 106–170, title IV, §402(b)(4), Dec. 17, 1999, 113 Stat. 1008, provided that: “The amendments made by this subsection [amending this section, section 1382 of this title, and section 552a of Title 5, Government Organization and Employees] shall apply to individuals whose period of confinement in an institution commences on or after the first day of the fourth month beginning after the month in which this Act is enacted [Dec. 1999].”

individuals whose period of confinement in an institution commences on or after the first day of the fourth month beginning after the month in which this Act is enacted [Mar. 1996].

Pub. L. 101–169, title II, §207(e), Dec. 14, 1999, 113 Stat. 1339, provided that: "The amendments made by this subsection [amending this section and section 1383c of this title, enacting this section and section 1382 of this title, and enacting provisions set out as a note under section 1320a–8a of this title] shall apply to statements and representations made on or after the date of the enactment of this Act [Dec. 14, 1999]."

EFFECTIVE DATE OF 1996 AMENDMENTS
Amendment by section 308(g)(1) of Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of Title 8, Aliens and Nationality.

Section 503(b) of div. C of Pub. L. 104–208 provided that: "The amendment made by this section (enacting section 1320a–8a of this title, amending this section and section 1382 of this title, and enacting provisions set out as a note under section 1320a–8a of this title) shall apply to statements and representations made on or after the date of the enactment of this Act [March 1996]."

Section 104(h)(3) of Pub. L. 104–121 provided that: "(A) The amendments made by paragraph (1) [amending this section] shall apply with respect to benefits for months after the third month following the month in which this Act is enacted [March 1996]."

Section 104(i)(2) of Pub. L. 104–121 provided that: "The amendments made by subsection (a) [amending this section] shall apply—

"(1) in the case of any individual’s disability insurance benefit referred to in section 422(d)(2)(B) of the Social Security Act [amending this section], and

"(2) in the case of any individual’s disability insurance benefit referred to in section 223(d)(2)(B) of the Social Security Act [as in effect immediately before the date of the enactment of this Act (Nov. 5, 1990)], only if such individual attains age 62 on or after January 1, 1991.

"(B) applied for widow’s or widower’s insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act during 1990 [subsec. (e) or (f) of this section], and

"(C) is not entitled to such benefits under such subsection (e) or (f) for any month on the basis of such application by reason of the definition of disability under section 223(d)(2)(B) of the Social Security Act [as in effect immediately before the date of the enactment of this Act (Nov. 5, 1990)], and would have been so entitled for such month on the basis of such application if the amendments made by this section had been applied with respect to such application, for purposes of determining such individual’s entitlement to such benefits under subsection (e) or (f) of section 202 of the Social Security Act for months after December 1990, the requirement of paragraph (1)(C)(i) of such subsection shall be deemed to have been met."

Section 104(j)(1) of Pub. L. 101–506 provided that: "The amendments made by this section [amending this section] shall apply with respect to applications for benefits filed on or after January 1, 1991."

EFFECTIVE DATE OF 1994 AMENDMENTS
- Amendment by Pub. L. 103–397 provided that: "The amendments made by this section [amending this section] shall apply with respect to benefits for months commencing after 90 days after the date of the enactment of this Act [Oct. 22, 1994]."

Amendment by section 603(b)(5)(A) of Pub. L. 101–649 provided that: "The amendments made by subsection (c)(1) [amending section 1383c of this title] shall apply with respect to medical assistance provided after December 1990. The amendments made by subsection (c)(2)(C) [amending section 426 of this title] shall apply with respect to items and services furnished after December 1990.

Section 104(a)(2) of Pub. L. 104–121 provided that: "The amendment made by paragraph (1) [amending this section] shall apply to benefits for months ending after the month beginning after the month in which this Act is enacted [March 1996]."

Section 104(l) of Pub. L. 104–121 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to benefits for months after December 1982 and to benefits for months after December 1990, to any individual with respect to whom the Secretary under an agreement referred to in such section 1616(a) or in section 212(b) of Public Law 93–66 [set out as a note under section 1382 of this title], for January 1, 1991.

Section 104(a)(2) of Pub. L. 104–121 provided that: "(A) is entitled to disability insurance benefits under section 222 of the Social Security Act [section 133 of this title] for December 1990 or is eligible for supplemental security income benefits under title XVI of such Act [subsection (a) of this section], or State supplementary payments of the type referred to in section 1616(a) of such Act [section 1382e(a) of this title], or payments of the type described in section 212(a) of Public Law 93–66 [set out as a note under section 1382 of this title], for January 1, 1991.

"(B) applied for widow’s or widower’s insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act during 1990 [subsec. (e) or (f) of this section], and

"(C) is not entitled to such benefits under such subsection (e) or (f) for any month on the basis of such application by reason of the definition of disability under section 222(d)(2)(B) of the Social Security Act [as in effect immediately before the date of the enactment of this Act (Nov. 5, 1990)], and would have been so entitled for such month on the basis of such application if the amendments made by this section had been applied with respect to such application, for purposes of determining such individual’s entitlement to such benefits under subsection (e) or (f) of section 202 of the Social Security Act after December 1990, the requirement of paragraph (1)(C)(i) of such subsection shall be deemed to have been met."

Section 10302(a)(2) of Pub. L. 101–239 provided that: "The amendments made by this section [amending this section] shall apply with respect to applications for benefits filed on or after January 1, 1991."

EFFECTIVE DATE OF 1989 AMENDMENT
Amendment by Pub. L. 100–647 not applicable to deportation proceedings for which notice has been provided to the alien before Mar. 1, 1991, see section 622(d) of Pub. L. 101–649, set out as a note under section 1227 of Title 8, Aliens and Nationality.

EFFECTIVE DATE OF 1990 AMENDMENTS
Amendment by Pub. L. 101–649 not applicable to deportation proceedings for which notice has been provided to the alien before Mar. 1, 1991, see section 622(d) of Pub. L. 101–649, set out as a note under section 1227 of Title 8, Aliens and Nationality.

EFFECTIVE DATE OF 1988 AMENDMENT
- Section 8004(c) of Pub. L. 100–647 provided that: "The amendments made by this section [amending this section] shall apply with respect to benefits payable for months after December 1982, only if such individual attains age 62 on or after January 1, 1990.

Section 10302(a)(2) of Pub. L. 101–239 provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to misrepresentation furnished after December 1982 and to benefits for months after December 1982."

Section 8004(c) of Pub. L. 100–647 provided that: "The amendments made by this section [amending this section] shall apply only in the case of deportation proceedings for which notice has been provided to the alien before Mar. 1, 1991, and are pending on such date. The amendments made by subsection (c)(1) [amending section 1383c of this title] shall apply with respect to medical assistance provided after December 1990. The amendments made by subsection (c)(2)(C) [amending section 426 of this title] shall apply with respect to items and services furnished after December 1990.

Section 10302(a)(2) of Pub. L. 101–239 provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to medical assistance provided after December 1990. The amendments made by subsection (c)(1) [amending section 1383c of this title] shall apply with respect to medical assistance furnished after December 1990.
only to benefits for months beginning (and deaths occurring) on or after such date.'"

Amendment by section 8007(b) of Pub. L. 100–647 applicable to benefits paid for (and items and services furnished in) months after December 1988, see section 8007(d) of Pub. L. 100–647, set out as a note under section 1402 of Title 26, Internal Revenue Code.

Section 8010(b) of Pub. L. 100–647 provided that: "The amendments made by this section [amending this section] shall apply to benefits payable under section 202(e) or section 202(f) of the Social Security Act (subsection (e) or (f) of this section) on the basis of the wages and self-employment income of an individual who dies after the month in which this Act is enacted [Nov. 10, 1988]."

Section 8014(c) of Pub. L. 100–647 provided that: "The preceding provisions of this section (including the amendments made by subsection (a)) [amending this section and enacting provisions set out below] shall apply as if they had been included or reflected in the provisions of section 9007 of the Omnibus Budget Reconciliation Act of 1987 (101 Stat. 1330–289) [Pub. L. 100–203, amending this section and enacting provisions set out below] at the time of its enactment [Dec. 22, 1987]."

**Effective Date of 1987 Amendment**

Section 9007(c) of Pub. L. 100–203 provided that: "The amendments made by this section [amending this section] shall apply only with respect to benefits for months after December 1987; except that nothing in such amendments shall affect any exemption (from the application of the pension offset provisions contained in subsection (b)(4), (c)(2), (e)(7), (f)(2), or (g)(4) of section 202 of the Social Security Act [this section]) which an individual may have by reason of subsection (g)(1) of section 334 of the Social Security Amendments of 1977 [section 334(g), (h) of Pub. L. 95–216, set out as notes below]."

Section 9010(b) of Pub. L. 100–203 provided that: "The amendments made by this section [amending this section and sections 416, 423, and 426 of this title] shall take effect January 1, 1988, and shall apply with respect to—"

"(1) individuals who are entitled to benefits which are payable under subsection (d)(1)(B)(ii), (d)(6)(A)(i), (d)(6)(B), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 of the Social Security Act [this section] or subsection (a)(1) of section 223 of such Act [section 423 of this title] for any month after December 1987, and

"(2) individuals who are entitled to benefits which are payable under any provision referred to in paragraph (1) for any month before January 1988 and with respect to whom the 15-month period described in the applicable provision amended by this section has not elapsed as of January 1, 1988.

**Effective Date of 1986 Amendments**

Section 1883(d) of Pub. L. 99–514 provided that: "Except as otherwise provided in this section, the amendments made by this section [amending this section and sections 410, 411, 415, 418, 421, 423, 602, 657, 658, 664, 674, 1301, 1320–6, 1382a, 1383, and 1397b of this title and sections 1402 and 3121 of Title 26, Internal Revenue Code, repealing section 1397f of this title, enacting provisions set out as notes under sections 602 and 678 of this title, and amending provisions set out as a note under section 419 of this title] shall take effect on the date of the enactment of this Act [Oct. 22, 1986]."

Section 12104(b) of Pub. L. 98–217 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to benefits for which application is filed after the date of the enactment of this Act [Apr. 7, 1986]."

Section 12107(c) of Pub. L. 98–272 provided that: "The amendments made by this section [amending this section and section 423 of this title] are effective December 1, 1980, and shall apply with respect to any individual who is under a disability (as defined in section 223(d) of the Social Security Act [section 423(d) of this title]) on or after that date."

**Effective Date of 1984 Amendment**

Amendment by sections 2661(b)–(f) and 2662(c)(1) of Pub. L. 98–369 effective as though included in the enactment of the Social Security Amendments of 1983, Pub. L. 98–21, see section 2664(a) of Pub. L. 98–369, set out as a note under section 401 of this title.

Amendment by section 2663(a)(2) of 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**

Section 111(a)(8) of Pub. L. 98–21 provided that: "The amendments made by this subsection [amending this section and sections 403, 415, and 430 of this title] shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act [section 415(i) of this title] for years after 1982."

Section 114(c)(2) of Pub. L. 98–21 provided that: "The amendments made by paragraph (1) [amending this section] shall apply with respect to increment months in calendar years after 1983."

Section 131(d) of Pub. L. 98–21 provided that: "(1) The amendments made by this subsection [amending this section and section 426 of this title] shall be effective with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after December 1983.

"(2) In the case of an individual who was not entitled to a monthly benefit of the type involved under title II of such Act for December 1983, no benefit shall be paid under such title by reason of such amendments unless proper application for such benefit is made."

Section 132(c)(1) of Pub. L. 98–21 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to monthly insurance benefits for months after December 1984, but only on the basis of applications filed on or after January 1, 1985.

Section 133(c) of Pub. L. 98–21 provided that: "The amendments made by this section [amending this section and sections 416, 423, and 426 of this title] shall apply with respect to benefits for months after December 1983."

Section 301(a)(5) of Pub. L. 98–21, as amended by Pub. L. 98–369, div. B, title VI, §2662(d), July 18, 1984, 98 Stat. 1159, provided that the amendment made by this section is effective with respect to monthly insurance benefits for months after December 1984 (but only on the basis of applications filed on or after January 1, 1985).

Section 307(b) of Pub. L. 98–21 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to benefits under title II of the Social Security Act [this subchapter] for months after the month in which this Act is enacted [April 1983], but only in cases in which the 'last month' referred to in the provision amended is a month after the month in which this Act is enacted."

Section 310 of title III of Pub. L. 98–21 provided that: "(a) Except as otherwise specifically provided in this title, the amendments made by this part [part A (§§301–310) of title III of Pub. L. 98–21, amending this section and sections 403, 405, 416, 417, 422, 423, 425, 426, 427, and 428 of this title] apply only with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after the month in which this Act is enacted [April 1983]."
“(b) Nothing in any amendment made by this part shall be construed as affecting the validity of any bene-
fit which was paid, prior to the effective date of such amendment, as a result of a judicial determination.”

Section 334(b) of Pub. L. 98–21 provided that: “The amendments made by subsection (a) [amending this
section] shall apply with respect to survivors whose applic-
atons for monthly benefits are filed after the second
month following the month in which this Act is en-
acted [April 1981].”

Section 335(b) of Pub. L. 98–21, as amended by Pub. L. 98–617, § 12(a), Nov. 8, 1984, 98 Stat. 3294, provided that:
“The amendments made by subsection (a) of this section [amending this section] shall apply only with re-
spect to monthly insurance benefits payable under title II of the Social Security Act [this subchapter] for
months after August 1983.”

Section 340(c) of Pub. L. 98–21 provided that: “The amendments made by subsections (a) and (b) [amending this
section and section 423 of this title] shall apply with respect to monthly benefits payable for months
beginning on or after the date of enactment of this Act [Apr. 20, 1981].”

Section 340(c) of Pub. L. 98–21 provided that: “The amendments made by subsections (a) and (b) [amending this
section and section 423 of this title] shall apply only with respect to any individual who
initially becomes eligible for benefits under section 202 or 223 [this section or section 423 of this title] after
December 31, 1984.”

Section 7(d) of Pub. L. 97–455 provided that: “The amendments made by subsections (a) [enacting and amending provisions set out as notes under this section] and (c) [amending this section] of this section shall be effective with respect to monthly insurance
benefits for months after November 1982.”

Effective Date of 1981 Amendments
Amendment by section 2201(b)(10), (11), (d)(1), (2) of Pub. L. 97–35 and amendment by section 2(e) of Pub. L. 97–123 applicable with respect to benefits for months after December 1981, and amendment by section 2201(f) of Pub. L. 97–35 applicable with respect to deaths occurring after December 1981, with certain exceptions, see section 2(a)(2)–(4) of Pub. L. 97–123, set out as a note under section 416 of the Social Security Act [this subchapter] payable for months after December 1978 and with respect to lump-sum death payments with re-
spect to deaths occurring after such month. The amendments made by section 201(d) [amending section 415 of this title] shall be effective with respect to monthly benefits for
months after May 1978. The amendment made by section 205(a) [amending this section] shall be effective with respect to monthly benefits for months after December 1978 based on the wages and self-
employment income of individuals who die after December 1978.”

Effective Date of 1977 Amendment
Amendment by Pub. L. 95–600 effective Oct. 4, 1976, see section 703(r) of Pub. L. 95–600, set out as a note under section 16 of Title 26, Internal Revenue Code.

Effective Date of 1976 Amendment
Section 206 of title II of Pub. L. 95–216 provided that: “The amendments made by the provisions of this title other than sections 202(d), 204, and 205(a) [amending this section and sections 403, 415, 417, 424a, and 1395r of this title] shall be effective with respect to monthly benefits under title II of the Social Security Act [this subchapter] payable for months after December 1976.”

Section 306(d) of Pub. L. 95–216 provided that: “The amendments made by section 201(d) [amending section 415 of this title] shall be effective with respect to monthly benefits of an individual who becomes eligible for an old-age or disability insurance benefit, or dies, after December 1977. The amendments made by section 204 [amending this section and section 403 of this title] shall be effective with respect to monthly benefits for
months after May 1978. The amendment made by section 205(a) [amending this section] shall be effective with respect to monthly benefits for months after December 1978 based on the wages and self-
employment income of individuals who die after December 1978.”

Section 334(d) of Pub. L. 95–216 provided that: “Subject to sub-

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sections (g) and (h) [section 334(g) and (h) of Pub. L. 95-216, set out as notes below], the amendments made by this section [amending this section and section 426 of this title and enacting provisions set out as notes under this section] shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act [this subchapter] for months beginning with the month in which this Act is enacted [December 1972].''

Section 336(c)(1) of Pub. L. 95-216 provided that: "The amendments made by this section [amending this section] shall apply only with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after December 1978, and, in the case of individuals who are not entitled to benefits of the type involved for December 1978, only on the basis of applications filed on or after January 1, 1979.''

Section 337(c) of Pub. L. 95-216 provided that: "The amendments made by this section [amending this section and section 416 of this title] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after December 1978, and, in the case of individuals who are not entitled to benefits of the type involved for December 1978, only on the basis of applications filed on or after January 1, 1979.''

Section 333(i)(ii) of Pub. L. 95-216 provided that the amendment made by that section is effective with respect to convictions after Dec. 31, 1977.

**Effective Date of 1974 Amendment**

Section 603 of Pub. L. 93-445 provided that: "The provision of title II of this Act [set out as a note under section 321 of Title 45, Railroads] and the amendments made by this subchapter for title II and title III of this Act [amending this section and sections 405, 410, 416, 426, 1235e, 1235a, 1235v, 1235x, and 1235pk of this title and sections 325, 354, 360, 361, and 362 of Title 45] shall become effective on January 1, 1975.''

**Effective Date of 1973 Amendment**

Section 240(b) of Pub. L. 93-66 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after the month in which this Act is enacted [July 1973] on the basis of applications for such benefits filed in or after the month in which this Act is enacted.''

**Effective Date of 1972 Amendment**

Section 102(i) of Pub. L. 92-603 provided that: "The amendments made by this section [amending this section and section 403 of this title and enacting provisions set out as notes under this section] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972.''

Section 103(d) of Pub. L. 92-603 provided that: "The amendments made by this section [amending this section and section 403 of this title] shall be applicable with respect to old-age insurance benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972.''

Section 104(e) of Pub. L. 92-603 provided that: "The amendments made by this section [amending this section and sections 405, 410, 416, 426, 1235e, 1235a, 1235v, 1235x, and 1235pk of this title and sections 325, 354, 360, 361, and 362 of Title 45] shall become effective on January 1, 1975.''

Section 105(b) of Pub. L. 92-603 provided that: "The amendments made by this section [amending this section] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972, except that in the case of an individual who was not entitled to a monthly benefit under title II of the Social Security Act [this subchapter] for months after December 1972 such amendments shall apply only on the basis of an application filed after September 30, 1972.''

Section 106(b) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [amending this section] shall apply only with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972.''

Section 107(c) of Pub. L. 92-603 provided that: "The amendment made by subsection (a) [amending this section] shall apply only with respect to benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972.''

Section 108(f) of Pub. L. 92-603 provided that: "The amendments made by this section [amending this sec-
tion and sections 403, 416, 422, and 425 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for and after the month of February 1968, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted [January 1968]."

Section 112(b) of Pub. L. 89-248 provided that: 'The amendments made by this section [amending this subchapter] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after January 1968, but only on the basis of applications filed after the date of enactment of this Act [Jan. 2, 1968]."

Section 151(e) of Pub. L. 90-248 provided that: 'The amendments made by this section [amending this subchapter] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] and annuities accruing under the Railroad Retirement Act of 1937 [section 228a et seq. of Title 45] for months after January 1968, but only on the basis of applications filed in or after the month in which this Act is enacted [January 1968].'

Section 157(d) of Pub. L. 90-248 provided that: 'The amendments made by this section [amending this subchapter] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after January 1968, but only on the basis of applications filed in or after the month in which this Act is enacted [January 1968].'

Section 162(a)(2) of Pub. L. 90-248 provided that: 'The amendment made by paragraph (1) [amending this section] shall apply only with respect to six-month periods (within the meaning of section 202(t)(1)(A) of the Social Security Act [subsec. (t)(1)(A) of this section]) which begin after the date of the enactment of this Act [Jan. 2, 1968].'

Section 162(b)(2) of Pub. L. 90-248 provided that: 'The amendment made by paragraph (1) [amending this section] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months beginning after June 30, 1968.'

**Effective Date of 1965 Amendment**

Amendment by section 303(d) of Pub. L. 89-97 effective with respect to applications for disability insurance benefits under section 423 of this title, and for 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.

Section 304(h) of Pub. L. 89-97 provided that: 'The amendments made by this section [amending this section and sections 415, 416, and 423 of this title] shall apply with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] for and after the second month following the month of the enactment of this Act [July 1965] in which this Act is enacted, but only on the basis of applications filed in or after the month in which this Act is enacted.'

Section 306(d) of Pub. L. 89-97 provided that: 'The amendments made by this section [amending this section and sections 403, 416, 422, and 425 of this title] shall apply with respect to monthly insurance benefits under title II of the Social Security Act [this section] for months after December 1964; except that—

1. in the case of an individual who was not entitled to a child's insurance benefit under subsection (d) of section 202 of the Social Security Act [this subchapter] for the month in which this Act is enacted [July 1965], such amendments shall apply only on the basis of an application filed in or after the month in which this Act is enacted, and

2. no monthly insurance benefit shall be payable for any month before the second month following the month in which this Act is enacted [July 1965] by reason of section 202(d)(1)(B)(i) of the Social Security Act [subsec. (d)(1)(B)(i) of this section] as amended by this section.'

Section 307(c) of Pub. L. 89-97 provided that: 'The amendments made by this section [amending this section] shall apply with respect to monthly insurance benefits under section 202 of the Social Security Act [this section] for and after the second month following the month [July 1965] in which this Act is enacted, but only on the basis of applications filed in or after the month in which this Act is enacted.'

Section 308(e) of Pub. L. 89-97 provided that: 'The amendments made by this section [amending this section and sections 403, 405, 416, and 422 of this title] shall be applicable with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] beginning with the second month following the month in which this Act is enacted [July 1965]; but, in the case of an individual who was not entitled to a monthly insurance benefit under section 202 of such Act [this section] for the first month following the month in which this Act is enacted [July 1965], only on the basis of an application filed in or after the month in which this Act is enacted.'

Amendment by section 313(d) of Pub. L. 89-97 applicable with respect to taxable years beginning after December 31, 1965, see section 313(e) of Pub. L. 89-97, set out as a note under section 4162 of Title 26.

Section 323(b) of Pub. L. 89-97 provided that: 'The amendments made by subsection (a) of this section [amending this section] shall be applicable to persons who file applications, or on whose behalf applications are filed, for benefits under section 202(d) of the Social Security Act [subsec. (d) of this section] on or after the date this section is enacted [July 30, 1965]. The time limit provided by section 202(d)(10)(B) of such Act [subsec. (d)(10)(B) of this section] as amended by this section for legally adopting a child shall not apply in the case of any child who is adopted before the end of the 12-month period following the month in which this section is enacted.'

Section 323(b) of Pub. L. 89-97 provided that: 'The amendments made by this section [amending this section] shall be effective with respect to (1) applications for lump-sum death payments filed in or after the month [July 1965] in which this Act is enacted, and (2) monthly benefits based on applications filed in or after such month.'

Amendment by section 328(a) of Pub. L. 89-97 applicable with respect to applications filed on or after July 30, 1965, applications as to which the Secretary has not made a final decision before July 30, 1965, and, if a civil action with respect to a decision of the Secretary has been commenced under section 405(g) of this title before July 30, 1965, applications as to which there has been no final judicial decision before July 30, 1965, see section 328(d) of Pub. L. 89-97, set out as a note under section 416 of this title.

Section 333(d) of Pub. L. 89-97 provided that: 'The amendments made by this section [amending this section] shall be applicable with respect to monthly insurance benefits under section 202 of the Social Security Act [this section] beginning with the second month following the month in which this Act is enacted [July 1965]; but, in the case of an individual who was not entitled to a monthly insurance benefit under section 203(e) or (f) of such Act [subsec. (e) or (f) of this section] for the first month following the month in which this Act is enacted, only on the basis of an application filed in or after the month in which this Act is enacted.'

Section 333(g) of Pub. L. 89-97 provided that: 'The amendments made by this section [amending this section and section 416 of this title] shall be applicable only with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] be-
ginnering with the second month following the month in which this Act is enacted [July 1965], but only on the basis of applications filed in or after the month in which this Act is enacted.’’

Amendment by section 339(b) of Pub. L. 89–97 applicable with respect to monthly insurance benefits under subchapter II of this chapter beginning with September 1965 but only on the basis of applications filed in or after July 1965, see section 339(c) of Pub. L. 89–97, set out as a note under section 416 of this title.

Section 341(b) of Pub. L. 89–97 provided that: ‘‘The amendment made by subsection (a) [amending this section] shall apply only with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] for months after the month in which this Act was enacted, such amendment shall apply only on the basis of an application filed in or after the month in which this Act is enacted.’’

**Effective Date of 1961 Amendment**

Section 102(f) of title I of Pub. L. 87–64 provided that: ‘‘(1) The amendments made by subsection (a) [amending this section] shall apply with respect to monthly benefits for months beginning on or after the effective date of this title [see Effective Date of 1961 Amendment note set out above], but only if the increase described in such section 202(q)(3)—

‘‘(i) is not effective for any month beginning before the effective date of this title, or

‘‘(ii) is based on an application for a recomputation filed on or after the effective date of this title.

‘‘(C) In the case of any individual who attained age 65 before the effective date of this title, the adjustment in such individual’s reduction period provided for in section 202(q)(6) of such Act [subsec. (q)(6) of this section], as amended by subsection (b)(1), shall apply with respect to monthly benefits for months beginning on or after the effective date of this title [see Effective Date of 1961 Amendment note set out above].

‘‘(D) In the case of any individual entitled to a monthly benefit for the last month beginning before the effective date of this title, if the amount of such benefit for such last month, then it shall be increased to the amount of such benefit for such last month.

‘‘(3) Section 202(r) of such Act [subsec. (r) of this section], as amended by subsection (b)(1), shall apply only with respect to monthly benefits for months beginning on or after the effective date of this title [see Effective Date of 1961 Amendment note set out above], except that subparagraph (B) of such section 202(r) (as so amended) shall apply only if the first subsequent month described in such subparagraph (B) is a month beginning on or after the effective date of this title.

‘‘(4) The amendments made by subsection (b)(2) [amending this section and sections 416 and 423 of this title] shall take effect on the effective date of this title [see Effective Date of 1961 Amendment note set out above], except that such subsection (b)(2) shall apply only with respect to service as an employee) is concerned, such amendments shall apply only with respect to reiterations after the date of the enactment of this Act [Sept. 13, 1960]. The amendments made by subsections (h) and (l) [amending section 402 of this title and section 3121 of Title 26] shall apply only in the case of taxable years beginning after 1969. The amendments made by subsections (b), (1), (o), and (p) [amending section 410 of this title and section 3121 of Title 26, Internal Revenue Code, and amending section 418 of such Act] shall apply only on or after the effective date of this title [see Effective Date of 1961 Amendment note set out above].

‘‘(5) For purposes of this subsection, the term ‘monthly benefits’ means monthly insurance benefits under title II of the Social Security Act [this subchapter].’’

Section 104(e) of title I of Pub. L. 87–64 provided that: ‘‘The amendments made by this section [amending this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning on or after the effective date of this title [see Effective Date of 1961 Amendment note set out above].’’

Section 109 of title I of Pub. L. 87–64 provided that: ‘‘Except as otherwise provided, the effective date of this title [see Tables for classifications] is the first day of the first calendar month which begins on or after the 30th day after the date of the enactment of this Act [June 30, 1961].’’

**Effective Date of 1960 Amendments**

Section 103(v) of Pub. L. 86–778, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ‘‘(1) The amendments made by subsection (a) [amending this section and provisions set out as notes under this section] shall apply only with respect to reimbursements after the date of the enactment of this Act [June 30, 1961].

‘‘(2) In the case of any individual who attained age 65 before the effective date of this title, the adjustment in such individual’s reduction period provided for in section 202(q)(6) of such Act [subsec. (q)(6) of this section], as amended by subsection (b)(1), shall not apply to such individual unless the total of the months specified in subparagraphs (A), (B), and (C) of such section 202(q)(6) is not less than 3.

‘‘(3) In the case of any individual entitled to a monthly benefit for the last month beginning before the effective date of this title, if the amount of such benefit for such last month, then it shall be increased to the amount of such benefit for such last month.

‘‘(4) Section 202(r) of such Act [subsec. (r) of this section], as amended by subsection (b)(1), shall apply only with respect to monthly benefits for months beginning on or after the effective date of this title [see Effective Date of 1961 Amendment note set out above], except that subparagraph (B) of such section 202(r) (as so amended) shall apply only if the first subsequent month described in such subparagraph (B) is a month beginning on or after the effective date of this title.

‘‘(5) The amendments made by subsection (b)(3) [amending this section] shall apply with respect to ap-

plications for monthly benefits filed on or after the effective date of this title [see Effective Date of 1961 Amendment note set out above].

‘‘(6) The amendments made by subsections (c) and (d)(1) and (2) [amending sections 409, 413, 415, 416, and 423 of this title] shall apply with respect to—

‘‘(A) monthly benefits for months beginning on or after the Effective Date of this title [see Effective Date of 1961 Amendment note set out above] based on applications filed in or after March 1961, and

‘‘(B) lump-sum death payments under title II of the Social Security Act [this subchapter] in the case of deaths on or after the effective date of this title.

‘‘(7) The amendment made by subsection (d)(3) [amending section 415 of this title] shall take effect on the effective date of this title [see Effective Date of 1961 Amendment note set out above].

‘‘(8) The amendments made by subsection (e) [amending this section] shall apply with respect to monthly benefits for months beginning on or after the effective date of this title [see Effective Date of 1961 Amendment note set out above].

‘‘(9) For purposes of this subsection, the term ‘monthly benefits’ means monthly insurance benefits under title II of the Social Security Act [this subchapter].’’
going wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Government of American Samoa that the Government of American Samoa desires to have the insurance system established by such title II extended to the officers and employees of such Government and such political subdivision thereof. The amendments made by subsections (g) and (k) [amending section 411 of this title and section 1402 of Title 26] shall apply only in the case of taxable years beginning after 1960, except that, notwithstanding such nonapplication of section 932 of the Internal Revenue Code of 1966 [formerly I.R.C. 1954] [section 932 of Title 26] to the Virgin Islands for purposes of chapter 2 of such Code and section 211 of the Social Security Act [section 411 of this title], such amendments shall be effective in the case of all taxable years with respect to which such chapter 2 (and corresponding provisions of prior law) and such section 211 (section 411 of this title) are applicable. The amendments made by subsections (j), (o), and (t) [amending this section and sections 405, 409, 410, 411, 415, 417, and 418 of this title and sections 7213 and 7701 of Title 26 and repealing section 419 of this title] shall take effect on the date of the enactment of this Act [Sept. 13, 1960]; and there are authorized to be appropriated such sums as may be necessary for the performance by any officer or employee of functions delegated to him by the Secretary of the Treasury in accordance with the amendment made by such subsection (t) [amending section 7701 of Title 26].

The amendments made by subsections (c) and (n) [amending section 410 of this title and section 3121 of Title 26] shall have application only as expressly provided therein, and determinations as to whether an officer or employee of the Government of Guam or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, is an employee of the United States or any agency or instrumentality thereof within the meaning of any provision of law not affected by such amendments, shall be made without any inferences drawn from such amendments.

"(3) The repeal (by subsection (j)(1)) of section 219 of the Social Security Act [section 419 of this title], and the elimination (by subsections (e), (f), (h), (j)(2), and (j)(3)) of other provisions of such Act [from sections 410 and 411 of this title] making reference to such section 219 (section 419 of this title), shall not be construed as changing or otherwise affecting the effective date specified in such section for the extension to the Commonwealth of Puerto Rico of the insurance system under title II of such Act [this subchapter], the manner or consequences of such extension, or the status of any individual with respect to whom the provisions so eliminated are applicable."

Section 201(c) of Pub. L. 86-778 provided that: "The amendments made by this section [amending this section] shall apply as though this Act had been enacted on August 28, 1958, and with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after August 1958 based on applications for such benefits filed on or after August 28, 1958."

Section 202(b) of Pub. L. 86-778 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning with the month in which this Act is enacted (September 1960), but only if an application for such benefits is filed in or after such month."

Section 203(b) of Pub. L. 86-778 provided that: "The amendments made by subsection (a) [amending this section] shall apply—

"(1) in the case of the death of an individual occurring on or after the date of the enactment of this Act [Sept. 13, 1960], and

"(2) in the case of the death of an individual occurring prior to such date, but only if no application for a lump-sum death payment under section 202(i) of the Social Security Act [subsection (i) of this section] is filed on the basis of such individual’s wages and self-employment income prior to the third calendar month beginning after such date."

Section 205(d) of Pub. L. 86-778 provided that: "The preceding provisions of this section and the amendments made hereby [amending this section] shall apply only in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months after the month in which this Act is enacted (September 1960), on the basis of applications filed in or after such month."

Amendment by section 208(d) of Pub. L. 86-778 applicable (1) with respect to monthly benefits under this subchapter for months beginning with September 1960 on the basis of an application filed in or after such month, and (2) in the case of a lump-sum death payment under this subchapter based on an application filed in or after September 1960, but only if no person, other than the person filing such application, has filed an application for a lump-sum death payment under this subchapter prior to Sept. 13, 1960 with respect to the death of the same individual, see section 208(f) of Pub. L. 86-778, set out as a note under section 416 of this title.

Amendment by section 211(s)-(t) of Pub. L. 86-778 effective in the manner provided in section 211(p)-q of Pub. L. 86-778, see section 211(p)-q of Pub. L. 86-778 set out as a note under section 403 of this title.

Section 301(b) of Pub. L. 86-778 provided that: "The amendment made by this section [amending this section] shall apply only with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after the second month following the month in which this Act is enacted (September 1960)."

Amendment by section 403(d) of Pub. L. 86-778 applicable only with respect to benefits under subsect. (d) of this section for months after September 1960, in the case of individuals who, without regard to such amendment, would have been entitled to such benefits for September 1960, or for any succeeding month, see section 403(e) of Pub. L. 86-778, set out as a note under section 422 of this title.

Section 47(e) of Pub. L. 86-624 provided that: "The amendment made by section 30(c)(1) [amending this section] shall be applicable in the case of deaths occurring on or after August 21, 1959."

EFFECTIVE DATE OF 1959 AMENDMENTS
Section 47(e) of Pub. L. 86-70 provided that: "The amendment made by paragraph (1) of subsection (c) of section 32 [amending this section] shall apply in the case of deaths occurring on or after January 3, 1959."

EFFECTIVE DATE OF 1958 AMENDMENTS
Section 302 of Pub. L. 85-927 provided that: "The amendments made by section 301 of this Act [amending this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after December 1956, and with respect to lump-sum death payments under such section 202 in the case of deaths occurring after December 1956."

Amendment by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as an Effective Date note preceding section 101 of Title 38, Veterans’ Benefits.

Amendment by section 101(e) of Pub. L. 85-840 applicable in the case of monthly benefits under subchapter II of this chapter for months after December 1958, and in the case of lump-sum death payments under subchapter II of this chapter, with respect to deaths occurring after such month, see section 101(g) of Pub. L. 85-840, set out as a note under section 415 of this title.

Amendment by section 208(b)-(i) 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,
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1958, see section 207(a) of Pub. L. 85–840, set out as a note under section 416 of this title.

Section 303(i) of Pub. L. 85–840 provided that: "The amendments made by this subsection [amending this section and section 416 of this title] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning after the date of enactment of this Act [Aug. 28, 1958], but only if an application for such benefits is filed on or after such date."

Section 304(a) of Pub. L. 85–840 provided that: "The amendments made by this subsection [amending this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning after the date of enactment of this Act [Aug. 28, 1958], but only if an application for such benefits is filed on or after such date."

Section 305(c) of Pub. L. 85–840 provided that: "The amendments made by this section [amending this section and section 416 of this title] shall apply in the case of lump-sum death payments under such section 202(i) [subsec. (i) of this section] on the basis of the wages and self-employment income of any individual who dies after the month in which this Act is enacted [August 1958]."

Section 306(b) of Pub. L. 85–840 provided that: "The amendments made by this section [amending this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning after the date of enactment of this Act [Aug. 28, 1958], but only if an application for such benefits is filed on or after such date."

Section 307(h)(1) of Pub. L. 85–840 provided that: "The amendments made by this section (other than by subsections (f) and (g) [amending this section]) shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months following the month in which this Act is enacted [August 1958]; except that in any case in which benefits were terminated with the close of the month in which this Act is enacted or any prior month and, if the amendments made by this section had been in effect for such month, such benefits would not have been terminated, the amendments made by this section shall apply with respect to monthly benefits under section 202 of the Social Security Act for months beginning after the date of enactment of this Act, but only if an application for such benefits is filed after such date."

**Effective Date of 1957 Amendment**

Section 2 of Pub. L. 85–238 provided that: "The amendments made by the first section of this Act [amending this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after December 1956, and with respect to lump-sum death payments under such section 202 in the case of deaths occurring after December 1956."

Section 3(i) of Pub. L. 85–238 provided that: "(1) Except as provided in paragraph (2), the amendments made by this section [amending this section and section 416 of this title] shall apply in the case of monthly benefits under section 202 of the Social Security Act [this section] for months after the month in which this Act is enacted [August 1957].

"(2) The amendment made by subsection (f) [amending this section] shall not apply in the case of benefits under section 202(h) of the Social Security Act [subsec. (h) of this section], based on the wages and self-employment income of a deceased individual who died in or prior to the month in which this Act is enacted [August 1957] for any parent who files the proof of support, required by such section 202(h), in or prior to the month in which this Act is enacted; and the amendment to section 216(h)(1) of such Act [section 416(h)(1) of this title] made by subsection (h) of this section shall not operate to deprive any such parent of any benefits to which he would otherwise be entitled under section 202(h) of such Act."

**Effective Date of 1956 Amendments**

Section 403(b) of act Aug. 1, 1956, ch. 837, provided that: "The amendment made by subsection (a) [amending this section] shall be effective as though it had been enacted on March 31, 1956."

Section 101(b) of act Aug. 1, 1956, ch. 836, provided that:

"(1) The amendments made by this section [amending this section and section 403 of this title], other than subsection (c) [amending this section], shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after December 1956, but only, except as provided in paragraph (2), on the basis of an application filed after September 1956. For purposes of title II of the Social Security Act, as amended by this Act [this subchapter], an application for wife's, child's, or mother's insurance benefits under such title II filed, by reason of this paragraph, by an individual who was entitled to benefits prior to, but not for, December 1956 and whose entitlement terminated as a result of a child's attainment of age eighteen shall be treated as the application referred to in subsection (b), (d), and (g), respectively, of section 202 of such Act.

"(2) In the case of an individual who was entitled, without the application of subsection (j)(1) of such section 202 [subsec. (j)(1) of this section], to a child's insurance benefit under subsection (d) of such section [subsec. (d) of this section] for December 1956, such amendments shall apply with respect to benefits under such section 202 [this section] for months after December 1956.

"(3) The amendment made by subsection (c) [amending this section] shall apply in the case of benefits under section 202(h) of the Social Security Act [subsec. (h) of this section] based on the wages and self-employment income of an individual who dies after August 1956."

Section 114(b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) [amending this section] shall apply in the case of monthly benefits under title II of the Social Security Act [this subchapter], and monthly benefits under such title for months after August 1956, based on applications filed after August 1956."

Section 118(b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) [amending this section] shall apply in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1956 and in the case of lump-sum death payments under section 202(i) of such Act [subsec. (i) of this section] with respect to deaths occurring after December 1956."

**Effective Date of 1954 Amendment**

Section 105(b) of act Sept. 1, 1954, provided that: "The amendment made by subsection (a) [amending this section] shall be applicable only in the case of applications for monthly benefits under section 202 of the Social Security Act [this section] filed after August 1954; except that no individual shall, by reason of such amendment, be entitled to any benefit for any month prior to February 1955."

**Effective Date of 1950 Amendment**

Section 101(b)(1), (3) of act Aug. 28, 1950, provided that:

"(1) Except as provided in paragraph (3), the amendment made by subsection (a) of this section [amending this section] shall take effect on the date of enactment of this Act [Aug. 28, 1950].

"(3) Section 202(j)(2) of the Social Security Act [subsec. (j)(2) of this section], as amended by this Act, shall take effect on the date of enactment of this Act [Aug. 28, 1950]."

**Effective Date of 1946 Amendment**

Section 409(b) of act Aug. 10, 1946, provided that: "The amendment made by subsection (a) of this section [amending this section] shall be applicable only in
cases of applications for benefits under that Act filed after December 31, 1946.”

Section 404(b) of act Aug. 10, 1946, provided that: “The amendment made by subsection (a) of this section [amending this section] shall be applicable only in cases where the death of the insured individual occurs after December 31, 1946.”

Subsec. (b) of act Aug. 10, 1946, provided that: “The amendment made by subsection (a) of this section [amending this section] shall be applicable only in cases of applications for benefits under this title [this chapter] filed after December 31, 1946.”

**Effective Date of 1939 Amendment**

Section 201 of act Aug. 10, 1939, provided that the amendment made by that section is effective Jan. 1, 1940.

**Construction of 1994 Amendments**

Section 7 of Pub. L. 103–387 provided that: “Until March 31, 1995, any reference in this Act [see Short Title of 1994 Amendments note, set out under section 1 of Title 26, Internal Revenue Code] (other than section 3(d) (108 Stat. 4075)) or any amendment made by this Act to the Commissioner of Social Security shall be deemed a reference to the Secretary of Health and Human Services.”

**Pilot Study of Efficacy of Providing Individualized Information to Recipient of Old-Age and Survivors Insurance Benefits**

Pub. L. 104–121, title I, §106, Mar. 29, 1996, 110 Stat. 855, directed the Commissioner of Social Security, during a 2-year period beginning in 1996, to conduct a pilot study of the efficacy of providing certain individualized information, in the form of annual statements designed to promote better understanding of contributions and benefits, to recipients of monthly insurance benefits under 42 U.S.C. 402 whose entitlement began in or after 1984, and to report to Congress regarding the results of the pilot study not later than 60 days after the completion of the study.

**Treatment of Employees Whose Federal Employment Terminated After Making Election Into Social Security Coverage But Before Effective Date of Election**

Section 8041(b) of Pub. L. 101–647 provided that: “Subsections (b)(1)(A)(i), (c)(2)(A)(i), (d)(7)(A), (f)(2)(A)(i), and (g)(4)(A)(i) of section 202 of the Social Security Act (42 U.S.C. 402(b)(1)(A), (c)(2)(A), (d)(7)(A), (f)(2)(A), and (g)(4)(A)) shall not apply with respect to any period of disability which was performed while in the service of the Federal Government if—

1. such person made, before January 1, 1998, an election pursuant to law to become subject to the Federal Employees’ Retirement System provided in chapter 8 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4071 et seq.) or such person made such an election on or after January 1, 1988, and before July 1, 1988, pursuant to regulations of the Office of Personnel Management relating to belated elections and correction of administrative errors (5 C.F.R. §846.204) as in effect on the date of the enactment of this Act [Nov. 10, 1988], and

2. such election terminated before the date on which such election became effective.”

**Monthly Payments to Surviving Spouse of Member or Former Member of Armed Forces Where Such Person Has in Care a Child of Such Member; Amount, Criteria, Etc.**


“(a)(1) The head of the agency shall pay each month an amount determined under paragraph (2) to a person—

(A) who is the surviving spouse of a member or former member of the Armed Forces described in subsection (c);

(B) who has in such person’s care a child of such member or former member who has attained sixteen years of age but not eighteen years of age and is entitled to a child’s insurance benefit under section 202(d) of the Social Security Act (42 U.S.C. 402(d)) for such month or who meets the requirements for entitlement to the equivalent of such benefit provided under section 1312(a) of title 38, United States Code; and

(C) who is not entitled for such month to a mother’s insurance benefit under section 202(g) of the Social Security Act (42 U.S.C. 402(g)), or to the equivalent of such benefit based on meeting the requirements of section 1312(a) of title 38, United States Code, by reason of having such child (or any other child of such member or former member) in her care.

(b) A payment under paragraph (a) for any month shall be in the amount of the mother’s insurance benefit, if any, that such person would have received for such month under section 202(g) of the Social Security Act (42 U.S.C. 402(g)), or to the equivalent of such benefit based on meeting the requirements of section 1312(a) of title 38, United States Code, by reason of having such child (or any other child of such member or former member) in her care.

(1)(A) who is the child of a member or former member of the Armed Forces described in subsection (c);

(B) who has attained eighteen years of age but not twenty-two years of age and is not entitled for such month to a child’s insurance benefit under section 202(d) of the Social Security Act (42 U.S.C. 402(d));

(C) who is a full-time student at a postsecondary school, college, or university that is an educational institution (as such terms were defined in section 2210(d)(7)(A) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 95 Stat. 841)); and

(D) who is not entitled for such month to a child’s insurance benefit under section 202(d) of the Social Security Act (42 U.S.C. 402(d)) or is entitled for such month to such benefit only by reason of section 2210(c) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 842) [section 2210(c) of Pub. L. 97–35, set out below].

(2) A payment under paragraph (1) for any month shall be in the amount that the person concerned would have been entitled to receive for such month as a child’s insurance benefit under section 202(d) of the Social Security Act [subsec. (d) of this section] as in effect before the amendments made by section 2210(a) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 841) [section 2210(a) of Pub. L. 97–35], disregarding any adjustments made under section 215(1) of the Social Security Act [section 415(1) of this title] after August 1981. However, if such person is entitled for such month to a mother’s insurance benefit under section 202(g) of such Act by reason of having the child of a person other than such member or former member of the Armed Forces in such person’s care, the amount of the payment under the preceding sentence for such month shall be reduced (but not below zero) by the amount of the benefit payable by reason of having such child in such person’s care.

(b)(1) The head of the agency shall pay each month an amount determined under paragraph (2) to a person—

(A) who is the child of a member or former member of the Armed Forces described in subsection (c);

(B) who has attained eighteen years of age but not twenty-two years of age and is not entitled for such month to a child’s insurance benefit under section 202(d) of the Social Security Act (42 U.S.C. 402(d));

(C) who is a full-time student at a postsecondary school, college, or university that is an educational institution (as such terms were defined in section 2210(d)(7)(A) and (C) of the Social Security Act [subsec. (d)(7)(A) and (C) of this section] as in effect before the amendments made by section 2210(a) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 95 Stat. 841)); and

(D) who is not entitled for such month to a child’s insurance benefit under section 202(d) of the Social Security Act (42 U.S.C. 402(d)) or is entitled for such month to such benefit only by reason of section 2210(c) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 842) [section 2210(c) of Pub. L. 97–35, set out below].

(2) A payment under paragraph (1) for any month shall be in the amount that the person concerned would have been entitled to receive for such month as a child’s insurance benefit under section 202(d) of the Social Security Act [subsec. (d) of this section] as in effect before the amendments made by section 2210(a) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 841) [section 2210(a) of Pub. L. 97–35], disregarding any adjustments made under section 215(1) of the Social Security Act [section 415(1) of this title] after August 1981, but reduced for any month by any amount payable to such person for such month under section 2210(c) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 842).”

(c) a member or former member of the Armed Forces referred to in subsection (a) or (b) as described in this subsection is a member or former member of the active duty before August 13, 1981, or died from a service-connected disability incurred or aggravated before such date.
"(d)(1) The Secretary of Health and Human Services shall provide to the head of the agency such information as the head of the agency may require to carry out this section.

"(2) The head of the agency shall carry out this section under regulations which the head of the agency shall prescribe. Such regulations shall be prescribed not later than ninety days after the date of the enactment of this section [Dec. 21, 1982]."

"(e)(1) Unless otherwise provided by law—

"(A) each time after December 31, 1981, that an increase is made by law in the dependency and indemnity compensation paid under section 1311 of title 38, United States Code, the head of the agency shall, at the same time and effective as of the same date on which such increase takes effect, increase the benefits paid under subsection (a) by a percentage that is equal to the overall average (rounded to the nearest one-tenth of 1 per centum) of the percentages by which each of the dependency and indemnity compensation rates under section 1311 of such title are increased above the rates as in effect immediately before such increase; and

"(B) each time after December 31, 1981, that an increase is made by law in the rates of educational assistance allowances provided for under section 3351(b) of title 38, United States Code, the head of the agency shall, at the same time and effective as of the same date on which such increase takes effect, increase the benefits paid under subsection (b) by a percentage that is equal to the overall average (rounded to the nearest one-tenth of 1 per centum) of the percentages by which each of the educational assistance allowance rates provided for under section 3351(b) of such title are increased above the rates as in effect immediately before such increase.

"(2) The amount of the benefit payable to any person under subsection (a) or (b) and the amount of any increase in any such benefit made pursuant to clause (1) or (2) of this subsection, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(f) Payments under subsections (a) and (b) shall be made only for months after the month in which this section is enacted.

"(g)(1) During each fiscal year the Secretary of Defense shall transfer from time to time to the head of the agency such amounts as the head of the agency determines to be necessary to pay the benefits provided for under subsections (a) and (b) during such fiscal year and to pay the administrative expenses incurred in paying such benefits during such fiscal year. During fiscal year 1983, transfers under this subsection shall be made from the 'Retired Pay, Defense' account of the Department of Defense. During subsequent fiscal years, such transfers shall be made from such account or from funds otherwise available to the Secretary for the purpose of the payment of such benefits and expenses. The Secretary of Defense may transfer funds under this subsection in advance of the payment of such benefits and expenses by the head of the agency.

"(2) The head of the agency shall establish on the books of the agency over which he exercises jurisdiction a new account to be used for the payment of benefits under subsections (a) and (b) and shall credit to such account all funds transferred to him for such purpose by the Secretary of Defense.

"(h) The head of the agency and the Secretary of Health and Human Services may enter into an agreement to provide for the payment by the Secretary or the head of the agency of benefits provided for under subsection (a) and benefits provided for under section 202(g) of the Social Security Act [42 U.S.C. 422(g)] in a single monthly payment and for the payment by the Secretary or the head of the agency of benefits provided for under subsection (b) and benefits provided for under section 202(d) of the Social Security Act [42 U.S.C. 422(d)] in a single monthly payment, if the head of the agency and the Secretary agree that such action would be practicable and cost effective to the Government.

"(i) For the purposes of this section:

"(1) The term 'head of the agency' means the head of such department or agency of the Government as the President shall designate to administer the provisions of this section.

"(2) The terms 'active military, naval, or air service' and 'service-connected' have the meanings given those terms in paragraphs (24) and (16), respectively, of section 101 of title 38, United States Code, except that for the purposes of this section such terms do not apply to any service in the commissioned corps of the Public Health Service or the National Oceanic and Atmospheric Administration.”

Section 2210(c) of Pub. L. 97–35 provided that:

“(1) Notwithstanding the provisions of section 202(d) of the Social Security Act [subsec. (d) of this section] (as in effect prior to or after the amendments made by subsection (a)), any individual who—

“(A) has attained the age of 18;

“(B) is not under a disability (as defined in section 223(d) of such Act) [section 423(d) of this title];

“(C) is entitled to a child’s insurance benefit under such section 202(d) [subsec. (d) of this section] for August 1981; and

“(D) is a full-time student at a postsecondary school, college, or university that is an educational institution (as such terms are defined in section 223(d)(7)(A) and (C) of such Act as in effect prior to the amendments made by subsection (a) for any month prior to May 1982; shall be entitled to a child’s benefit under section 202(d) of such Act in accordance with the provisions of such section as in effect prior to the amendments made by subsection (a) for any month after July 1981 and prior to August 1985 if such individual would be entitled to such child’s benefit for such month under such section 202(d) if subsections (a) and (b) of this section [amending subsec. (d) of this section and enacting a provision set out as a note under this section] had not been enacted, but such benefits shall be subject to the limitations set forth in this subsection.

“(2) No benefit described in paragraph (1) shall be paid to an individual to whom paragraph (1) applies for the months of May, June, July, and August, beginning with benefits otherwise payable for May 1982.

“(3) The amount of the monthly benefit payable under paragraph (1) to an individual to whom paragraph (1) applies for the months of May, June, July, and August, beginning with benefits otherwise payable for May 1982—

“(A) during the months after July 1982 and before August 1983, equal to 25 percent of such benefit for August 1981;

“(B) during the months after July 1983 and before August 1984, equal to 50 percent of such benefit for August 1981; and

“(C) during the months after July 1984 and before August 1985, equal to 75 percent of such benefit for August 1981.

“(4) Any individual to whom the provisions of paragraph (1) apply and whose entitlement to benefits under paragraph (1) ends after July 1982 shall not subsequently become entitled, or reentitled, to benefits under paragraph (1) or under section 202(d) of the Social Security Act [subsec. (d) of this section] as in effect after the amendments made by subsection (a) unless he
meets the requirements of section 202(d)(1)(B)(i) of that Act as so in effect.”

**NONAPPLICABILITY OF AMENDMENTS BY SECTION 334 OF PUB. L. 95–216 TO MONTHLY INSURANCE BENEFITS PAYABLE TO INDIVIDUALS ELIGIBLE FOR MONTHLY PERIODIC BENEFITS; SAVINGS PROVISION**

Section 334(g) of Pub. L. 95–216, as amended by Pub. L. 98–617, §2(b)(i), Nov. 8, 1984, 98 Stat. 3294, provided that:

“(1) The amendments made by the preceding provisions of this section (see section 334(f) of Pub. L. 95–216, set out as an Effective Date of 1977 Amendment note above) shall not apply with respect to any monthly insurance benefit payable, under subsection (b), (c), (e), (f), or (g) (as the case may be) of section 202 of the Social Security Act (this section), to an individual—

“(A)(i) to whom there is payable for any month within the 60-month period beginning with the month in which this Act [December 1977] is enacted (or who is eligible in any such month for) a monthly periodic benefit (within the meaning of such provisions) based upon such individual’s earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2) of the Social Security Act [section 418(b)(2) of this title], or (ii) who would have been eligible for such a monthly periodic benefit (within the meaning of paragraph (2) before the close of such 60-month period, except for a requirement which postponed eligibility (as so defined) for such monthly periodic benefit until the month following the month in which all other requirements were met; and

“(B) who at time of application for or initial entitlement to such monthly insurance benefit under such subsection (b), (c), (e), (f), or (g) (as the case may be) of section 202 of the Social Security Act (this section) meets the requirements of that subsection as it was in effect and being administered in January 1977.

“(2) For purposes of paragraph (1)(A), an individual is eligible for a monthly periodic benefit for any month if such benefit would be payable to such individual for that month if such individual were not employed during that month and had made proper application for such benefit.

“(3) If any provision of this subsection, or the application thereof to any person or circumstance, is held invalid, the remainder of this section shall not be affected thereby, but the application of this subsection to any other persons or circumstances shall also be considered invalid.”

[Section 2(b)(3) of Pub. L. 98–617 provided that: “The amendments made by this subsection (amending above note and provisions set out as an Offset Against Spouses’ Benefits on Account of Public Pensions note below) shall apply with respect to benefits payable under title II of the Social Security Act [this subchapter] for months beginning after the month of enactment of this Act [November 1984].”]

**OFFSET AGAINST SPUSES’ BENEFITS ON ACCOUNT OF PUBLIC PENSIONS**

Section 334(h) of Pub. L. 95–216, as added by Pub. L. 97–455, §7(a)(1), Jan. 12, 1983, 96 Stat. 2501, and amended by Pub. L. 98–617, §2(b)(2), Nov. 8, 1984, 98 Stat. 3294, provided that: “In addition, the amendments made by the preceding provisions of this section [see section 334(f) of Pub. L. 95–216, set out as an Effective Date of 1977 Amendment note above] shall not apply with respect to any monthly insurance benefit payable, under subsection (b), (c), (e), (f), or (g) (as the case may be) of section 202 of the Social Security Act [this section], to an individual—

“(1)(A) to whom there is payable for any month prior to July 1983 (or who is eligible in any such month for) a monthly periodic benefit (within the meaning of such provisions) based upon such individual’s earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2) of the Social Security Act [section 418(b)(2) of this title], or (B) who would have been eligible for such a monthly periodic benefit within the meaning of subsection (g)(2) [set out as a note above] before the close of June 1983, except for a requirement which postponed eligibility (as so defined) for such monthly periodic benefit until the month following the month in which all other requirements were met; and

“(2) who at the time of application for or initial entitlement to such monthly insurance benefit under such subsection (b), (c), (e), (f), or (g)—

“(A) meets the dependency test of one-half support set forth in paragraph (1)(C) of such subsection (c) as it read prior to the enactment of the amendments made by this section [see section 334(f) of Pub. L. 95–216, set out as an Effective Date of 1977 Amendment note above], or an equivalent dependency test (if the individual is a woman), in the case of an individual applying for or becoming entitled to benefits under such subsection (b) or (c), or

“(B) meets the dependency test of one-half support set forth in paragraph (1)(D) of such subsection (f) as it read prior to the enactment of the amendments made by this section, or an equivalent dependency test (if the individual is a woman), in the case of an individual applying for or becoming entitled to benefits under such subsection (e), (f), or (g).

**REDETERMINATION OF WIDOW’S AND WIDOWER’S MONTHLY INSURANCE BENEFITS FOR MONTHS AFTER DECEMBER 1978**

Section 336(c)(2) of Pub. L. 95–216 provided that: “In the case of an individual who was entitled for the month of December 1978 to monthly insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act [subsec. (e) or (f) of this section] to which the provisions of subsection (e)(4) or (f)(5) applied, the Secretary shall, if such benefits would be increased by the amendments made by this section [amending this section] redetermine the amount of such benefits for months after December 1978 as if such amendments had been in effect for the first month for which the provisions of section 202(e)(4) or 202(f)(5) became applicable.”

**MINIMUM MONTHLY INSURANCE BENEFITS FOR MONTHS AFTER DECEMBER 1978, FOR WIDOW OR WIDOWER AND OTHER JOINTLY ENTITLED INDIVIDUALS**

Section 336(d) of Pub. L. 95–216 provided that:

“‘(1) two or more persons are entitled to monthly benefits under section 202 of the Social Security Act [this section] for December 1978 on the basis of the wages and self-employment income of a deceased individual, and one or more of such persons is so entitled under subsection (e) or (f) of such section 202 [subsec. (e) or (f) of this section], and

“(2) one or more of such persons is entitled on the basis of such wages and self-employment income to monthly benefits under subsection (e) or (f) of such section 202 (as amended by this section) for January 1979, and

“(3) the total of benefits to which all persons are entitled under section 202 of such Act on the basis of such wages and self-employment income for January 1979 is reduced by reason of section 203(a) of such Act as amended by this Act [section 403(a) of this title] (or would, but for the first sentence of section 203(a)(4), be so reduced),

then the amount of the benefit to which each such person referred to in paragraph (1) is entitled for months after December 1978 shall in no case be less after the application of this section [see section 336(c)(1) of Pub. L. 95–216, set out as an Effective Date of 1977 Amendment note under this subchapter] and such section 203(a) [section 403(a) of this title] than the amount it would have been without the application of this section.”
TERMINATION OF SPECIAL $50 PAYMENTS UNDER TAX REDUCTION ACT OF 1975

Pub. L. 95–30, title IV, §606, May 23, 1977, 91 Stat. 156, provided that: "Notwithstanding the provisions of section [415(i)(3) of this title] or section 215(a)(3) of such Act [section 415(a)(3) of this title], any determination of cost-of-living increases authorized under title [II of such Act (this subchapter) except that—

"(1) the amount of such increase shall be 7 per centum,

"(2) in the case of any individual entitled to monthly insurance benefits payable pursuant to section 202(e) of such Act [subsec. (e) of this section] for February 1974 (without the application of section 202(j)(1) or 223(b) of such Act [subsec. (j) of this section or section 423(f) of this Act]), including such benefits based on a primary insurance amount determined under section 215(a)(3) of such Act [section 415(a)(3) of this title] as amended by this section, such increase shall be determined without regard to paragraph (2)(B) of such section 202(e), and

"(3) in the case of any individual entitled to monthly insurance benefits payable pursuant to section 202(f) of such Act for February 1974 (without the application of section 202(j)(1) or 223(b) of such Act), including such benefits based on a primary insurance amount determined under section 215(a)(3) of such Act as amended by this section, such increase shall be determined without regard to paragraph (3)(B) of such section 202(f).

"(c) The increase in social security benefits provided by this section shall—

"(1) not be considered to be an increase in benefits made under or pursuant to section 215(i) of the Social Security Act [section 415(i) of this title], and

"(2) not (except for purposes of section 203(a)(2) of such Act [section 403(a)(2) of this title], as in effect after February 1974) be considered to be a 'general benefit increase under this title' [this subchapter] (as such term is defined in section 215(i)(3) of such Act) and nothing in this section shall be construed as authorizing any increase in the 'contribution and benefit base' (as that term is employed in section 230 of such Act) [section 410 of this title], or any increase in the 'exempt amount' (as such term is used in section 203(i)(8) of such Act [section 403(i)(8) of this title].

"(d) Nothing in this section shall be construed to authorize (directly or indirectly) any increase in monthly benefits under title II of the Social Security Act [this subchapter] for any month after May 1974, or any increase in lump-sum death payments payable under such title in the case of deaths occurring after May 1974. The recognition of the existence of the increase in benefits authorized by the preceding subsections of this section (except (c) hereof) in the application, after May 1974, of the provisions of sections 202(q) and 203(a) of such Act [subsec. (q) of this section and section 403(a) of this title] shall not, for purposes of the preceding sentence, be considered to be an increase in a monthly benefit for a month after May 1974."

REDETERMINATION OF WIDOW'S AND WIDOWER'S BENEFITS FOR DECEMBER 1972 AND AFTER TO PROVIDE FOR 1972 INCREASES

Pub. L. 92–603 provided that:

"(1) in the case of an individual who is entitled to widow's or widower's insurance benefits for the month of December 1972 the Secretary shall, if it would increase such benefits, redetermine the amount of such benefits for months after December 1972 under title II of the Social Security Act [this subchapter], as if the amendments made by this section (amending this section and section 403 of this title) had been in effect for the first month of such individual's entitlement to such benefits.

"(2) For purposes of paragraph (1)—

"(A) any deceased individual on whose wages and self-employment income the benefits of an individual referred to in paragraph (1) are based, if deemed not to have been entitled to benefits if the record, of insured individuals who were entitled to

minutions by the Secretary in connection with the provision of such increase in benefits shall be made, in the manner prescribed in section 215(i) of the Social Security Act [section 415(i) of this title] for the implementation of cost-of-living increases authorized under title II of such Act (this subchapter) except that—

"(1) the amount of such increase shall be 7 per centum,

"(2) in the case of any individual entitled to monthly insurance benefits payable pursuant to section 202(e) of such Act [subsec. (e) of this section] for February 1974 (without the application of section 202(j)(1) or 223(b) of such Act [subsec. (j) of this section or section 423(f) of this Act]), including such benefits based on a primary insurance amount determined under section 215(a)(3) of such Act [section 415(a)(3) of this title] as amended by this section, such increase shall be determined without regard to paragraph (2)(B) of such section 202(e), and

"(3) in the case of any individual entitled to monthly insurance benefits payable pursuant to section 202(f) of such Act for February 1974 (without the application of section 202(j)(1) or 223(b) of such Act), including such benefits based on a primary insurance amount determined under section 215(a)(3) of such Act as amended by this section, such increase shall be determined without regard to paragraph (3)(B) of such section 202(f).

"(c) The increase in social security benefits provided by this section shall—

"(1) not be considered to be an increase in benefits made under or pursuant to section 215(i) of the Social Security Act [section 415(i) of this title], and

"(2) not (except for purposes of section 203(a)(2) of such Act [section 403(a)(2) of this title], as in effect after February 1974) be considered to be a 'general benefit increase under this title' [this subchapter] (as such term is defined in section 215(i)(3) of such Act) and nothing in this section shall be construed as authorizing any increase in the 'contribution and benefit base' (as that term is employed in section 230 of such Act) [section 410 of this title], or any increase in the 'exempt amount' (as such term is used in section 203(i)(8) of such Act [section 403(i)(8) of this title].

"(d) Nothing in this section shall be construed to authorize (directly or indirectly) any increase in monthly benefits under title II of the Social Security Act [this subchapter] for any month after May 1974, or any increase in lump-sum death payments payable under such title in the case of deaths occurring after May 1974. The recognition of the existence of the increase in benefits authorized by the preceding subsections of this section (except (c) hereof) in the application, after May 1974, of the provisions of sections 202(q) and 203(a) of such Act [subsec. (q) of this section and section 403(a) of this title] shall not, for purposes of the preceding sentence, be considered to be an increase in a monthly benefit for a month after May 1974."
benefits, that is readily available to the Secretary contains no entry for such deceased individual; and

"(B) any deductions under subsections (b) and (c) of section 203 of such Act [section 403 of this title], applicable to the benefits of an individual referred to in paragraph (1) for any month prior to September 1965, shall be disregarded in applying the provisions of section 203(a)(7) of such Act [section 403(a) of this title] (as amended by this Act) [Pub. L. 92–603]."

**ADJUSTMENT OF BENEFITS BASED ON DISABILITY WHICH BEGAN BETWEEN AGE 18 AND 22**

Section 108(g) of Pub. L. 92–603 provided that:

"Where—

"(1) one or more persons are entitled (without the application of sections 202(j)(1) and 223(b) of the Social Security Act) [section 403(a) of this title] to monthly benefits under section 202 or 223 of such Act for December 1972 on the basis of the wages and self-employment income of an insured individual, and

"(2) one or more persons (not included in paragraph (1)) are entitled to monthly benefits under such section 202 or 223 [this section or section 423 of this title] for January 1973 solely by reason of the amendments made by this section on the basis of such wages and self-employment income, and

the total of the benefits to which all persons are entitled under such sections 202 and 223 [this section and section 423 of this title] on the basis of such wages and self-employment income for January 1973 is reduced by reason of section 203(a) of such Act [section 403(a) of this title] as amended by this Act, or would, but for the penultimate sentence of such section 203(a), be so reduced, then the amount of the benefit to which each person referred to in paragraph (1) of this subsection is entitled for months after December 1972 shall be adjusted, after the application of such section 203(a) [section 403(a) of this title], to an amount no less than the amount it would have been if the person or persons referred to in paragraph (2) of this subsection were not entitled to a benefit referred to in such paragraph (2)."

**TERMINATION OF CHILD’S INSURANCE BENEFITS BY REASON OF ADOPTION**

Section 112(c) of Pub. L. 92–603 provided that: "Any child—

"(1) whose entitlement to child’s insurance benefits under section 202(d) of the Social Security Act [section 403 of this title] was terminated by reason of his adoption, prior to the date of the enactment of this Act [Oct. 30, 1972], and

"(2) who, except for such adoption, would be entitled to child's insurance benefits under such section for a month after the month in which this Act is enacted [October 1972], may, upon filing application for child’s insurance benefits under the Social Security Act after the date of enactment of this Act, become entitled to such benefits; except that no child shall, by reason of the enactment of this section, become entitled to such benefits for any month prior to the month after the month in which this Act is enacted."

**SAVINGS PROVISION**

1972—Section 162(h) of Pub. L. 92–603 provided that:

"Where—

"(1) two or more persons are entitled to monthly benefits under section 202 of the Social Security Act [this section] for December 1972 on the basis of the wages and self-employment income of a deceased individual, and one or more of such persons is so entitled under subsection (e) or (f) of such section 202, and

"(2) one or more of such persons is entitled on the basis of such wages and self-employment income to monthly benefits under subsection (e) or (f) of such section 202 (as amended by this section) for January 1973, and

"(3) the total of benefits to which all persons are entitled under section 202 of such Act [this section] on the basis of such wages and self-employment income for January 1973 is reduced by reason of section 203(a) of such Act [section 403(a) of this title], as amended by this Act (or would, but for the penultimate sentence of such section 203(a), be so reduced), then the amount of the benefit to which each person referred to in paragraph (1) of this subsection is entitled for months after December 1972 shall be adjusted, after the application of such section 203(a) [section 403(a) of this title], to an amount no less than the amount it would have been if the person or persons referred to in paragraph (2) of this subsection were not entitled to a benefit referred to in such paragraph (2)."

1961—Section 104(f) of Pub. L. 87–64 provided that:

"Where—

"(1) two or more persons were entitled (without the application of subsection (j)(1) of section 202 of the Social Security Act [section 403 of this title] to monthly benefits under such section 202 for the last month beginning before the effective date of this title [see Effective Date of 1961 Amendment note set out above] on the basis of such wages and self-employment income of a deceased individual, and one or more of such persons is entitled to a monthly insurance benefit under subsection (e), (f), or (h) of such section 202 for such last month; and

"(2) no person, other than the persons referred to in paragraph (1) of this subsection, is entitled to benefits under such section 202 on the basis of such individual’s wages and self-employment income for a subsequent month or for any month after such subsequent month and before such subsequent month; and

"(3) the total of the benefits to which all persons are entitled under such section 202 on the basis of such individual’s wages and self-employment income for such subsequent month is reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title], then the amount of the benefit to which each such person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall be determined without regard to this Act if, after the application of this Act, such benefit for such month is less than the amount of such benefit for such last month. The preceding provisions of this subsection shall not apply to any monthly benefit for any month beginning after the effective date of this title [see Effective Date note of 1961 Amendment note set out above]
unless paragraph (3) also applies to such benefit for the month beginning on such effective date (or would so apply but for the next to the last sentence of section 202(c) of the Social Security Act [section 403(a) of this title]).
1960—Section 203(e) of Pub. L. 86–778 provided that:

"Where—"

"(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [subsection (j)(1) of this section]) to monthly benefits under section 202 of such Act for the month before the month in which this Act is enacted (September 1960) on the basis of the wages and self-employment income of an individual; and"

"(2) any person is entitled to benefits under subsection (f), (e), (d), (c), (b), or (a) of section 202 of the Social Security Act for any subsequent month on the basis of such individual’s wages and self-employment income and such person would not be entitled to such benefits for the enactment of this section; and"

"(3) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act on the basis of such individual’s wages and self-employment income for such subsequent month is reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title], then the amount of the benefit to which each person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall be determined—"

"(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [subsection (j)(1) of this section]) to monthly benefits under section 202 of such Act for the month before the month in which this Act is enacted (September 1960) on the basis of the wages and self-employment income of an individual; and"

"(2) any person is entitled to benefits under subsection (f), (e), (d), (c), (b), or (a) of section 202 of the Social Security Act for any subsequent month on the basis of such individual’s wages and self-employment income and such person would not be entitled to such benefits for the enactment of this section; and"

"(3) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act on the basis of such individual’s wages and self-employment income for such subsequent month is reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title], then the amount of the benefit to which each such person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall be increased, after the application of such section 203(a), to the amount it would have been if no person referred to in paragraph (2) of this subsection was entitled to a parent’s insurance benefit for such subsequent month on the basis of such wages and self-employment income."
1957—Section 5 of Pub. L. 85–238 provided that:

"Where—"

"(a) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [subsection (j)(1) of this section]) to parent’s insurance benefits under section 202(h) of such Act for the month in which this Act [August 1957] is enacted on the basis of the wages and self-employment income of an individual;"

"(b) a person becomes entitled to a widow’s, widower’s or mother’s insurance benefit under section 202(e), (f), or (g) of the Social Security Act for any subsequent month on the basis of such wages and self-employment income;"

"(c) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act, on the basis of such wages and self-employment income for such subsequent month are reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title]; then the amount of the benefit to which each such person referred to in paragraph (a) or (b) is entitled for such subsequent month shall be increased, after the application of such section 203(a), to the amount it would have been—"

"(d) if, in the case of a parent’s insurance benefit, the person referred to in paragraph (b) was not entitled to the benefit referred to in such paragraph, or"

"(e) if, in the case of a benefit referred to in paragraph (b), no person was entitled to a parent’s insurance benefit for such subsequent month on the basis of such wages and self-employment income."

FILING OF PROOF OF SUPPORT
1968—Section 157(c) of Pub. L. 90–248 provided that:

"In the case of any husband who would not be entitled to husband’s insurance benefits under section 202(c) of the Social Security Act [subsection (c) of this section] or any widower who would not be entitled to widow’s insurance benefits under section 202(f) of such Act except for the enactment of this section, the requirement in section 202(c)(1)(C) or 202(f)(1)(D) of such Act relating to the time within which proof of support must be filed shall not apply if such proof of support is filed within two years after the month following the month in which this Act is enacted [January 1968]."

1961—Section 103(c) of title I of Pub. L. 87–64 provided that:

"In the case of any widower or parent who would not be entitled to widow’s insurance benefits under section 202(h) [subsection (f) of this section], or parent’s insurance benefits under section 202(h), of the Social Se-
curity Act except for the enactment of this Act (other than this subsection), the requirement in sections 202(f)(1)(D) and 202(h)(1)(B), respectively, of the Social Security Act relating to the time within which proof of support must be filed shall not apply if such proof of support is filed before the close of the 2-year period which begins on the effective date of this title [see Effect Date of 1961 Amendment note set out above].

1958—Section 207(b) of Pub. L. 85-840 provided that: "In the case of any husband, widow, or parent who would not be entitled to benefits under section 202(c), section 202(f), and section 202(h), respectively, of the Social Security Act [subsecs. (c), (f), and (h) of this section] except for the enactment of section 205 of this Act [amending this section and sections 401, 403, 414, 415, 422, and 425 of this title], the requirement in such section 202(c), section 202(f), or section 202(h), as the case may be, that proof of support be filed within a two-year period shall not apply if such proof is filed within two years after the month in which this Act is enacted [August 1958]."

Section 204(c) of Pub. L. 85-840 provided that: "In the case of any parent who would not be entitled to parent's benefits under section 202(h) of the Social Security Act [subsec. (h) of this section] except for the enactment of this section, the requirement in such section 202(h) that proof of support be filed within two years after the date of death of the insured individual referred to therein shall not apply if such proof is filed within the two-year period beginning with the first day of the month after the month in which this Act is enacted [August 1958]."

1954—Section 113 of act Sept. 1, 1954, provided that:

"(a) For the purpose of determining the entitlement of any individual to husband's insurance benefits under subsection (c) of section 202 of the Social Security Act [subsec. (c) of this section] on the basis of his wife's wages and self-employment income, the requirements of paragraph (1)(D) of such subsection shall be deemed to be met if—

"(1) such individual was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary of Health, Education, and Welfare, from his wife on the first day of the first month (A) for which she was entitled to a monthly benefit under subsection (a) of such section 202, and (B) in which an event described in paragraph (1) or (2) of section 203(b) of such Act [section 403(b) of this title] (as in effect before or after the enactment of this Act [Sept. 1, 1954]) did not occur.

"(2) such individual has filed proof of such support within two years after such first month, and

"(3) such wife was, without the application of subsection (j)(1) of such section 202, entitled to a primary insurance benefit under such Act for August 1950.

"(b) For the purpose of determining the entitlement of any individual to widow's insurance benefits under subsection (f) of section 202 of the Social Security Act on the basis of his deceased wife's wages and self-employment income, the requirements of paragraph (1)(E)(i)(I) of such subsection shall be deemed to be met if—

"(1) such individual was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary of Health, Education, and Welfare, from his wife, and she was a currently insured individual, on the first day of the first month (A) for which she was entitled to a monthly benefit under subsection (a) of such section 202, and (B) in which an event described in paragraph (1) or (2) of section 203(b) of such Act (as in effect before or after the enactment of this Act [Sept. 1, 1954]) did not occur.

"(2) such individual has filed proof of such support within two years after such first month, and

"(3) such wife was, without the application of subsection (j)(1) of such section 202, entitled to a primary insurance benefit under such Act for August 1950.

"(c) For purposes of subsection (b)(1)(I) of this section, and for purposes of section 202(c)(1) of the Social Security Act in cases to which subsection (a) of this section is applicable, the wife of an individual shall be deemed a currently insured individual if she had not less than six quarters of coverage during the calendar quarter in which such wife was entitled to a primary benefit under section 202(a) of such Act, and (2) in which an event described in paragraph (1) or (2) of section 203(b) of such Act (as in effect before or after the enactment of this Act [Sept. 1, 1954]) did not occur.

"(d) This section shall apply only with respect to husband's insurance benefits under section 202(c) of the Social Security Act [subsec. (c) of this section], and widow's insurance benefits under section 202(f) of such Act [subsec. (f) of this section], for months after August 1954, and only with respect to benefits based on applications filed after such month."

1950—Title 101(c) of act Aug. 28, 1950, provided that:

"(1) Any individual entitled to primary insurance benefits or widow's current insurance benefits under section 202 of the Social Security Act [this section] as in effect prior to its amendment by this Act who would, but for the enactment of this Act, be entitled to such benefits for September 1950 shall be deemed to be entitled to old-age insurance benefits or mother's insurance benefits (as the case may be) under section 202 of the Social Security Act, as amended by this Act, as though such individual became entitled to such benefits in such month.

"(2) Any individual entitled to any other monthly insurance benefits under section 202 of the Social Security Act as in effect prior to its amendment by this Act who would, but for the enactment of this Act, be entitled to such benefits for September 1950 shall be deemed to be entitled to such benefits under section 202 of the Social Security Act, as amended by this Act, as though such individual became entitled to such benefits in such month.

"(3) Any individual who files application after August 1950 for monthly benefits under any subsection of section 202 of the Social Security Act who would, but for the enactment of this Act, be entitled to such benefits under such subsection (as in effect prior to such enactment) for any month prior to September 1950 shall be deemed entitled to such benefits for such month prior to September 1950 to the same extent and in the same amounts as though this Act had not been enacted."

**Extension of Filing Period for Husband’s, Widower’s, or Parent’s Benefits in Certain Cases**

Section 210 of Pub. L. 86-778 provided that:

"(a) In the case of any husband who would not be entitled to husband's insurance benefits under section 202(c) of the Social Security Act [subsec. (c) of this section] except for the enactment of this Act, the requirement in section 202(c)(1)(C) of the Social Security Act relating to the time within which proof of support must be filed shall not apply if such proof of support is filed within two years after the month in which this Act is enacted [September 1960].

"(b) In the case of any widower who would not be entitled to widow's insurance benefits under section 202(f) of the Social Security Act except for the enactment of this Act, the requirement in section 202(f)(1)(D) of the Social Security Act relating to the time within which proof of support must be filed shall not apply if such proof of support is filed within two years after the month in which this Act is enacted.

"(c) In the case of any parent who would not be entitled to parent's insurance benefits under section 202(h) of the Social Security Act except for the enactment of this Act, the requirement in section 202(h)(1)(B) of the Social Security Act relating to the time within which proof of support must be filed shall not apply if such
proof of support is filed within two years after the month in which this Act is enacted.

Disregarding OASDI Benefit Increases and Child’s Insurance Benefit Payments Beyond Age 18 to the Extent Attributable to Retroactive Effective Date of 1965 Amendments

Authorization to disregard, in determining need for aid or assistance under an approved State plan, amounts paid under this subchapter for months occurring after December 1964 and before October 1965 to the extent to which payment is attributable to the payment of child’s insurance benefits under the old-age, survivors, and disability insurance system after attainment of age 18, in the case of individuals attending school, resulting from enactment of section 306 of Pub. L. 89–97, see section 406 of Pub. L. 89–97, set out as a note under section 415 of this title.

Lump-Sum Payments Where Death Occurred Prior to September 1, 1950

Section 101(d) of act Aug. 28, 1950, as amended July 18, 1952, ch. 945, §8(e)(1), 66 Stat. 775; Sept. 13, 1960, Pub. L. 86–778, title I, §103(a)(2), 74 Stat. 906, provided that: ‘‘Lump-sum death payments shall be made in the case of individuals who died prior to September 1950 as though this Act had not been enacted; except that in the case of any individual who died outside the forty-eight States and the District of Columbia after December 6, 1941, and prior to August 10, 1946, the last sentence of section 202(g) of the Social Security Act [subsec. (g) of this section] as in effect prior to the enactment of this Act shall not be applicable if application for a lump-sum death payment is filed prior to September 1952, and except that in the case of any individual who died outside the forty-eight States and the District of Columbia on or after June 25, 1950, and prior to September 1950, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa for interment or reinterment, the last sentence of section 202(g) of the Social Security Act as in effect prior to the enactment of this Act [July 18, 1952] shall not prevent payment to any person under this Act, if application for a lump-sum death payment under such section with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment.’’

Lump-Sum Payments for Deaths Before 1940; Time Limitation

Lump-sum payments of 9½ percent of total wages paid with respect to employment after Dec. 31, 1936 and before reaching the age of 65 were provided for persons who were not qualified individuals upon reaching the age by section 204 of act Aug. 14, 1935, before amendment in 1939. Such lump-sum payments, except to the estate of an individual who died prior to Jan. 1, 1940, were prohibited after Aug. 10, 1939, by section 902(g) of act Aug. 10, 1939. Section 415 of act Aug. 10, 1946, provided that no lump-sum payments shall be made under section 204 of the 1935 act or section 902(g) of the 1939 act unless application therefor has been filed prior to the expiration of six months after Aug. 10, 1946.

Death Outside U.S.; Extension of Filing Time for Lump-Sum Payments

Section 8(e)(2) of act July 18, 1952, ch. 945, 66 Stat. 775, as amended by Pub. L. 86–778, title I, §103(a)(2), Sept. 13, 1960, 74 Stat. 936, provided that: ‘‘In the case of any individual who died outside the forty-eight States and the District of Columbia after August 1936 and prior to January 1945, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa for interment or reinterment, the last sentence of section 202(i) of the Social Security Act [subsec. (i) of this section] shall not prevent payment to any person under the second sentence thereof if application for a lump-sum death payment with respect to such deceased individual is filed under such section by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment.’’

Payment of Annuities to Officers and Employees of the United States Convened of Certain Offenses

Section 121(b) of act Aug. 1, 1956, ch. 836, provided that: ‘‘The amendment made by subsection (a) of this section [amending this section] shall not be construed to restrict or otherwise affect any of the provisions of the Act entitled ‘An Act to prohibit payments of annuities to officers and employees of the United States convicted of certain offenses, and for other purposes’, approved September 1, 1954 (Public Law 769, Eighty-third Congress) (sections 2281 to 2288 of former Title 5, Executive Departments and Government Officers and Employees, and are covered by section 2211 et seq. of Title 5, Government Organization and Employees).’’

Application for Benefits by Survivors of Members and Former Members of Uniformed Services

Forms for use by survivors of members and former members of the uniformed services in filing applications for benefits under this subchapter to be prescribed jointly by the Secretary of Veterans Affairs and the Secretary of Health and Human Services, see section 5158 of Title 38, Veterans’ Benefits.

Payments of Aliens’ Benefits Withheld Under Foreign Delivery Restriction of Checks Against Federal Funds

Section 182(c)(3) of Pub. L. 90–248 provided that: ‘‘Whenever benefits which an individual who is not a citizen or national of the United States was entitled to receive under title II of the Social Security Act [this subchapter] are, on June 30, 1968, being withheld by the Treasury Department under the first section of the Act of October 9, 1940 (31 U.S.C. 123) (31 U.S.C. 3329(a) and 3330(a)), any such benefits, payable to such individual for months after the month in which the determination by the Treasury Department that the benefits should be so withheld was made, shall not be paid—

‘‘(A) to any person other than such individual, or, if such individual dies before such benefits can be paid, to any person other than an individual who was entitled for the month in which the deceased individual died (with the application of section 202(j)(1) of the Social Security Act [subsec. (j)(1) of this section]) to a monthly benefit under title II of such Act [this subchapter] on the basis of the same wages and self-employment income as such deceased individual, or

‘‘(B) in excess of the equivalent of the last twelve months’ benefits that would have been payable to such individual.’’

Study of Retirement Test and of Drug Standards and Coverage

Section 405 of Pub. L. 90–248 authorized the Secretary of Health, Education, and Welfare to make a study of the existing retirement test and proposals for the modification of the test, the quality and cost standards for drugs for which payments are made under this chapter, and the coverage of drugs under part B of chapter XVIII of this chapter, and submit a report to the President and to Congress concerning his findings and recommendations on or before Jan. 1, 1969.

Ex. Ord. No. 12438. Payment of Certain Benefits to Survivors of Persons Who Died in or as a Result of Military Service

Ex. Ord. No. 12436, July 29, 1983, 48 F.R. 34931, provided:
§ 403. Reduction of insurance benefits

(a) Maximum benefits

(1) In the case of an individual whose primary insurance amount has been computed or recomputed under section 415(a)(1) or (4) of this title, or section 415(d) of this title, as in effect after December 1978, the total monthly benefits to which such individual is entitled for purposes of this section 415(i)(2)(A)(ii)(III) of this title, be reduced under this subsection to less than the amount established with respect to this subparagraph by paragraph (2), and

(B) 175 percent of such individual’s primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (C).

Any such amount that is not a multiple of $0.10 shall be decreased to the next lower multiple of $0.10.

(2)(A) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming so eligible for such benefits), in any calendar year after 1979, each of the amounts so established shall equal the product of the corresponding amount established for the calendar year 1979 by subparagraph (A) of this paragraph and the quotient obtained under subparagraph (B)(ii) of section 415(a)(1) of this title, with such product being rounded in the manner prescribed by section 415(a)(1)(B)(iii) of this title.

(C) In each calendar year after 1978 the Commissioner of Social Security shall publish in the Federal Register, on or before November 1, the formula which (except as provided in section 415(i)(2)(D) of this title) is to be applicable under this paragraph to individuals who become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits), in the following calendar year.

(D) A year shall not be counted as the year of an individual’s death or eligibility for purposes of this paragraph or paragraph (8) in any case where such individual was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month of such death or eligibility (but there shall be counted instead the year of the individual’s eligibility for the disability insurance benefits to which he was entitled during such 12 months).

(3)(A) When an individual who is entitled to benefits on the basis of the wages and self-employment income of any insured individual and to whom this subsection applies would (but for the provisions of section 402(k)(2)(A) of this title) be entitled to child’s insurance benefits for a month on the basis of the wages and self-employment income of one or more other insured individuals, the total monthly benefits to which all beneficiaries are entitled on the basis of such wages and self-employment income shall not be reduced under this subsection to less than the smaller of—

(i) the sum of the maximum amounts of benefits payable on the basis of the wages and self-employment income of all such insured individuals, or

(ii) an amount (I) initially equal to the product of 1.75 and the primary insurance amount that would be computed under section 415(a)(1) of this title, for January of the year determined for purposes of this clause under the following two sentences, with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined for that year under section 430 of this title, and (II) thereafter increased in accordance with the provisions of section 415(i)(2)(A)(ii) of this title.

The year established for purposes of clause (ii) shall be 1983 or, if it occurs later with respect to
any individual, the year in which occurred the month that the application of the reduction provisions contained in this subparagraph began with respect to benefits payable on the basis of the wages and self-employment income of the insured individual. If for any month subsequent to the first month for which clause (ii) applies (with respect to benefits payable on the basis of the wages and self-employment income of the insured individual) the reduction under this subparagraph ceases to apply, then the year determined under the preceding sentence shall be re-determined (for purposes of any subsequent application of this subparagraph with respect to benefits payable on the basis of such wages and self-employment income) as though this subparagraph had not been previously applicable.

(B) When two or more persons were entitled (without the application of section 402(j)(1) of this title and section 422(b)(1) of this title) to monthly benefits under section 402 or 423 of this title for January 1971 or any prior month on the basis of the wages and self-employment income of such insured individual and the provisions of this subsection as in effect for any such month were applicable in determining the benefit amount of any persons on the basis of such wages and self-employment income, the total of benefits for any month after January 1971 shall not be reduced to less than the largest of—

(i) the amount determined under this subsection without regard to this subparagraph,

(ii) the largest amount which has been determined for any month under this subsection for persons entitled to monthly benefits on the basis of such insured individual’s wages and self-employment income, or

(iii) if any persons are entitled to benefits on the basis of such wages and self-employment income for the month before the effective month (after September 1972) of a general benefit increase under this title (as defined in section 415(i)(3) of this title) or a benefit increase under the provisions of section 415(d) of this title, an amount equal to the sum of amounts derived by multiplying the benefit amount determined under this subchapter (excluding any part thereof determined under section 402(w) of this title) for the month before such effective month (including this subsection, but without the application of section 422(b)1 of this title, section 402(q) of this title, and subsections (b), (c), and (d) of this section), for each such person for such month, by a percentage equal to the percentage of the increase provided under such benefit increase (with any such increased amount which is not a multiple of $0.10 being rounded to the next lower multiple of $0.10);

but in any such case (I) subparagraph (A) of this paragraph shall not be applied to such total of benefits after the application of clause (ii) or (iii), and (II) if section 402(k)(2)(A) of this title was applicable in the case of any such benefits for a month, and ceases to apply for a month after such month, the provisions of clause (ii) or (iii) shall be applied, for and after the month in which section 402(k)(2)(A) of this title ceases to apply, as though subparagraph (A) of this paragraph had not been applicable to such total of benefits for the last month for which clause (ii) or (iii) was applicable.

(C) When any of such individuals is entitled to monthly benefits as a divorced spouse under section 402(b) or (c) of this title or as a surviving divorced spouse under section 402(e) or (f) of this title for any month, the benefit to which he or she is entitled on the basis of the wages and self-employment income of such insured individual for such month shall be determined without regard to this subsection, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 402 of this title on the wages and self-employment income of such insured individual shall be determined as if no such divorced spouse or surviving divorced spouse were entitled to benefits for such month.

(D) In any case in which—

(i) two or more individuals are entitled to monthly benefits for the same month as a spouse under subsection (b) or (c) of section 402 of this title, or as a surviving spouse under subsection (e), (f), or (g) of section 402 of this title,

(ii) at least one of such individuals is entitled by reason of subparagraph (A)(ii) or (B) of section 416(h)(1) of this title, and

(iii) such entitlements are based on the wages and self-employment income of the same insured individual,

the benefit of the entitled individual whose entitlement is based on a valid marriage (as determined without regard to subparagraphs (A)(ii) and (B) of section 416(h)(1) of this title) to such insured individual shall, for such month and all months thereafter, be determined without regard to this subsection, and the benefits of all other individuals who are entitled, for such month or any month thereafter, to monthly benefits under section 402 of this title based on the wages and self-employment income of such insured individual shall be determined as if such entitled individual were not entitled to benefits for such month.

(4) In any case in which benefits are reduced pursuant to the provisions of this subsection, the reduction shall be made after any deductions under this section and after any deductions under section 422(b)1 of this title. Notwithstanding the preceding sentence, any reduction under this subsection in the case of an individual who is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 402 of this title for any month on the basis of the same wages and self-employment income as another person—

(A) who also is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 402 of this title for such month,

(B) who does not live in the same household as such individual, and

(C) whose benefit for such month is suspended (in whole or in part) pursuant to subsection (h)(3) of this section,

shall be made before the suspension under subsection (h)(3) of this section. Whenever a reduction is made under this subsection in the total

1 See References in Text note below.
disability insurance benefits shall be reduced

employment income of an individual entitled to

section) to the smaller of—

wages and self-employment income of an insured individual and (for such particular month) the provisions of this subsection are applicable to such monthly benefits, and

such individual’s primary insurance amount is increased for the following month under any provision of this subchapter;

then the total of monthly benefits for all persons on the basis of such wages and self-employment income for such particular month, as determined under the provisions of this subsection, shall for purposes of determining the total monthly benefits for all persons on the basis of such wages and self-employment income for months subsequent to such particular month be considered to have been increased by the smallest amount that would have been required in order to assure that the total of monthly benefits payable on the basis of such wages and self-employment income for such particular month will not be less (after the application of the other provisions of this subsection and section 402(q) of this title) than the total of monthly benefits (after the application of the other provisions of this subsection and section 402(q) of this title) payable on the basis of such wages and self-employment income for such particular month.

Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), (3)(D), (4), and (5) (but subject to section 415(i)(2)(A)(ii) of this title), the total monthly benefits to which beneficiaries may be entitled under sections 402 and 423 of this title for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits shall be reduced (before the application of section 424a of this title) to the smaller of—

(1) 85 percent of such individual’s average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

(2) 150 percent of such individual’s primary insurance amount.

In the case of any individual who is entitled for any month to benefits based upon the primary insurance amounts of two or more insured individuals, one or more of which primary insurance amounts were determined under section 415(a) or (d) of this title as in effect (without regard to the table contained therein) prior to January 1979 and one or more of which primary insurance amounts were determined under section 415(a)(1) or (4) of this title, or section 415(d) of this title, as in effect after December 1978, the total benefits payable to that individual and all other individuals entitled to benefits for that month based upon those primary insurance amounts shall be reduced to an amount equal to the amount determined in accordance with the provisions of paragraph (3)(A)(ii) of this subsection, except that for this purpose the references to subparagraph (A) in the last two sentences of paragraph (3)(A) shall be deemed to be references to paragraph (7).

(8) Subject to paragraph (7) and except as otherwise provided in paragraph (10)(A), this subsection as in effect in December 1978 shall remain in effect with respect to a primary insurance amount computed under section 415(a) or (d) of this title, as in effect (without regard to the table contained therein) in December 1978 and as amended by section 5117 of the Omnibus Budget Reconciliation Act of 1990, except that a primary insurance amount so computed with respect to an individual who first becomes eligible for an old-age or disability insurance benefit, or dies (before becoming eligible for such a benefit), after December 1978, shall instead be governed by this subsection as in effect after December 1978. For purposes of the preceding sentence, the phrase “rounded to the next higher multiple of $0.10”, as it appeared in subsection (a)(2)(C) of this section as in effect in December 1978, shall be deemed to read “rounded to the next lower multiple of $0.10”.

(9) The subsection, except that for this purpose the references to paragraph (7).

(10)(A) Subject to subparagraphs (B) and (C)—

(i) the total monthly benefits to which beneficiaries may be entitled under sections 402 and 423 of this title for a month on the basis of the wages and self-employment income of an individual whose primary insurance amount is computed under section 415(a)(2)(B)(i) of this title shall equal the total monthly benefits which were authorized by this section with respect to such individual’s primary insurance amount for the last month of his prior entitlement to disability insurance benefits, increased for this purpose by the general benefit increases and other increases under section 415(i) of this title that would have applied to such total monthly benefits had the individual remained entitled to disability insurance benefits until the month in which he became entitled to old-age insurance benefits or reentitled to disability insurance benefits or died, and
(ii) the total monthly benefits to which beneficiaries may be entitled under sections 402 and 423 of this title for a month on the basis of the wages and self-employment income of an individual whose primary insurance amount is computed under section 415(a)(2)(C) of this title shall equal the total monthly benefits which were authorized by this section with respect to such individual’s primary insurance amount for the last month of his prior entitlement to disability insurance benefits.

(B) In any case in which—

(i) the total monthly benefits with respect to such individual’s primary insurance amount for the last month of his prior entitlement to disability insurance benefits was computed under paragraph (6), and

(ii) the individual’s primary insurance amount is computed under subparagraph (B)(i) or (C) of section 415(a)(2) of this title by reason of the individual’s entitlement to old-age insurance benefits or death,

the total monthly benefits shall equal the total monthly benefits that would have been authorized with respect to the primary insurance amount for the last month of his prior entitlement to disability insurance benefits if such total monthly benefits had been computed without regard to paragraph (6).

(C) This paragraph shall apply before the application of paragraph (3)(A), and before the application of subsection (a)(1) of this section as in effect in December 1978.

(b) Deductions on account of work

(1) Deductions, in such amounts and at such time or times as the Commissioner of Social Security shall determine, shall be made from any payment or payments under this subchapter to which an individual is entitled, and from any payment or payments to which any other persons are entitled on the basis of such individual’s wages and self-employment income, until the total of such deductions is less than 2 years, which an individual is entitled, until the total of his benefits remaining after such earlier deductions have been made. For purposes of charging of each person’s excess earnings under subsection (f) of this section, only to the extent of the total of his benefits remaining after such earlier deductions have been made. For purposes of this subsection and subsection (f) of this section—

(i) an individual shall be deemed to be entitled to payments under section 402 of this title equal to the amount of the benefit or benefits to which he is entitled under such section after the application of subsection (a) of this section, but without the application of the first sentence of paragraph (4) thereof; and

(ii) if a deduction is made with respect to an individual’s benefit or benefits under section 402 of this title because of the occurrence in any month of an event specified in subsection (c) or (d) of this section or in section 422(b) of this title, such individual shall not be considered to be entitled to any benefits under such section 402 for such month.

(2)(A) Except as provided in subparagraph (B), in any case in which—

(i) any of the other persons referred to in paragraph (1)(B) is entitled to monthly benefits as a divorced spouse under section 402(b) or (c) of this title for any month, and

(ii) such person has been divorced for not less than 2 years,

the benefit to which he or she is entitled on the basis of the wages and self-employment income of the individual referred to in paragraph (1) for such month shall be determined without regard to deductions under this subsection as a result of excess earnings of such individual, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 402 of this title on the basis of the wages and self-employment income of such individual referred to in paragraph (1) shall be determined as if no such divorced spouse were entitled to benefits for such month.

(B) Clause (ii) or subparagraph (A) shall not apply with respect to any divorced spouse in any case in which the individual referred to in paragraph (1) became entitled to old-age insurance benefits under section 402(a) of this title before the date of the divorce.

(c) Deductions on account of noncovered work outside United States or failure to have child in care

Deductions, in such amounts and at such time or times as the Commissioner of Social Security shall determine, shall be made from any payment or payments under this subchapter to which an individual is entitled, until the total of such deductions equals such individual’s benefits or benefit under section 402 of this title for any month—

(1) in which such individual is under retirement age (as defined in section 416(l) of this
(1) The amount of an individual’s excess earnings (as defined in paragraph (3)(I)) shall be charged to months as follows: There shall be charged to the first month of such taxable year an amount of his excess earnings equal to the sum of the payments to which he and all other persons (excluding divorced spouses referred to in subsection (b)(2) of this section) are entitled for such month under section 402 of this title on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum), and the balance, if any, of such excess earnings shall be charged to each succeeding month in such year to the extent, in the case of each such month, of the sum of the payments to which such individual and all such other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income, until the total of such excess has been so charged. Where an individual is entitled to benefits under section 402(a) of this title and other persons (excluding divorced spouses referred to in subsection (b)(2) of this section) are entitled to benefits under section 402(b), (c), or (d) of this title on the basis of the wages and self-employment income of the individual entitled to old-age insurance benefits referred to in subparagraph (A) shall be determined without regard to deductions under this paragraph as a result of excess earnings of such individual, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 402 of this title on the basis of the wages and self-employment income of such individual referred to in subparagraph (A) shall be determined as if no such divorced spouse were entitled to benefits for such month.

(ii) Subclause (II) of clause (i) shall not apply with respect to any divorced spouse in any case in which the individual entitled to old-age insurance benefits referred to in subparagraph (A) became entitled to such benefits before the date of the divorce.

(2) Deductions shall be made from any child’s insurance benefit to which a child who has attained the age of eighteen is entitled, or from any mother’s or father’s insurance benefit to which a person is entitled, until the total of such deductions equals such child’s insurance benefit or benefits under section 402 of this title for any month in which such child or person became entitled to such insurance benefits. For purposes of this subsection—

(a) in which such child was not under the care of his or her deceased former spouse who (A) is his or her son, daughter, or legally adopted child and (B) is entitled to a child’s insurance benefit on the basis of the wages and self-employment income of such deceased former spouse.

(b) in which such individual, if a surviving divorced mother or father entitled to a mother’s or father’s insurance benefit, did not have in his or her care a child of his or her deceased former spouse who (A) is his or her son, daughter, or legally adopted child and (B) is entitled to a child’s insurance benefit on the basis of the wages and self-employment income of such deceased former spouse.

(c) in which such individual, a child of his or her deceased spouse entitled to a child’s insurance benefit,

(d) in which such individual, if a surviving divorced mother or father entitled to a mother’s or father’s insurance benefit, did not have in his or her care a child of his or her deceased former spouse.

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child’s insurance benefit for any month in which paragraph (1) of section 402(a) of this title applies or an event specified in section 422(b)1 of this title occurs in any one month which would occasion deductions equal to a benefit for such month, only an amount equal to such benefit shall be deducted.

(e) Occurrence of more than one event

If more than one of the events specified in subsections (c) and (d) of this section and section 422(b)1 of this title occurs in any one month, which would occasion deductions equal to a benefit for such month, only an amount equal to such benefit shall be deducted.

(f) Months to which earnings are charged

For purposes of subsection (b) of this section—

(1) The amount of an individual’s excess earnings (as defined in paragraph (3)(I)) shall be charged to months as follows: There shall be charged to the first month of such taxable year an amount of his excess earnings equal to the sum of the payments to which he and all other persons (excluding divorced spouses referred to in subsection (b)(2) of this section) are entitled for such month under section 402 of this title on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum), and the balance, if any, of such excess earnings shall be charged to each succeeding month in such year to the extent, in the case of each such month, of the sum of the payments to which such individual and all such other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income, until the total of such excess has been so charged. Where an individual is entitled to benefits under section 402(a) of this title and other persons (excluding divorced spouses referred to in subsection (b)(2) of this section) are entitled to benefits under section 402(b), (c), or (d) of this title on the basis of the wages and self-em-
employment income of such individual, the excess earnings of such individual for any taxable year shall be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Notwithstanding the preceding provisions of this paragraph but subject to section 402(e) of this title, no part of the excess earnings of an individual shall be charged to any month (A) for which such individual was not entitled to a benefit under this subchapter, (B) in which such individual was at or above retirement age (as defined in section 416(i) of this title), (C) in which such individual, if a child entitled to child's insurance benefits, has attained the age of 18, (D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, (E) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8), if such month is in the taxable year in which occurs the first month after December 1977 that is both (i) a month for which the individual is entitled to benefits under subsection (a), (b), (c), (d), (e), (f), (g), or (h) of section 402 of this title (without having been entitled for the preceding month to a benefit under any other of such subsections), and (ii) a month in which the individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of more than the applicable exempt amount as determined under paragraph (8), or (F) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8), in the case of an individual entitled to benefits under section 402(b) or (c) of this title (but only by reason of having a child in his or her care within the meaning of paragraph (1)(B) of subsection (b) or (c) of this section, as may be applicable) or under section 402(d) or (g) of this title, if such month is in a year in which such entitlement ends for a reason other than the death of such individual, and such individual is not entitled to any benefits under this subchapter for the month following the month during which such entitlement under section 402(b), (d), or (g) of this title ended.

As used in paragraph (1), the term “first month of such taxable year” means the earliest month in such year to which the charging of excess earnings described in such paragraph is not prohibited by the application of clauses (A), (B), (C), (D), (E), and (F) thereof.

For purposes of paragraph (1) and subsection (b) of this section, an individual's excess earnings for a taxable year shall be 33 1/3 percent of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8) in the case of an individual who has attained (or, but for the individual's death, would have attained) retirement age (as defined in section 416(i) of this title) before the close of such taxable year, or 50 percent of his earnings for such year in excess of such product in the case of any other individual, multiplied by the number of months in such year, except that, in determining an individual’s excess earnings for the taxable year in which he attains retirement age (as defined in section 416(i) of this title), there shall be excluded any earnings of such individual for the month in which he attains such age and any subsequent month (with any net earnings or net loss from self-employment in such year being prorated in an equitable manner under regulations of the Commissioner of Social Security). For purposes of the preceding sentence, notwithstanding section 411(e) of this title, the number of months in the taxable year in which an individual dies shall be 12. The excess earnings as derived under the first sentence of this paragraph, if not a multiple of $1, shall be reduced to the next lower multiple of $1.

For purposes of clause (E) of paragraph (1)—

(A) An individual will be presumed, with respect to any month, to have been engaged in self-employment in such month until it is shown to the satisfaction of the Commissioner of Social Security that such individual rendered no substantial services in such month with respect to any trade or business the net income or loss of which is includable in computing (as provided in paragraph (5) of this subsection) his net earnings or net loss from self-employment for any taxable year. The Commissioner of Social Security shall by regulations prescribe the methods and criteria for determining whether or not an individual has rendered substantial services with respect to any trade or business.

(B) An individual will be presumed, with respect to any month, to have rendered services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8) until it is shown to the satisfaction of the Commissioner of Social Security that such individual did not render such services in such month for more than such amount.

(5)(A) An individual's earnings for a taxable year shall be (i) the sum of his wages for services rendered in such year and his net earnings from self-employment for such year, minus (ii) any net loss from self-employment for such year.

(B) For purposes of this section—

(i) An individual's net earnings from self-employment for any taxable year shall be determined as provided in section 411 of this title, except that paragraphs (1), (4), and (5) of section 411(c) of this title shall not apply and the gross income shall be computed by excluding the amounts provided by subparagraph (D) of this paragraph, and

(ii) An individual's net loss from self-employment for any taxable year is the excess of the deductions (plus his distributive share of loss described in section 702(a)(8) of the Internal Revenue Code of 1986) taken into
account under clause (i) over the gross income (plus his distributive share of income so described) taken into account under clause (i).

(C) For purposes of this subsection, an individual’s wages shall be computed without regard to the limitations as to amounts of remuneration specified in paragraphs (1), (6)(B), (6)(C), (7)(B), and (8) of section 409(a) of this title; and in making such computation services which do not constitute employment as defined in section 410 of this title, performed within the United States by the individual as an employee or performed outside the United States in the active military or naval service of the United States, shall be deemed to be employment as so defined if the remuneration for such services is not includible in computing his net earnings or net loss from self-employment. The term “wages” does not include—

(i) the amount of any payment made to, or on behalf of, an employee or any of his dependents (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement, or

(ii) any payment or series of payments by an employer to an employee or any of his dependents upon or after the termination of the employee’s employment relationship because of retirement after attaining an age specified in a plan referred to in section 409(a)(11)(B) of this title or in a pension plan of the employer.

(D) In the case of—

(i) an individual who has attained retirement age (as defined in section 416(i) of this title) on or before the last day of the taxable year, and who shows to the satisfaction of the Commissioner of Social Security that he or she is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he or she attained such age and that the property to which the copyright or patent relates was created by his or her own personal efforts, or

(ii) an individual who has become entitled to insurance benefits under this subchapter, other than benefits under section 423 of this title, by reason of being under a disability, and who shows to the satisfaction of the Commissioner of Social Security that he or she is receiving, in a year after his or her initial year of entitlement to such benefits, any other income not attributable to services performed after the month in which he or she initially became entitled to such benefits, there shall be excluded from gross income any such royalties or other income.

(E) For purposes of this section, any individual’s net earnings from self-employment which result from or are attributable to the performance of services by such individual as a director of a corporation during any taxable year shall be deemed to have been derived (and received) by such individual in that year, at the time the services were performed, regard-

less of when the income, on which the computation of such net earnings from self-employment is based, is actually paid to or received by such individual (unless such income was actually paid and received prior to that year).

(6) For purposes of this subsection, wages (determined as provided in paragraph (5)(C)) which, according to reports received by the Commissioner of Social Security, are paid to an individual during a taxable year shall be presumed to have been paid to him for services performed in such year until it is shown to the satisfaction of the Commissioner of Social Security that they were paid for services performed in another taxable year. If such reports with respect to an individual show his wages for a calendar year, such individual’s taxable year shall be presumed to be a calendar year for purposes of this subsection until it is shown to the satisfaction of the Commissioner of Social Security that his taxable year is not a calendar year.

(7) Where an individual’s excess earnings are charged to a month and the excess earnings so charged are less than the total of the payments (without regard to such charging) to which all persons (excluding divorced spouses referred to in subsection (b)(2) of this section) are entitled under section 402 of this title for such month on the basis of his wages and self-employment income, the difference between such total and the excess so charged to such month shall be paid (if it is otherwise payable under this subchapter) to such individual and other persons in the proportion that the benefit to which each of them is entitled (without regard to such charging, without the application of section 403(a) of this title, and prior to the application of section 403(a) of this title) bears to the total of the benefits to which all of them are entitled.

(8)(A) Whenever the Commissioner of Social Security pursuant to section 415(i) of this title increases benefits effective with the month of December following a cost-of-living computation quarter the Commissioner shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals which are to be applicable (unless prevented from becoming effective by subparagraph (C)) with respect to taxable years ending in (or with the close of) the calendar year after the calendar year in which such benefit increase is effective (or, in the case of an individual who dies during the calendar year after the calendar year in which the benefit increase is effective, with respect to such individual’s taxable year which ends, upon his death, during such year).

(B) Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be whichever of the following is the larger—

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(i) the corresponding exempt amount which is in effect with respect to months in the taxable year in which the determination under subparagraph (A) is made, or

(ii) the product of the corresponding exempt amount which is in effect with respect to months in the taxable year ending after 2001 and before 2003 (with respect to individuals described in subparagraph (D)) or the taxable year ending after 1993 and before 1995 (with respect to other individuals), and the ratio of—

(I) the national average wage index (as defined in section 409(k)(1) of this title) for the calendar year before the calendar year in which the determination under subparagraph (A) is made, to

(II) the national average wage index (as so defined) for 2000 (with respect to individuals described in subparagraph (D)) or 1992 (with respect to other individuals),

with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such product is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.

Whenever the Commissioner of Social Security determines that an exempt amount is to be increased in any year under this paragraph, the Commissioner shall notify the House Committee on Ways and Means and the Senate Committee on Finance within 30 days after the close of the base quarter (as defined in section 415(i)(1)(A) of this title) in such year of the determination under subsection (c) of this section as follows:

(1) if such failure is the first one with respect to which an additional deduction is imposed by this subsection, such additional deduction shall be equal to his benefit or benefits for the first month of the period for which there is a failure to report even though such failure is with respect to more than one month;

(2) if such failure is the second one with respect to which an additional deduction is imposed by this subsection, such additional deduction shall be equal to two times his benefit or benefits for the first month of the period for which there is a failure to report even though such failure is with respect to more than two months; and

(3) if such failure is the third or a subsequent one for which an additional deduction is imposed under subsection (c) of this section, such additional deduction shall be equal to three times his benefit or benefits for the first month of the period for which there is a failure to report even though the failure to report is with respect to more than three months;

except that the number of additional deductions required by this subsection shall not exceed the number of months in the period for which there is a failure to report. As used in this subsection, the term “period for which there is a failure to report” with respect to any individual means the period for which such individual received and accepted insurance benefits under section 402 of this title without making a timely report and for which deductions are required under subsection (c) of this section.

(h) Report of earnings to Commissioner

(1)(A) If an individual is entitled to any monthly insurance benefit under section 402 of
this title during any taxable year in which he has earnings or wages, as computed pursuant to paragraph (5) of subsection (f) of this section, in excess of the product of the applicable exempt amount as determined under subsection (f)(b) of this section times the number of months in such year, such individual (or the individual who is in receipt of such benefit on his behalf) shall make a report to the Commissioner of Social Security of his earnings (or wages) for such taxable year. Such report shall be made on or before the fifteenth day of the fourth month following the close of such year, and shall contain such information and be made in such manner as the Commissioner of Social Security may by regulations prescribe. Such report need not be made for any taxable year—

(1) beginning with or after the month in which such individual attained retirement age (as defined in section 416(l) of this title), or

(ii) if benefit payments for all months (in such taxable year) in which such individual is under retirement age (as defined in section 416(l) of this title) have been suspended under the provisions of the first sentence of paragraph (3) of this subsection, unless—

(I) such individual is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 402 of this title;

(II) such benefits are reduced under subsection (a) of this section for any month in such taxable year, and

(III) in any such month there is another person who also is entitled to benefits under subsection (b), (d), (e), (f), (g), or (h) of section 402 of this title on the basis of the same wages and self-employment income and who does not live in the same household as such individual.

The Commissioner of Social Security may grant a reasonable extension of time for making the report of earnings required in this paragraph if the Commissioner finds that there is valid reason for a delay, but in no case may the period be extended more than four months.

(2) If the Commissioner finds that there is valid reason for a delay, but in no case may the period be extended more than four months.

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earnings as the Commissioner of Social Security may specify. A failure by such individual to comply with any such request shall in itself constitute justification for a determination under this paragraph that it may reasonably be expected that the individual will suffer deductions imposed under subsection (b) of this section by reason of his earnings for such year. If, after the close of a taxable year of an individual entitled to benefits under section 402 of this title for such year, the Commissioner of Social Security requests such individual to furnish a report of his earnings (as computed pursuant to paragraph (5) of subsection (f) of this section) for such taxable year or any other information with respect to such earnings which the Commissioner of Social Security may specify, and the individual fails to comply with such request, such failure shall in itself constitute justification for a determination that such individual’s benefits are subject to deductions under subsection (b) of this section for each month in such taxable year (or only for such months thereof as the Commissioner of Social Security may specify) by reason of his earnings for such year.

(4) The Commissioner of Social Security shall develop and implement procedures in accordance with this subsection to avoid paying more than the correct amount of benefits to any individual under this subchapter as a result of such individual’s failure to file a correct report or estimate of earnings or wages. Such procedures may include identifying categories of individuals who are likely to be paid more than the correct amount of benefits and requesting that they estimate their earnings or wages more frequently than other persons subject to deductions under this section on account of earnings or wages.


(j) Attainment of retirement age

For the purposes of this section, an individual shall be considered as having attained retirement age (as defined in section 416(i) of this title) during the entire month in which he attains such age.

(k) Noncovered remunerative activity outside United States

An individual shall be considered to be engaged in noncovered remunerative activity outside the United States if he performs services outside the United States as an employee and such services do not constitute employment as defined in section 410 of this title and are not performed in the active military or naval service of the United States, or if he carries on a trade or business outside the United States (other than the performance of service as an employee) the net income or loss of which (1) is not includible in computing his net earnings from self-employment for a taxable year and (2) would not be excluded from net earnings from self-employment, if carried on in the United States, by any of the numbered paragraphs of section 411(a) of this title. When used in the preceding sentence with respect to a trade or business (other than the performance of service as an employee), the term “United States” does not include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa in the case of an alien who is not a resident of the United States (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa); and the term “trade or business” shall have the same meaning as when used in section 162 of the Internal Revenue Code of 1986.

(f) Good cause for failure to make reports required

The failure of an individual to make any report required by subsection (g) or (h)(1)(A) of this section within the time prescribed therein shall not be regarded as such a failure if it is shown to the satisfaction of the Commissioner of Social Security that he had good cause for failing to make such report within such time. The determination of what constitutes good cause for purposes of this subsection shall be made in accordance with regulations of the Commissioner of Social Security, except in making any such determination, the Commissioner of Social Security shall specifically take into account any physical, mental, educational, or linguistic limitation such individual may have (including any lack of facility with the English language).


REFERENCES IN TEXT

Section 422(b) of this title, referred to in subsecs. (a)(3)(B)(iii), (4), (b)(1)(ii), (c), (e), was repealed by Pub. L. 106–170, title IV, §403(a)(1)(C), Dec. 17, 1999, 113 Stat. 1873.


The Internal Revenue Code of 1986, referred to in subsec. (f)(5)(B)(ii) and (k), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

2000—Subsec. (c). Pub. L. 106–182, §4(a)(1), in last sentence of concluding provisions substituted "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60" for "nor shall any deduction be made under this subsection from any widow's insurance benefit for any month in which the surviving divorced wife is entitled and has not attained retirement age (as defined in section 416((f)(1)(D) of this title)) or the taxable year ending after 1993 and before 1996"

Subsec. (d)(1)(A), (2). Pub. L. 106–182, §2(1), substituted "retirement age (as defined in section 416((f)(1)(D) of this title))" for "age 70".


Subsec. (f)(9). Pub. L. 106–182, §3(b), substituted "(B), and (F)(E)," for "(B)(D), and (E)(F),".

Subsec. (h)(1)(A)(i), (ii). Pub. L. 106–182, §2(5), substituted "retirement age (as defined in section 416((f)(1)(D) of this title)) for "age 70".

Subsec. (j). Pub. L. 106–182, §2(6), substituted "retirement age" for "age seventy" in heading and "and having attained retirement age (as defined in section 416((f)(1)(D) of this title))" for "seventy years of age".

1996—Subsec. (f)(9)(B)(ii). Pub. L. 104–121, §102(b)(1)(A), substituted "the taxable year ending after 2001 and before 2003 (with respect to individuals described in subparagraph (D) or the taxable year ending after 1993 and before 1996 (with respect to other individuals)" for "the taxable year ending after 1993 and before 1995".

Subsec. (f)(9)(B)(i)(II). Pub. L. 104–121, §102(b)(1)(B), substituted "for 2000 (with respect to individuals described in subparagraph (D) or 1992 (with respect to other individuals)" for "for 1992".

Subsec. (f)(9)(D). Pub. L. 104–121, §102(a), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 416((f)(1)(D) of this title)) before the close of the taxable year involved—

(i) shall be $500 for each month of any taxable year ending after 1997 and before 1999,

(ii) shall be $575 for each month of any taxable year ending after 1998 and before 1999,

(iii) shall be $581.66 for each month of any taxable year ending after 1999 and before 2001,

(iv) shall be $585.33 for each month of any taxable year ending after 2000 and before 2002, and

(v) shall be $590 for each month of any taxable year ending after 2001 and before 1983."


Subsec. (a)(4). Pub. L. 103–296, §309(b), substituted "section 422(b) of this title. Notwithstanding the preceding sentence, any reduction under this subsection in the case of an individual who is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 402 of this title for any month on the basis of the same wages and self-employment income as another person—"

(A) who also is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 402 of this title for any month on the basis of the same wages and self-employment income as another person—"

(B) who does not live in the same household as such individual, and

(C) whose benefit for such month is suspended (in whole or in part) pursuant to subsection (h)(3) of this section, shall be made before the suspension under subsection (h)(3) of this section, whenever "for "section 422(b) of this title. Whenever"

Subsec. (a)(8). Pub. L. 103–296, §310(b), substituted "Subject to paragraph (7) and except as otherwise provided in paragraph (10)(C)" for "Subject to paragraph (7)"


the Commissioner shall" for "the shall".


Subsec. (b)(2). Pub. L. 101–508, § 5127(a), redesignated last undesignated par. of section 411(a) of this title as subpar. (E) and substituted "For purposes of this section, any individual's net earnings from self-employment which result from or are attributable to" for "Any income of an individual which results from or is attributable to", "the income, on which the computation of such net earnings from self-employment is based, is actually paid" for "the income is actually paid", and "unless such income was" for "unless it was".

1988—Subsec. (f)(6)(B), (f)(6)(C), (f)(7)(B), and (f) of section 409(a)" for "subparagraphs (1), (6)(B), (6)(C), (7)(B), and (8) of section 409(a)" for "subparagraphs (a), (g)(2), (g)(3), (h)(2), and (j) of section 409(a) for "409(a)(1)" for "409(a)".

Subsec. (f)(8)(B)(ii)(II). Pub. L. 101–239, § 10208(b)(1)(B), substituted "the deemed average total wages (as defined in section 409(a)(1) of this title)" for "the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a) of this title) reported to the Secretary of the Treasury or his delegate".

Subsec. (l). Pub. L. 101–239, § 11035(a), substituted "Secretary, except that in making any such determination, the Secretary shall specifically take into account any physical, mental, educational, or linguistic limitation such individual may have (including any lack of facility with the English language)" for "Secretary" in last sentence.

1986—Subsec. (f)(3). Pub. L. 100–647 inserted "(or, but for the individual's death, would have attained)" after "who has attained" in first sentence, inserted after first sentence "For purposes of the preceding sentence, notwithstanding section 411(e) of this title, the number of months in the taxable year in which an individual dies shall be 12," and substituted "first sentence of this paragraph" for "preceding sentence" in last sentence.


Subsec. (a)(6). Pub. L. 99–272, § 12208(a)(2), substituted "(4), and (5)" for "and (5)" and "shall be reduced" for "whether or not such total benefits are otherwise subject to reduction under this subsection but after any reduction under this subsection which would otherwise be applicable, shall be, reduced or further reduced".

rity" for "Secretary" and "the Commissioner shall" for "he shall".

Subsec. (f)(8)(B)(ii)(II). Pub. L. 101–239, § 10208(b)(1)(B), substituted "the deemed average total wages (as so defined)" for "the average of the total wages (as so defined) reported to the Secretary of the Treasury or his delegate".

Subsec. (l). Pub. L. 101–239, § 11035(a), substituted "Secretary, except that in making any such determination, the Secretary shall specifically take into account any physical, mental, educational, or linguistic limitation such individual may have (including any lack of facility with the English language)" for "Secretary" in last sentence.

Subsec. (d)(1)(A). Pub. L. 98–369, § 2661(g)(1)(A)(i), substituted “for more than forty-five hours of which such individual engaged” for “for seven or more different calendar days of which he engaged”.

Subsec. (d)(2). Pub. L. 98–369, § 2663(a)(3)(B), substituted “an individual under the age of seventy who is entitled” for “an individual who is entitled”.

Pub. L. 98–369, § 2661(g)(1)(A)(ii), substituted “for more than forty-five hours” for “for seven or more different calendar days”.


See 1983 Amendment note below.


1963—Subsec. (a)(3)(A). Pub. L. 98–21, § 331(a)(1), amended cl. (ii) generally, substituting provisions relating to an amount (I) initially equal to the product of 1.75 and the primary insurance amount that would be computed under section 415(a)(1) of this title for January of the year determined for purposes of this clause under the following two sentences, with respect to average indexed monthly earnings equal to one-twelfth of the attained retirement age (as defined in section 416(l)) (but only by reason of having a child in her care within the meaning of paragraph (1)(B) of subsection (b) or (c) of this section, as may be applicable)” for “section 402(b) of this title (but only by reason of having a child in her care within the meaning of paragraph (1)(B) of that subsection)”.

Subsec. (a)(3)(B). Pub. L. 98–21, § 347(a), substituted “33% percent of his earnings for such year in excess of the applicable exempt amount as determined under paragraph (8) in the case of an individual who has attained retirement age (as defined in section 416(l) of this title) before the close of such taxable year, or 50 percent of his earnings for such year in excess of such product in the case of any other individual” for “50 percent of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8)”.

Subsec. (f)(5)(C). Pub. L. 98–21, § 324(a)(4), inserted provision excluding from “wages” certain payments on account of retirement or under a pension plan of the employer.

Subsec. (f)(5)(D)(i). Pub. L. 98–21, § 201(c)(1)(B), as amended by Pub. L. 98–369, § 2662(c)(1), substituted “retirement age (as defined in section 416(l) of this title)” for “age 65”.

Subsec. (g)(7). Pub. L. 98–21, § 132(b)(1)(B)(ii), inserted “(excluding divorced spouses referred to in subsection (b)(2) of this section)” after “all persons”.


Subsec. (f)(8)(B). Pub. L. 98–21, § 201(c)(1)(B), substituted “retirement age (as defined in section 416(l) of this title)” for “age 65”.


Subsec. (a)(8). Pub. L. 97–123, § 2(f), struck out “modified by the application of section 415(a)(6) of this title”.

Pub. L. 97–35, § 2201(c)(6), substituted “modified by the application of section 415(a)(6) of this title” and inserted provision that for the purposes of the preceding sentence, the phrase “rounded to the next higher multiple of $10.10, as it appeared in subsec. (a)(2)(C) of this section as in effect in December 1978, be deemed to read “rounded to the next lower multiple of $10.10”.

1980—Subsec. (a). Pub. L. 96–265 added par. (6), redesignated former pars. (6) to (8) as (7) to (9), respectively, and made conforming amendments to pars. (1), (2)(D), and (8).


Subsec. (f)(5)(D). Pub. L. 96–473, §3(a), revised former cl. (I) and (II) into cl. (I), inserted reference to women, and added cl. (II).

1977—Subsec. (a)(1) to (7). Pub. L. 95–216, §202, generally restated the provisions of existing pars. (1) to (7) which made changes to take into account the revision of the exemption rules for computing primary insurance amounts based on wage-indexed earnings and redistributed those existing provisions as thus restated into pars. (1) to (7).
Subsec. (a)(6). Pub. L. 95–216, §204(e), added par. (8).
Subsec. (g)(1)(E). Pub. L. 95–216, §§301(d), 303(a), substituted “the applicable exempt amount” for “$200 or the exempt amount” and inserted “, if such month is in the taxable year in which occurs the first month that is both (i) a month for which the individual is entitled to benefits under subsection (a), (b), (c), (d), (e), (f), (g), or (h) of section 402 of this title (without having been entitled for the preceding month to a benefit under any other of such subsections), and (ii) a month in which the individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5)) of more than the applicable exempt amount as determined under paragraph (8)” after “as determined under paragraph (8)”.
Subsec. (f)(3). Pub. L. 95–216, §301(d), substituted “the applicable exempt amount” for “$200 or the exempt amount”.
Subsec. (g)(1)(E). Pub. L. 95–216, §302(b), substituted “age 70” for “age 72”.
Subsec. (g)(4)(B). Pub. L. 95–216, §301(d), substituted “the applicable exempt amount” for “$200 or the exempt amount”.
Subsec. (f)(6)(A). Pub. L. 95–216, §301(a), substituted “the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals which are to be applicable (unless prevented from becoming effective by subparagraph (C)) with respect to taxable years ending in (or with the close of) the calendar year after the calendar year for a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual’s taxable year which ends after the calendar year)”.
Subsec. (f)(6)(B). Pub. L. 95–216, §§301(b), 335(a), applied with respect to taxable years ending after Dec. 1977, substituted “Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals for each month of a particular taxable year, shall each be” for “The exempt amount for each month of a particular taxable year shall be” in provisions preceding cl. (i), substituted “the corresponding exempt amount” for “the exempt amount” in cl. (i), and, in provisions following cl. (ii), substituted “an exempt amount” for “the exempt amount”, and effective Jan. 1, 1978, substituted “is” for “was” in cl. (i) and, in cl. (ii), substituted “the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 408(b) of this title) reported to the Secretary of the Treasury or his delegate for the calendar year before the calendar year in which the determination under subparagraph (A) is made to (II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year before the most recent calendar year for which ‘(I) the average of the total wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year in which the determination under subparagraph (A) is made to (II) the average of the total wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the most recent calendar year’ and struck out reference to wages for calendar year 1978.
Subsec. (h)(1)(A). Pub. L. 95–216, §301(d), substituted “the applicable exempt amount” for “$300 or the exempt amount”.
Subsec. (i). Pub. L. 95–216, §302(a), (d), substituted “seventy” for “seventy-two” in heading and text.
1976—Subsec. (f)(8)(B)(ii). Pub. L. 94–202 substituted “wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year” for “taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year” in cl. (i), substituted “wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973, or, if later, the calendar year preceding” for “taxable wages of all employees as reported to the Secretary for the first calendar quarter of 1973, or, if later, the first calendar quarter of” in cl. (II), and directed that the average wages for calendar year 1978, or any prior calendar year, be deemed equal to 400% of the average wages reported for the first quarter of that year.
Subsec. (f)(8)(A). Pub. L. 93–233, §3(k)(1), substituted “with the month of June following” for “with the first month of the calendar year following”, “which ends after the calendar year in which such benefit increase is effective” for “which ends with the close of or after the calendar year with the first month of which such benefit increase is effective”, and “during the calendar year after the calendar year in which the benefit increase is effective” for “during such calendar year”; and struck out after “such month occurs” and before “a new exempt amount” parenthetical “(along with the publication of such benefit increased as required by section 415(1)(2)(D) of this title)”.
Subsec. (f)(8)(B)(ii). Pub. L. 93–233, §18(b), substituted “exempt amount” for “contribution and benefit base and subparagraph (A) for “section 408(a) of this title”, respectively.
Subsec. (f)(8)(B) foll. (ii). Pub. L. 93–233, §3(k)(2), substituted “within 30 days after the close of the base quarter (as defined in section 415(1)(A) of this title) in such year” for “no later than August 15 of such year”.
Subsec. (f)(8)(C). Pub. L. 93–233, §3(k)(3), struck out “or providing a general benefit increase under this subchapter (as defined in section 415(1)(B) of this title)” after “law increasing the exempt amount”.
Subsec. (a)(2). Pub. L. 92–603, §202(a)(2)(B), as amended by Pub. L. 92–603, §103(c), 144(a)(3), substituted provisions relating to the reduction in the total benefits for any month after January 1971 where two or more persons were entitled to monthly benefits under section 402 or 423 of this title for January 1971 or any prior month, for provisions relating to the reduction in the total of benefits for September 1972 or any subsequent month where two or more persons were entitled to monthly benefits under section 402 or 423 of this title for September 1972.
Subsec. (a)(2). Pub. L. 92–603, §144(a)(2), inserted “such” before “person”.
$125" for "$100".

The balance, if any, of such excess earnings to be charged to each succeeding month in such year to the extent, in the case of each month, of the sum of the payments to which such individual and all other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income, until the total of such excess has been so charged, for provisions requiring the excess earnings of an individual for any taxable year, where an individual is entitled to monthly benefits with respect to whom a period of disability began prior to January 1959 and continued until he became entitled to benefits under section 402 or 423 of this title for December 1958, and for individuals entitled to monthly benefits with respect to whom a period of dis-

ability began prior to January 1959 and continued until he became entitled to benefits under section 402 or 423 of this title on the basis of his wages and self-employment income, until the total of such excess has been so charged, for provisions requiring the excess earnings of an individual for any taxable year, where an individual is entitled to monthly benefits under section 402(a) of this title and other persons are entitled to benefits under section 402(b), (c), or (d) of this title on the basis of the wages and self-employment income of such individual, to be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Former subsection (f) redesignated (g).

Subsection (f). Pub. L. 86–778, §§ 211(c), 211(f), redesignated former subsection (f) as (g), and substituted therein "subsection (f) of this section" for "subsection (b) or (c) of this section" in two places, and struck out "(other than an event specified in subsection (b)(1) or (c)(1) of this section)" after "of an event specified therein." Former subsection (g) redesignated (h).

Subsection (h). Pub. L. 86–778, § 211(c), redesignated former subsection (g) as (h), and substituted therein "paragraph (5) of subsection (f) of this section" for "paragraph (4) of subsection (e) of this section" in two places, "paragraph (3) of this subsection" for "paragraph (3) of subsection (g) of this section", "subsection (b) of this section" for "subsection (b)(1) of this section" in five places, and "suspend the total or less than the total payment" for "suspend the payment." Former subsection (b) redesignated (i).

Subsection (i). Pub. L. 86–778, § 211(c), (g), redesignated former subsection (b)(1) and (2) as (i) and (j), respectively. Former subsection (j) was repealed by Act Sept. 1, 1954, ch. 1206, title I, § 312(a), 68 Stat. 1085.

Subsection (k). Pub. L. 86–778, § 103(b), substituted "the Commonwealth of Puerto Rico, the Virgin Islands, Guam or American Samoa" for "Puerto Rico or the Virgin Islands", and "the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa" for "Puerto Rico and the Virgin Islands".

Subsection (l). Pub. L. 86–778, § 211(c), substituted "subsection (g) or (h)(1)(A) of this section" for "subsection (f)(1) or (g)(1)(A) of this section".

1958—Subsection (a). Pub. L. 85–812, § 101(f), substituted provisions limiting the total of monthly benefits under sections 402 and 423 of this title to the amount provided in column V of the table in section 415(a) of this title for provisions which limited the total of monthly benefits under sections 402 and 423 of this title to $50, or $65 of the average monthly wage, or one and one-half times the primary insurance amount, whichever is greater, with a maximum amount of $200 and inserted provisions limiting the reduction for individuals who were entitled to monthly benefits under sections 402 or 423 of this title for December 1958, and for individuals entitled to monthly benefits with respect to whom a period of dis-

ability began prior to January 1959 and continued until he became entitled to benefits under section 402 or 423 of this title on the basis of his wages and self-employment income, until the total of such excess has been so charged, for provisions requiring the excess earnings of an individual for any taxable year, where an individual is entitled to monthly benefits under section 402(a) of this title and other persons are entitled to benefits under section 402(b), (c), or (d) of this title on the basis of the wages and self-employment income of such individual, to be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Former subsection (f) redesignated (g).

Subsection (f). Pub. L. 86–778, § 211(c), (g), redesignated former subsection (b)(1) and (2) as (i) and (j), respectively. Former subsection (j) was repealed by Act Sept. 1, 1954, ch. 1206, title I, § 312(a), 68 Stat. 1085.

Subsection (k). Pub. L. 86–778, § 103(b), substituted "the Commonwealth of Puerto Rico, the Virgin Islands, Guam or American Samoa" for "Puerto Rico or the Virgin Islands", and "the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa" for "Puerto Rico and the Virgin Islands".

Subsection (l). Pub. L. 86–778, § 211(c), substituted "subsection (g) or (h)(1)(A) of this section" for "subsection (f)(1) or (g)(1)(A) of this section".

1958—Subsection (a). Pub. L. 85–812, § 101(f), substituted provisions limiting the total of monthly benefits under sections 402 and 423 of this title to the amount provided in column V of the table in section 415(a) of this title for provisions which limited the total of monthly benefits under sections 402 and 423 of this title to $50, or $65 of the average monthly wage, or one and one-half times the primary insurance amount, whichever is greater, with a maximum amount of $200 and inserted provisions limiting the reduction for individuals who were entitled to monthly benefits under section 402 or 423 of this title for December 1958, and for individuals entitled to monthly benefits with respect to whom a period of dis-

ability began prior to January 1959 and continued until he became entitled to benefits under section 402 or 423 of this title on the basis of his wages and self-employment income, until the total of such excess has been so charged, for provisions requiring the excess earnings of an individual for any taxable year, where an individual is entitled to monthly benefits under section 402(a) of this title and other persons are entitled to benefits under section 402(b), (c), or (d) of this title on the basis of the wages and self-employment income of such individual, to be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Former subsection (f) redesignated (g).

Subsection (f). Pub. L. 86–778, § 211(c), (g), redesignated former subsection (b)(1) and (2) as (i) and (j), respectively. Former subsection (j) was repealed by Act Sept. 1, 1954, ch. 1206, title I, § 312(a), 68 Stat. 1085.
month" for "preceding month" wherever appearing, and "$100" for "$80" in cl. (D).

Subsec. (e)(3). Pub. L. 85–840, § 308(b), (c), substituted "the term 'first month of such taxable year' means the earliest month" for "the term 'first month of such taxable year' means the latest month" in cl. (A), and "$100" for "$80" in cl. (B)(ii).

Subsec. (g). Pub. L. 85–840, § 308(d), designated existing provisions thereof as subpar. (A) and inserted provisions therein dispensing with the need for a report for any taxable year if beneficary's earnings for all months (in such taxable year) in which such individual is under age 72 have been suspended under the provisions of the first sentence of par. (3) of this subsection, and added subpar. (B).

Subsec. (b). Pub. L. 85–840, § 205(k), struck out provisions that related to reductions by reason of the provisions of section 424 of this title.

Subsec. (i). Pub. L. 85–840, § 308(e), substituted "(g)(1)(A) of this section" for "(g) of this section".

1956—Subsec. (a). Act Aug. 1, 1956, § 101(d), inserted "after any deductions under section 422(b) of this title, and after any reduction under section 424 of this title" in two places.

Subsec. (b). Act Aug. 1, 1956, § 101(e), inserted paragraph providing that a child should not be considered to be entitled to a child's insurance benefit for any month in which an event specified in section 422(b) of this title occurs with respect to such child, and prohibiting any deduction from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of 18 or any subsequent month.

Subsec. (b)(3). Act Aug. 1, 1956, §102(d)(11), substituted "age 65" for "retirement age" and inserted "any such wife's insurance benefit for such month was not reduced under the provisions of section 402(q) of this title".

Subsec. (d). Act Aug. 1, 1956, § 101(f), included events specified in section 422(b) of this title.

Subsec. (e)(4)(C). Act Aug. 1, 1956, § 112(a), inserted "or performed outside the United States in the active military or naval service of the United States" after "performed within the United States by the individual as an employee".

Subsec. (g)(1). Act Aug. 1, 1956, § 107(a), permitted reports to be made on or before the fifteenth day of the fourth month following the close of the year.

Subsec. (h). Act Aug. 1, 1956, § 102(a), included deductions by reason of the provisions of section 422(b) of this title, and reductions by reason of the provisions of section 424 of this title.

Subsec. (i). Act Aug. 1, 1956, § 112(b), inserted "and are not performed in the active military or naval service of the United States" after "section 410 of this title".


Subsec. (b)(1), (2). Act Sept. 1, 1954, § 103(a), (i)(3), put into effect an annual retirement test for beneficiaries whether they have wage or self-employment earnings, or both, inserted provision for making deductions on account of unrecovered remunerative activity outside the United States, and provided that deductions because of such provisions be made from an individual's benefits only for months in which he is under the age of 72, rather than 75.

Subsec. (c). Act Sept. 1, 1954, § 103(b), (i)(3), provided that deductions be made from a dependent's benefits for any month in which the primary beneficiary was under the age of 72, and for which he was charged with any earnings for work deduction purposes under subsec. (e) or on 7 or more different calendar days of which he engaged in noncovered remunerative activity outside the United States.

Subsec. (d). Act Sept. 1, 1954, § 103(c), provided that the charging of earnings shall be treated as an event occurring in the month to which such earnings are charged.

Subsec. (e)(1), (2). Act Sept. 1, 1942, § 103(d)(1), (2), (i)(3), provided a method for charging earnings to particular months of the year for purposes of determining the deductions required under subsecs. (b) and (c).

Subsec. (e)(3)(B). Act Sept. 1, 1954, § 103(d)(3), provided authority to presume, for purposes of charging earnings to calendar months, that an individual rendered services for wages of more than $80 in any month.

Subsec. (e)(4), (5). Act Sept. 1, 1954, § 103(d)(4), added pars. (4) and (5).

Subsec. (f). Act Sept. 1, 1954, § 103(e), clarified the penalty provisions.


Subsec. (g)(1). Act Sept. 1, 1954, § 103(f)(2), (3), provided that if an individual entitled to any monthly benefit in a taxable year has earnings or wages in excess of $100 times the number of months in such year, he must make a report to the Secretary of his earnings for such taxable year, and substituted "seventy-five" for "seventy-five".

Subsec. (g)(2). Act Sept. 1, 1954, § 103(f)(4), provided a schedule of penalty deductions for failure to make required reports within the time prescribed by subsec. (d)(1) if any deduction is imposed because of earnings in such year.

Subsec. (g)(3). Act Sept. 1, 1954, § 103(f)(5), substituted subsection (b)(1)'(y) for subsection (b)(2)'(y), "earnings" for "net earnings from self-employment", and "such earnings" for "such net earnings", and added a new sentence at the end.

Subsec. (i). Act Sept. 1, 1954, § 112(a), repealed subsec. (i), effective Sept. 1, 1956, and also provided that no deductions should be made pursuant to such subsec. (i) from any benefits for any month after August 1954.

Subsec. (j). Act Sept. 1, 1954, § 103(h)(6), (i)(3), substituted "seventy-two" for "seventy-five".

Subsec. (k). Act Sept. 1, 1954, § 103(g), added subsec. (k).


Subsecs. (b)(1), (2), (c)(1), (2), (e). Act July 18, 1952, § 2(a)(4)–(d), substituted $75 for $50 wherever appearing.

1950—Subsec. (a). Act Aug. 28, 1950, § 102(a), amended subsec. (a) generally to consolidate provisions of former subsecs. (a) to (c) of this section and to liberalize the maximum amount of monthly benefits payable.

Subsec. (b). Act Aug. 28, 1950, § 103(a), provided that deductions are to be made from benefits for any month in which a beneficiary is under age 75 and either renders services for wages of more than $50, or is charged with net earnings from self-employment of more than $50, and provided that deductions are to be made for any month in which a wife, widow or divorced wife does not have in her care a child or her husband or former husband entitled to a child's insurance benefit.

Subsec. (c). Act Aug. 28, 1950, § 103(a), provided for the making of deductions from dependents benefits for any month in which the old-age beneficiary suffers a reduction in his benefit.

Subsec. (d). Act Aug. 28, 1950, § 103(a), inserted second sentence.

Subsec. (e). Act Aug. 28, 1950, § 103(a), provided the method for charging net earnings from self-employment to the particular months of the taxable year for the purpose of determining deductions under subsecs. (b)(2) and (c)(2) of this section.

Subsec. (f). Act Aug. 28, 1950, § 103(a), continued provisions requiring the reporting of any event which causes a deduction from benefits.

Subsec. (g). Act Aug. 28, 1950, § 103(a), outlined circumstances under which beneficiaries with net earnings from self-employment are required to file report with the Federal Security Administrator.

Subsec. (h). Act Aug. 28, 1950, § 103(a), pointed out circumstances under which deductions otherwise required under subsecs. (b), (f), and (g) of this section will not be made.

Subsecs. (i), (j). Act Aug. 28, 1950, § 103(a), added subsecs. (i) and (j).
1946—Subsec. (g). Act Aug. 10, 1946, § 406(b), inserted exception limiting the first deduction for failure to report to one month’s benefit.


**Effective Date of 2000 Amendment**

Amendment by Pub. L. 106–182 applicable with respect to taxable years ending after Dec. 31, 1999, see section 5 of Pub. L. 106–182, set out as a note under section 401 of this title.

**Effective Date of 1996 Amendment**

Section 102(c) of Pub. L. 104–121 provided that: “The amendments made by this section [amending this section and section 423 of this title] shall apply with respect to taxable years ending after 1995.”

**Effective Date of 1994 Amendment**


Section 309(e)(1) of Pub. L. 103–296 provided that: “The amendments made by subsections (a), (b), and (c) [amending this section] shall apply with respect to benefits payable for months after December 1995.”

Section 310(c) of Pub. L. 103–296 provided that: “The amendments made by this section [amending this section] shall apply for the purpose of determining the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 of the Social Security Act [sections 402 and 423 of this title] based on the wages and self-employment income of an individual who—

(1) becomes entitled to an old-age insurance benefit under section 202(a) of such Act,

(2) becomes reentitled to a disability insurance benefit under section 223 of such Act, or

(3) dies, after December 1995.”

Section 314(b) of Pub. L. 103–296 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to reports of earnings for taxable years ending on or after December 31, 1994.”

Section 321(g)(3)(B) of Pub. L. 103–296 provided that: “The amendment made by paragraph (2) [amending this section] shall be effective with respect to the determination of the exempt amounts applicable to any taxable year ending after 1994.”

**Effective Date of 1990 Amendment**

Section 5117(a)(4) of Pub. L. 101–508 provided that:

(A) In general.—Except as provided in subparagraph (B), the amendments made by this subsection [amending this section and section 415 of this title] shall apply with respect to the computation of the primary insurance amount of any insured individual in any case in which a person becomes entitled to benefits under section 202 or 223 (section 402 or 423 of this title) on the basis of such insured individual’s wages and self-employment income for months after the 18-month period following the month in which this Act is enacted [November 1990], except that such amendments shall not apply if any person is entitled to benefits based on the wages and self-employment income of such insured individual for the month preceding the initial month of such person’s entitlement to such benefits under section 202 or 223.

(B) Recomputations.—The amendments made by this subsection shall apply with respect to any primary insurance amount upon the recomputation of such primary insurance amount if such recomputation is first effective for monthly benefits for months after the 18-month period following the month in which this Act is enacted.”

Section 5118(e) of Pub. L. 101–508 provided that:

(1) In general.—The amendments made by this section [amending this section and section 416 of this title] shall apply with respect to benefits for months after December 1990.

(2) Application requirement.—

(A) General rule.—Except as provided in subparagraph (B), the amendments made by this section shall apply only with respect to benefits for which application is filed with the Secretary of Health and Human Services after December 31, 1990.

(B) Exception from application requirement.—

Subparagraph (A) shall not apply with respect to the benefits of any individual if such individual is entitled to a benefit under subsection (b), (c), (e), or (f) of section 202 of the Social Security Act [section 402(b), (c), (e), or (f) of this title] for December 1990 and the individual on whose wages and self-employment income such benefit for December 1990 is based is the same individual on the basis of whose wages and self-employment income application would otherwise be required under subparagraph (A).”

Section 5123(b) of Pub. L. 101–508 provided that: “The amendments made by this section [amending this section, section 411 of this title, and section 1402 of Title 26, Internal Revenue Code] shall apply with respect to income received for services performed in taxable years beginning after December 31, 1990.”

Section 5127(c) of Pub. L. 101–508 provided that: “The amendments made by this section [amending this section] shall apply with respect to benefits for months after December 1990.”

**Effective Date of 1989 Amendment**

Amendment by section 10230(b)(1)(A), (B) of Pub. L. 101–239 applicable with respect to computation of average total wage amounts (under amended provisions) for calendar years after 1990, see section 10230(c) of Pub. L. 101–239, set out as a note under section 430 of this title.

Section 10305(f) of Pub. L. 101–239 provided that: “The amendments made by this section [amending this section and sections 404, 423, and 1383 of this title] shall apply with respect to determinations made on or after July 1, 1990.”

**Effective Date of 1988 Amendment**

Section 8002(c) of Pub. L. 100–467 provided that: “The amendments made by this section [amending this section] shall apply to deaths after the date of the enactment of this Act [Nov. 10, 1988].”

**Effective Date of 1986 Amendment**


**Effective Date of 1984 Amendment**

Section 2622(b) of Pub. L. 98–369 provided that: “The amendment made by subsection (a) [amending this section] shall be effective upon the date of the enactment of this Act [July 18, 1984].”

Section 2661(g)(1)(B) of Pub. L. 98–369 provided that: “The amendments made by subparagraph (A) [amending this section] shall apply only with respect to months beginning with the second month after the month in which this Act is enacted [July 1984].”

Section 2661(g)(2)(B) of Pub. L. 98–369 provided that: “The amendment made by subparagraph (A) [amending this section] shall be effective as though it had been enacted on April 20, 1983, as a part of section 201 of the Social Security Amendments of 1983 [section 201 of Pub. L. 98–21].”


Amendment by section 2663(a)(3) of Pub. L. 98–369 effective July 18, 1984, but not to be construed as chang-
ing or affecting any right, liability, status, or interpretation which existed under the provisions of law involved) before that date, see section 201(b) of Pub. L. 95-216, set out as a note under section 401 of this title.

**Effective Date of 1983 Amendment**

Amendment by section 711(a)(4) of Pub. L. 98-21 applicable with respect to costs-of-living increases determined under section 415(i) of this title for years after 1982, see section 111(a)(8) of Pub. L. 98-21, set out as a note under section 402 of this title.

Amendment by sections 306(e) and 309(f)(b) 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.


Section 331(c) of Pub. L. 98-21 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to monthly insurance benefits for months after December 1984."

Amendment by sections 306(i) and 309(f)(b) of Pub. L. 98-21 applicable only with respect to monthly payments payable under this subchapter for months after December 1984, see section 310 of Pub. L. 98-21, set out as a note under section 402 of this title.

Amendment by section 324(c)(4) of Pub. L. 98-21 applicable to remuneration paid after Dec. 31, 1983, except for certain employer contributions made during 1984 under a qualified deferred compensation arrangement, and except in the case of an agreement with certain nonqualified deferred compensation plans in existence on Mar. 24, 1983, see section 324(d) of Pub. L. 98-21, set out as a note under section 402 of Title 26, Internal Revenue Code.

Section 331(c) of Pub. L. 98-21 provided that: "The amendments made by subsection (a) [amending this section] shall be effective with respect to payments made for months after December 1983."

Section 347(b) of Pub. L. 98-21 provided that: "The amendment made by subsection (a) [amending this section] shall apply only with respect to taxable years beginning after December 1989, and only in the case of individuals who have attained retirement age (as defined in section 216(l) of the Social Security Act [42 U.S.C. 416(l)].")

**Effective Date of 1981 Amendments**

Amendment by section 220(c)(6) of Pub. L. 97-35 and by section 2(c) of Pub. L. 97-123, applicable with respect to benefits for months after December 1981 with certain exceptions, see section 2(j)(2)-(4) of Pub. L. 97-123, set out as a note under section 415 of this title.

Amendment by section 225(b)(3)-(4) of Pub. L. 97-35 applicable only with respect to initial calculations and adjustments of primary insurance amounts and benefit amounts which are attributable to periods after August 1981, see section 225(c) of Pub. L. 97-35, set out as a note under section 402 of this title.

**Effective Date of 1980 Amendments**

Section 1(b) of Pub. L. 96-473 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to monthly benefits payable for months after December 1977."

Section 3(b) of Pub. L. 96-473 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to taxable years ending after December 31, 1977, but only with respect to benefits payable for months after December 1977."

Section 4(b) of Pub. L. 96-473 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to monthly benefits payable for months after December 1977."

Section 101(c) of Pub. L. 96-286 provided that: "The amendments made by this section [amending this section and section 415 of this title] shall apply only with respect to monthly benefits payable for months after December 1977."

**Effective Date of 1979 Amendment**

Amendment by section 230 of Pub. L. 95-216 effective with respect to monthly benefits under this subchapter payable for months after Dec. 1978 and with respect to lump-sum death payments under this subchapter in the case of deaths occurring after such month, see section 231 of Pub. L. 95-216, set out as a note under section 402 of this title.

**Effective Date of 1979 Amendments**

Amendment by section 301(e) of Pub. L. 95-216 provided that: "The amendments made by this section [amending this section] shall apply with respect to taxable years ending after December 1977."

Section 302(e) of Pub. L. 95-216 provided that: "The amendments made by this section [amending this section] shall apply only with respect to monthly benefits payable for months after December 1977."

**Effective Date of 1979 Amendments**

Amendment by section 310(c) of Pub. L. 95-216 effective Jan. 1, 1979, see section 310(g) of Pub. L. 95-216, set out as a note under section 402 of this title.

**Effective Date of 1978 Amendments**

Amendment by section 333(c) of Pub. L. 95-216 providing that: "The amendments made by this section [amending this section] shall be effective with respect to taxable years beginning after December 31, 1979."

**Effective Date of 1978 Amendments**

Amendment by section 333(c) of Pub. L. 95-216 providing that: "The amendments made by this section [amending this section] shall apply only with respect to monthly benefits payable for months after December 1977."

**Effective Date of 1978 Amendments**

Amendment by section 301(e) of Pub. L. 95-216 provided that: "The amendments made by this section [amending this section] shall apply with respect to taxable years ending after December 1977."

Section 302(e) of Pub. L. 95-216 provided that: "The amendments made by this section [amending this section] shall apply only with respect to monthly benefits payable for months after December 1977."

**Effective Date of 1977 Amendment**

Amendment by section 202 of Pub. L. 95-216 effective with respect to monthly benefits under this subchapter payable for months after Dec. 1978 and with respect to lump-sum death payments with respect to deaths occurring after such month, and amendment by section 204(e) of Pub. L. 95-216 effective with respect to monthly benefits for months after May 1978, see section 206 of Pub. L. 95-216, set out as a note under section 402 of this title.

Section 301(e) of Pub. L. 95-216 provided that: "The amendments made by this section [amending this section] shall apply with respect to taxable years ending after December 1977."

Section 302(e) of Pub. L. 95-216 provided that: "The amendments made by this section [amending this section] shall apply only with respect to monthly benefits payable for months after December 1977."

Section 303(b) of Pub. L. 95-216 provided that: "The amendment made by subsection (a) [amending this section] shall apply only with respect to taxable years ending after December 31, 1981."

Section 303(b) of Pub. L. 95-216 provided that: "The amendment made by subsection (a) [amending this section] shall apply only with respect to monthly benefits payable for months after December 1977."

**Effective Date of 1973 Amendment**

Amendment by section 201(b) of Pub. L. 92-603 applicable with respect to monthly insurance benefits under this subchapter for months after December 1972 and with respect to lump-sum death payments under this subchapter in the case of deaths occurring after such month, see section 201(b) of Pub. L. 92-603, set out as a note under section 402 of this title.

**Effective Date of 1973 Amendments**

Amendment by section 201(b) of Pub. L. 92-603 applicable with respect to monthly insurance benefits under this subchapter for months after December 1972 and with respect to lump-sum death payments under this subchapter in the case of deaths occurring after such month, see section 201(b) of Pub. L. 92-603, set out as a note under section 402 of this title.
year of attaining age 72] shall apply with respect to taxable years ending after December 1972."

**Effective Date of 1971 Amendment**

Amendment by Pub. L. 92–5 applicable with respect to monthly benefits under subchapter II of this chapter for months after December 1970 and with respect to lump-sum death payments under such subchapter in the case of deaths occurring in and after March 1971, see section 201(e) of Pub. L. 92–5, set out as a note under section 415 of this title.

**Effective Date of 1969 Amendment**

Amendment by Pub. L. 91–172 applicable with respect to monthly benefits under this subchapter for months after December 1969 and with respect to lump-sum death payments under such subchapter in the case of deaths occurring in or after December 1969, see section 106(e) of Pub. L. 91–172, set out as a note under section 415 of this title.

**Effective Date of 1968 Amendment**

Amendment by section 101(b) of Pub. L. 90–248 applicable with respect to monthly benefits and lump-sum death benefits in the case of deaths occurring after January 1968, under this subchapter for months after January 1968, see section 101(e) of Pub. L. 90–248, set out as a note under section 415 of this title.

Amendment by section 104(d)(1) 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.

Section 107(b) of Pub. L. 90–248 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to taxable years ending after December 1967."

Section 163(a)(2) of Pub. L. 90–248 provided that: "The amendment made by paragraph (1) [amending this section] shall apply only with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] with respect to individuals who become entitled to benefits under section 202(d) of such Act [section 402(d) of this title] solely by reason of section 216(b)(3) of such Act [section 416(b)(3) of this title] in or after January 1968 (but without regard to section 202(j)(1) of such Act [section 402(j)(1) of this title]). The provisions of section 170 of this Act [set out as Savings Provisions note below] shall not apply with respect to any such individual."

**Effective Date of 1965 Amendment**

Amendment by section 308(d)(4) of Pub. L. 89–97 applicable with respect to monthly insurance benefits under this subchapter beginning with the second month following July 1965, but, in the case of an individual who was not entitled to a monthly insurance benefit under section 402 of this title for the first month following July 1965, only on the basis of an application filed in or after July 1965, see section 308(e) of Pub. L. 89–97, set out as a note under section 402 of this title.

Section 310(b) of Pub. L. 89–97 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to taxable years ending after December 31, 1965."

Section 323(b) of Pub. L. 89–97 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to the computation of net earnings from self-employment and the net loss from self-employment for taxable years beginning after 1964."

**Effective Date of 1961 Amendment**

Section 108(b) of Pub. L. 87–64 provided that: "The amendment made by subsection (a) [amending this section] shall apply in the case of taxable years ending after the enactment of this Act [June 30, 1961]."

**Effective Date of 1960 Amendment**

Amendment by section 103(b) of Pub. L. 86–778 applicable only with respect to service performed after 1960, except that insofar as the carrying on of a trade or business (other than performance of service as an employee) is concerned, the amendment shall be applicable only in the case of taxable years beginning after 1960, see section 109(v)(1) of Pub. 86–778, set out as a note under section 402 of this title.

Section 211(p)–(s) of Pub. L. 86–778 provided that: "(p) Section 203(c), (d), (e), (g), and (l) of the Social Security Act [subssecs. (c), (d), (e), (g), and (l) of this section] as amended by this Act shall be effective with respect to monthly benefits for months after December 1960."

"(q) Section 203(b), (f), and (h) of the Social Security Act [subssecs. (b), (f), and (h) of this section] as amended by this Act shall be effective with respect to taxable years beginning after December 1960."

"(r) Section 203(l) of the Social Security Act [subssec. (l) of this section] as amended by this Act, to the extent that it applies to section 203(g) of the Social Security Act as amended by this Act, shall be effective with respect to monthly benefits for months after December 1960 and, to the extent that it applies to section 203(b)(1)(A) of the Social Security Act as amended by this Act, shall be effective with respect to taxable years beginning after December 1960."

"(s) The amendments made by subsections (1), (j), (k), (l), (m), (n), and (o) [amending sections 402, 408, and 415 of this title and sections 228c and 228e of Title 45, Railroads], to the extent that they make changes in references to provisions of section 203 of the Social Security Act [this section], shall take effect in the manner provided in subsections (p) and (q) of this section for the provisions of such section 203 to which the respective references so changed relate."

Section 302(b) of Pub. L. 86–778 provided that: "The amendments made by subsection (a) [amending this section] shall apply only in the case of monthly benefits under section 202 or section 223 of the Social Security Act [section 402 or section 423 of this title] for months after the month following the month in which this Act is enacted [September 1960], and then only if (1) the insured individual on the basis of whose wages and self-employment income such monthly benefits are payable became entitled (without the application of section 202(j)(1) or section 223(b) of such Act) to benefits under section 202(a) or section 223 of such Act after the month following the month in which this Act is enacted, or (2) if such insured individual died before becoming so entitled and no person was entitled (without the application of section 202(j)(1) or section 223(b) of such Act) on the basis of such wages and self-employment income to monthly benefits under title II of the Social Security Act [this subchapter] for the month following the month in which this Act is enacted [September 1960] or any prior month."

**Effective Date of 1958 Amendment**

Amendment by section 101(f) of Pub. L. 85–830 applicable in the case of monthly benefits under subchapter II of this chapter for months after December 1958, and in the case of lump-sum death payments under subchapter II of this chapter, with respect to deaths occurring after such month, see section 101(g) of Pub. L. 85–830, set out as a note under section 415 of this title.

Amendment by section 205(j) of Pub. L. 85–830 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 July 1, 1958, and amendment by section 205(k) of Pub. L. 85–830 applicable with respect to monthly benefits under this...
subchapter for August 1958 and succeeding months, see section 207(a) of Pub. L. 85-840, set out as a note under section 416 of this title.

Section 307(h)(2) of Pub. L. 85-840 provided that: ‘The amendments made by subsection (f) [amending this section] shall apply with respect to monthly benefits under subsection (d) or (g) of section 202 of the Social Security Act [section 402 of this title] for months in any taxable year, of the individual entitled to such benefits, beginning after the month in which this Act is enacted [August 1958].’

Section 308(f) of Pub. L. 85-840 provided that: ‘The amendments made by this section [amending this section] shall be applicable with respect to taxable years beginning after the month in which this Act is enacted [August 1958].’

**Effective Date of 1956 Amendment**

Amendment by section 101(d)–(g) of act Aug. 1, 1956, applicable in the case of lump-sum death payments under section 402 of this title for months after December 1956, but only on the basis of an application filed after September 1956, see section 101(h) of act Aug. 1, 1956, set out as a note under section 402 of this title.

Section 107(a)(a) of act Aug. 1, 1956, provided that: ‘The amendment made by that section is applicable in the case of monthly benefits under this subchapter for months in any taxable year (of the individual entitled to such benefits) beginning after 1954.

Section 112(c) of act Aug. 1, 1956, provided that: ‘The amendments made by subsections (a) and (b) [amending this section] shall be applicable with respect to taxable years beginning after 1954.”

**Effective Date of 1954 Amendment**

Section 103(i)(3) of act Sept. 1, 1954, provided that: ‘Subsections (b)(1), (b)(2), (c), (e), and (f) of section 203 of the Social Security Act [this section] as in effect prior to the enactment of this Act, to the extent they are in effect with respect to months after 1954, are each amended by striking out ‘seventy-five’ and inserting in lieu thereof ‘seventy-two’, but only with respect to such months after 1954.”

Amendment by section 102(e)(7) of act Sept. 1, 1954, applicable in the case of lump-sum death payments under section 402 of this title with respect to deaths occurring, and in the case of monthly benefits under such section for months after August 1954, is as follows: set out as a note under section 415 of this title.

Section 103(i)(1), (2) of act Sept. 1, 1954, provided that: ‘(1) The amendments made by subsection (f) and by paragraph (1) of subsection (a) of this section [amending this section] shall be applicable in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months in any taxable year (of the individual entitled to such benefits) beginning after December 1954.

The amendments made by paragraph (1) of subsection (b) of this section [amending this section] shall be applicable in the case of monthly benefits under such title II for months after August 1954.

The amendments made by subsection (f) or (g) of section 203 of the Social Security Act [subsec. (f) or (g) of this section], as in effect prior to the enactment of this Act [Aug. 1, 1956], shall take effect September 1, 1950, except that the amendment made by that section is effective Jan. 1, 1950.”

**Effective Date of 1952 Amendment**

For effective date of amendment by section 2(b)(2) of act July 18, 1952, see section 2(c)(2) of act July 18, 1952, set out as a note under section 415 of this title.

Section 4(e) of act July 18, 1952, provided that: ‘The amendments made by subsection (a) [amending this section] shall apply in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months after August 1952. The amendments made by subsection (b) [amending this section] shall apply in the case of monthly benefits under such title II for months in any taxable year (of the individual entitled to such benefits) ending after August 1952. The amendments made by subsection (d) [amending this section] shall apply in the case of monthly benefits under such title II for months in any taxable year (of the individual on the basis of whose wages and self-employment income such benefits are payable) ending after August 1952. The amendments made by subsection (e) [amending this section] shall apply in the case of taxable years ending after August 1952. As used in this subsection, the term “taxable year” shall have the meaning assigned to it by section 211(e) of the Social Security Act [section 411(e) of this title].’

**Effective Date of 1950 Amendment**

Section 102(b) of act Aug. 28, 1950, provided that: ‘The amendment made by subsection (a) of this section [amending this section] shall be applicable with respect to benefits for months after August 1950.”

Section 103(b) of act Aug. 28, 1950, provided that: ‘The amendments made by this section [amending this section] shall take effect September 1, 1950, except that the provisions of subsections (d), (e), and (f) of section 203 of the Social Security Act [this section] as in effect prior to the enactment of this Act [Aug. 28, 1950] shall be applicable for months prior to September 1950.”

**Effective Date of 1939 Amendment**

Section 201 of act Aug. 10, 1939, provided that the amendment made by that section is effective Jan. 1, 1940.

**Savings Provision**

Section 201(h)(2) of Pub. L. 92-336 provided that: ‘In any case in which the provisions of section 102(b)(2) of the Social Security Amendments of 1969 [set out as a note under this section] were applicable with respect to benefits for any month in 1970, the total of monthly benefits as determined under section 203(a) of the Social Security Act [subsec. (a) of this section] shall, for months after 1970, be increased to the amount that would be required in order to assure that the total of such monthly benefits (after the application of section 202(q) of such Act [section 402(q) of this title]) will not be less than the total of monthly benefits that was applicable (after the application of such sections 203(a) and 202(q)) for the first month for which the provisions of such section 102(b)(2) are based.”

Section 1002(b)(2) of Pub. L. 91-172 provided that: ‘Notwithstanding any other provisions of law, when
two or more persons are entitled to monthly insurance benefits under title II of the Social Security Act [this subchapter] for any month after 1969 on the basis of the wages and self-employment income of an insured individual (and at least one of such persons was so entitled for a month before January 1971 on the basis of an application filed before 1971), the total of the benefits to which such persons are entitled under such title of such month (after the application of sections 203(a) and 202(q) of such Act [subsec. (a) of this section and section 402(q) of this title]) shall be not less than the total of the monthly insurance benefits to which such persons would be entitled under such title for such month (after the application of such sections 203(a) and 202(q) without regard to the amendment made by subsection (a) of this section [amending section 415 of this title]."

Section 170 of Pub. L. 90-248 provided that: "Where—

'(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) to monthly benefits under section 202 or 223 of such Act [section 402 or 423 of this title] for January 1968 on the basis of the wages and self-employment income of an individual, and

'(2) one or more persons (not included in paragraph (1)) become entitled to monthly benefits under such section 202 or 223 of this title for February 1968 on the basis of such wages and self-employment by reason of the amendments made to such Act [this chapter] by sections 102(h) [amending this section and section 415 of this title], 112 [amending section 402 of this title], 150 [amending section 416 of this title], 151 [amending section 402 of this title and section 226 of Title 45, Railroads], 156 [amending section 416 of this title], and 157 of this Act [amending section 402 and 402 note of this title], and

'(3) the total of benefits to which all persons are entitled under such section 202 or 223 (section 402 or 423 of this title) on the basis of such wages and self-employment for February 1968 are reduced by reason of section 203(a) of such Act, as amended by this Act (or would, but for the penultimate sentence of such section 203(a), be so reduced),

then the amount of the benefit to which each such person referred to in paragraph (1) is entitled for months after January 1968 shall be increased, after the application of such sections 203(a) (subsec. (a) of this section), to the amount it would have been if the person or persons referred to in paragraph (2) were not entitled to a benefit referred to in such paragraph.

Section 102(h) of act Sept. 1, 1954, provided that:

'(1) Where—

'(A) an individual was entitled (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) to an old-age insurance benefit under title II of such Act [this subchapter] for August 1954;

'(B) one or more other persons were entitled (without the application of such section 202(j)(1) of this title) to monthly benefits under such title for such month on the basis of the wages and self-employment income of such individual; and

'(C) the total of the benefits to which all persons are entitled under such title on the basis of such individual's wages and self-employment income for any subsequent month for which he is entitled to an old-age insurance benefit under such title, would (but for the provisions of this paragraph) be reduced by reason of the application of such section 203(a) of the Social Security Act [subsec. (a) of this section], as amended by this Act,

then the total of benefits referred to in clause (C) for such subsequent month shall be reduced to whichever of the following is the larger—

'(D) the amount determined pursuant to section 203(a) of the Social Security Act [subsec. (a) of this section], as amended by this Act; or

'(E) the amount determined pursuant to such section, as in effect prior to the enactment of this Act [Sept. 1, 1964], for August 1954 plus the excess of (i)

the amount of his old-age insurance benefit for such month computed as if the amendments made by the preceding subsections of this section [amending this section and section 415 of this title] had been applicable in the case of such benefit for such month over (ii)

the amount of his old-age insurance benefit for such month, or

'(F) the amount determined pursuant to section 2(d)(1) of the Social Security Act Amendments of 1952 [set out as a note under section 415 of this title] for August 1954 plus the excess of (i) the amount of his old-age insurance benefit for such month computed as if the amendments made by the preceding subsections of this section had been applicable in the case of such benefit for such month over (ii) the amount of his old-age insurance benefit for such month.

'(2) Where—

'(A) two or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) to monthly benefits under title II of such Act [this subchapter] for August 1954 on the basis of the wages and self-employment income of a deceased individual; and

'(B) to total of the benefits to which all such persons are entitled on the basis of such deceased individual's wages and self-employment income for any subsequent month would (but for the provisions of this paragraph) be reduced by reason of the last sentence of section 202(j)(1) of the Social Security Act [subsec. (a) of this section], as amended by this Act,

then, notwithstanding any other provision in title II of the Social Security Act [this subchapter], such deceased individual's average monthly wage shall, for purposes of such section 203(a), be whichever of the following is the larger:

'(C) his average monthly wage determined pursuant to section 215 of such Act [section 415 of this title], as amended by this Act; or

'(D) his average monthly wage determined under section 215, as in effect prior to the enactment of this Act [Sept. 1, 1954], plus $7.

TEMPORARY EXTENSION OF EARNINGS LIMITATIONS TO INCLUDE ALL PERSONS AGED LESS THAN SEVENTY-TWO YEARS

Section 2204 of Pub. L. 97-35 provided that:

'(a) Notwithstanding subsection (e) of section 322 of the Social Security Amendments of 1977 (91 Stat. 1531; Public Law 95-216) [set out as an Effective Date of 1977 Amendment note above], the amendments made to section 203 of the Social Security Act [this section] by subsections (a) through (d) of such section 322 shall, except as provided in subsection (b) of this section, apply only with respect to monthly insurance benefits payable under title II of the Social Security Act [this subchapter] for months after December 31, 1981.

'(b) In the case of any individual whose first taxable year (as in effect on the date of the enactment of this Act [Aug. 13, 1981]) ending after December 31, 1981, begins before January 1, 1982, the amendments made by section 322 of the Social Security Amendments of 1977 [amending this section] shall apply with respect to taxable years beginning with such taxable year.

INCREASED EXEMPT AMOUNTS FOR INDIVIDUALS DESCRIBED IN SUBSEC. (F)(8)(D); NOTIFICATION IN 1977 TO 1981; INDIVIDUALS OTHER THAN THOSE DESCRIBED IN SUBSEC. (F)(8)(D)

Section 301(c)(2) of Pub. L. 95-216 provided that: "No notification with respect to an increased exempt amount for individuals described in section 203(f)(8)(D) of the Social Security Act [subsec. (f)(8)(D) of this section] (as added by paragraph (1) of this subsection) shall be required under the last sentence of section 203(f)(8)(B) of such Act in 1977, 1978, 1979, 1980, or 1981; and section 203(f)(8)(C) of such Act shall not prevent the new exempt amount determined and published under section 203(f)(8)(A) in 1977 from becoming effective to the extent that such new exempt amount applies to—
individuals other than those described in section 203(c)(3)(D) of such Act (as so added).

Retirement Test Exempt Amount for 1976

By notice of the Secretary of Health, Education, and Welfare, Oct. 22, 1975, 40 F.R. 50556, it was determined and announced that, pursuant to authority contained in subsection (b) of this section, the monthly exempt amount under the retirement test would be $230 with respect to taxable years ending in calendar year 1976.

Cost-of-Living Increase in Benefits

For purposes of subsections (f)(8) of this section, the increase in benefits provided by section 2 of Pub. L. 93–233, revising benefits table of section 415(a) of this title, as in effect prior to such date, on account of failure to file a report of an event described in section 203(c) of the Social Security Act (this section) on account of failure to make a report required thereby.

Penalties for Failure To File Timely Reports of Earnings and Other Events

Section 161(c) of Pub. L. 90–248 provided that: “The amendments made by this section [amending this section] shall apply with respect to any deductions imposed on or after the date of the enactment of this Act [Jan. 2, 1968] under subsections (g) and (h) of section 203 of the Social Security Act (this section) on account of failure to make a report required thereby.”

Computation of Benefits for Certain Children

Section 163(b) of Pub. L. 90–248 provided that: “Where—

(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) to monthly benefits under section 202 or 223 of such Act [section 402 or 423 of this title] for January 1968 on the basis of the wages and self-employment income of an individual, and

(2) one or more persons became entitled to monthly benefits before January 1968 under section 202(j)(1) of such Act [section 402(j)(1)] on the basis of such wages and self-employment income and are so entitled for January 1968, and

(3) the total of benefits to which all persons are entitled under such section 202 or 223 of such Act [section 402 or 423 of this title] (but without regard to section 202(j)(1)), on the basis of such wages and self-employment income and are so entitled for January 1968, and

then the amount of the benefit to which each such person referred to in paragraph (1) above (but not including persons referred to in paragraph (2) above) is entitled for months after January 1968 shall be increased, after the application of such section 203(a), to the amount it would have been if the person or persons referred to in paragraph (2) were not entitled to a benefit referred to in such paragraph (2).’’

Prohibition on Imposition of Deduction for Failure To File Certain Reports of Events

Section 209(b) of Pub. L. 86–778 provided that: “No deduction shall be imposed on or after the date of the enactment of this Act [Sept. 13, 1960] under section 209(f) of the Social Security Act [subsection (f) of this section], as in effect prior to such date, on account of failure to file a report of an event described in section 203(c) of such Act, as in effect prior to such date, and no such deduction imposed prior to such date shall be collected after such date.’’

Prohibition on Payment of Benefits to Certain Spouses or Children

Section 211(t) of Pub. L. 86–778 provided that: “(i) An individual has earnings (as defined in section 203(e)(4) of the Social Security Act [subsection (e)(4) of this section] as in effect prior to the enactment of this Act [Sept. 13, 1960]) in a taxable year which begins before 1961 and ends in 1961 (but not on December 31, 1961), and

(ii) no payment shall be made under this subparagraph to any person during any period for which monthly insurance benefits of such person—
(I) are subject to nonpayment by reason of section 402(x)(1) of this title, or
(II) in the case of a person whose monthly insurance benefits have terminated for a reason other than death, would be subject to nonpayment by reason of section 402(x)(1) of this title but for the termination of such benefits,

until section 402(x)(1) of this title no longer applies, or would no longer apply in the case of benefits that have terminated.

(iii) Nothing in clause (ii) shall be construed to limit the Commissioner’s authority to withhold amounts, make adjustments, or recover amounts due under this subchapter, subchapter VIII or subchapter XVI that would be deducted from a payment that would otherwise be payable to such person but for such clause.

(2) Notwithstanding any other provision of this section, when any payment of more than the correct amount is made to or on behalf of an individual who has died, and such payment—
(A) is made by direct deposit to a financial institution;
(B) is credited by the financial institution to a joint account of the deceased individual and another person; and
(C) such other person was entitled to a monthly benefit on the basis of the same wages and self-employment income as the deceased individual for the month preceding the month in which the deceased individual died,

the amount of such payment in excess of the correct amount shall be treated as a payment of more than the correct amount to such other person. If any payment of more than the correct amount is made to a representative payee on behalf of an individual after the individual’s death, the representative payee shall be liable for the repayment of the overpayment, and the Commissioner of Social Security shall establish an overpayment control record under the social security account number of the representative payee.

(b) No recovery from persons without fault

In any case in which more than the correct amount of payment has been made, there shall be no adjustment of payments to, or recovery by the United States from, any person who is without fault if such adjustment or recovery would defeat the purpose of this subchapter or would be against equity and good conscience. In making for purposes of this subsection any determination of whether any individual is without fault, the Commissioner of Social Security shall specifically take into account any physical, mental, educational, or linguistic limitation such individual may have (including any lack of facility with the English language).

(c) Nonliability of certifying and disbursing officers

No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any person where the adjustment or recovery of such amount is waived under subsection (b) of this section, or where adjustment under subsection (a) of this section is not completed prior to the death of all persons against whose benefits deductions are authorized.

(d) Payment to survivors or heirs when eligible person is deceased

If an individual dies before any payment due him under this subchapter is completed, payment of the amount due (including the amount of any unnegotiated checks) shall be made—
(1) to the person, if any, who is determined by the Commissioner of Social Security to be the surviving spouse of the deceased individual and who either (i) was living in the same household with the deceased at the time of his death or (ii) was, for the month in which the deceased individual died, entitled to a monthly benefit on the basis of the same wages and self-employment income as was the deceased individual;
(2) if there is no person who meets the requirements of paragraph (1), or if the person who meets such requirements dies before the payment due him under this subchapter is completed, to the child or children, if any, of the deceased individual who were, for the month in which the deceased individual died, entitled to monthly benefits on the basis of the same wages and self-employment income as was the deceased individual (and, in case there is more than one such child, in equal parts to each such child);
(3) if there is no person who meets the requirements of paragraph (1) or (2), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the parent or parents, if any, of the deceased individual who were, for the month in which the deceased individual died, entitled to monthly benefits on the basis of the same wages and self-employment income as was the deceased individual (and, in case there is more than one such parent, in equal parts to each such parent);
(4) if there is no person who meets the requirements of paragraph (1), (2), or (3), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the person, if any, determined by the Commissioner of Social Security to be the surviving spouse of the deceased individual;
(5) if there is no person who meets the requirements of paragraph (1), (2), (3), or (4), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the person or persons, if any, determined by the Commissioner of Social Security to be the child or children of the deceased individual (and, in case there is more than one such child, in equal parts to each such child);
(6) if there is no person who meets the requirements of paragraph (1), (2), (3), (4), or (5), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the parent or parents, if any, of the deceased individual (and, in case there is more than one such parent, in equal parts to each such parent); or
(7) if there is no person who meets the requirements of paragraph (1), (2), (3), (4), (5), or
(6), or if each person who meets such requirements dies before the payment due him under this subchapter is completed, to the legal representative of the estate of the deceased individual, if any.

(e) Adjustments due to supplemental security income payments

For payments which are adjusted by reason of payment of benefits under the supplemental security income program established by subchapter XVI of this chapter, see section 1320a-6 of this title.

(f) Collection of delinquent amounts

(1) With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, 3717, and 3718 of title 31 and in section 5514 of title 5, all as in effect immediately after April 26, 1996.

(2) For purposes of paragraph (1), the term “delinquent amount” means an amount—

(A) in excess of the correct amount of payment under this subchapter;

(B) paid to a person after such person has attained 18 years of age; and

(C) determined by the Commissioner of Social Security, under regulations, to be otherwise unrecoverable under this subchapter after such person ceases to be a beneficiary under this subchapter.

(g) Cross-program recovery of overpayments

For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1320b-17 of this title.


Amendments

2009—Subsec. (a)(1)(B). Pub. L. 111-115 designated existing provisions as cl. (i), substituted “Subject to clause (ii), with” for “With”, and added cls. (ii) and (iii).

2004—Subsec. (g). Pub. L. 108-283 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: “For payments which are adjusted or withheld to recover an overpayment of supplemental security income benefits paid under subchapter XVI of this chapter (including State supplementary payments paid under an agreement pursuant to section 1320c(a) of this title or section 212(b) of Public Law 93-66), see section 1320–17 of this title.”

1999—Subsec. (a)(2). Pub. L. 106-169, §201(a), inserted at end “If any payment of more than the correct amount is made to a representative payee on behalf of an individual after the individual’s death, the representative payee shall be liable for the repayment of the overpayment, and the Commissioner of Social Security shall establish an overpayment control record under the social security account number of the representative payee.”

Subsec. (f)(1). Pub. L. 106-169, §230(c), substituted “3711(f)” for “3711(e)” and inserted “all” before “as in effect:”


1996—Subsec. (f). Pub. L. 104-134, which directed that subsec. (f) be amended to read as follows: “(f)(1) With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, 3717, and 3718 of title 31 as in effect on October 1, 1994.”

Subsec. (f)(1). Pub. L. 104-316 substituted “sections 3711(e)” for “sections 3711(f).”


1990—Subsec. (a)(1)(A). Pub. L. 101-508 inserted “or shall obtain recovery by means of reduction in tax refunds based on notice to the Secretary of the Treasury as permitted under section 3720A of title 31,” after “payments to such overpaid person.”

1989—Subsec. (b). Pub. L. 101-239 inserted at end “In making for purposes of this subsection any determination of whether any individual is without fault, the Secretary shall specifically take into account any physical, mental, educational, or linguistic limitation such individual may have (including any lack of facility with the English language).”

1986—Subsec. (a). Pub. L. 99-272 redesignated existing subsec. (a) as (a)(1) and pars. (1) and (2) thereof as subpars. (A) and (B), respectively, and added par. (2).


1986—Subsec. (a). Pub. L. 90-248, §152(a), incorporated in text preceding par. (1) part of existing provisions and broadened the Secretary’s authority to include recovery of overpayments.

Subsec. (a)(1). Pub. L. 90-248, §152(a), inserted last sentence which provided that payments made on an erroneous report by the Defense Department of the death, in the line of duty, of a member of the uniformed services on active duty are not to be deemed incorrect payments until the Department notifies the Secretary that he is alive.

Subsec. (a)(2). Pub. L. 90-248, §152(a), incorporated in par. (2) part of existing provisions and broadened the Secretary’s authority to provide that in the case of underpayments, the Secretary is to pay the balance due the underpaid person but if he dies before receiving the full amount due him or before negotiating checks representing the correct payments, the balance due or the amount for which the checks were issued but not negotiated are to be paid under subsec. (d) of this section.

Subsec. (b). Pub. L. 90-248, §152(b), authorized the Secretary to waive adjustment or recovery of overpayments from any person who is without fault, even where he is not the overpaid person and the legal representative of the deceased individual is at fault, whereas heretofore a condition for waiver was that the overpaid person be without fault.

So in original. Probably should be “delinquent”.
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Subsec. (d), Pub. L. 90–248, §154(a), struck out, in text preceding par. (1), provision excepting subsec. (d) from subsec. (a) and provision that the total amount due at the time of death may not exceed the amount of the monthly insurance benefit to which an individual was entitled for the month preceding the month in which he died, added cl. (ii) in par. (1), added pars. (2) to (6), designated existing provisions as pars. (7) and (7) and inserted therein references to pars. (1) to (6).


1940—Act Aug. 28, 1950, substituted “Administrator” for “board”.

1939—Act Aug. 10, 1939, omitted former provisions relating to payments to aged individuals not qualified for benefits and substituted the present section relating to overpayments and underpayments.


cable to debt outstanding on or after Dec. 14, 1999, see section 203(d) of Pub. L. 106–169, set out as a note under section 1320a–6 of this title.

Amendment by Pub. L. 96–265 applicable in the case of payments of monthly insurance benefits under this subchapter, entitlement for which is determined on or after July 1, 1981, see section 501(d) of Pub. L. 96–265, set out as an Effective Date note under section 1320a–6 of this title.


cable to debt outstanding on or after Dec. 14, 1999, see section 203(d) of Pub. L. 106–169, set out as a note under section 1320a–6 of this title.


cable to debt outstanding on or after Dec. 14, 1999, see section 203(d) of Pub. L. 106–169, set out as a note under section 1320a–6 of this title.

Effective Date of 1999 Amendment

Pub. L. 106–169, title II, §201(c), Dec. 14, 1999, 113 Stat. 517, provided that: “The amendments made by this section [amending this section and section 1383 of this title] shall apply to overpayments made 12 months or more after the date of enactment of this Act [Dec. 15, 1999].”

Effective Date of 2004 Amendment

Pub. L. 108–203, title II, §210(c), Mar. 2, 2004, 118 Stat. 517, provided that: “The amendments and repeal made by this section [amending this section and sections 1083, 1320b–17, and 1383 of this title and repealing section 1320b–18 of this title] shall take effect on the date of enactment of this Act [Mar. 2, 2004], and shall be effective with respect to overpayments under titles II, VIII, and XVI of the Social Security Act [subchapters II, VIII, and XVI of this chapter] that are outstanding on or after such date.”

Effective Date of 1999 Amendment

Pub. L. 106–169, title II, §201(c), Dec. 14, 1999, 113 Stat. 1831, provided that: “The amendments made by this section [amending this section and section 1383 of this title] shall apply to overpayments made 12 months or more after the date of the enactment of this Act [Dec. 14, 1999].”

Amendment by section 203(c) of Pub. L. 106–169 applicable to debt outstanding on or after Dec. 14, 1999, see section 203(d) of Pub. L. 106–169, set out as a note under section 3701 of Title 31, Money and Finance.

Effective Date of 1998 Amendment

Pub. L. 105–306, §8(c), Oct. 28, 1998, 112 Stat. 2930, provided that: “The amendments made by this section [enacting section 1320b–17 of this title and amending this section and section 1383 of this title] shall take effect on the date of the enactment of this Act [Oct. 28, 1998] and shall apply to amounts incorrectly paid which remain outstanding on or after such date.”

Effective Date of 1994 Amendments

Amendment by Pub. L. 103–367 applicable to collection activities begun on or after Oct. 22, 1994, see section 5(c) of Pub. L. 103–387, as amended, set out as a note under section 3701 of Title 31, Money and Finance. Amendment by Pub. L. 103–386 effective March 31, 1994, see section 113(a) of Pub. L. 103–386, set out as a note under section 401 of this title.

Effective Date of 1990 Amendment


Effective Date of 1989 Amendment

Amendment by Pub. L. 101–239 applicable with respect to determinations made on or after July 1, 1990, see section 10305(f) of Pub. L. 101–239, set out as a note under section 403 of this title.

Effective Date of 1986 Amendment

Section 12133(c) of Pub. L. 99–272 provided that: “The amendments made by this section [amending this section and section 1383 of this title] shall apply only in the case of deaths of which the Secretary is first notified on or after the date of the enactment of this Act [Apr. 7, 1986].”

Effective Date of 1980 Amendment

Amendment by Pub. L. 96–265 applicable in the case of payments of monthly insurance benefits under this subchapter, entitlement for which is determined on or after July 1, 1981, see section 501(d) of Pub. L. 96–265, set out as an Effective Date note under section 1320a–6 of this title.

Effective Date of 1968 Amendment

Section 153(b) of Pub. L. 90–248 provided that: “The amendment made by this section [amending this section] shall apply with respect to benefits under title II of the Social Security Act [this subchapter] if the individual to whom such benefits were paid would have been entitled to such benefits in or after the month in which this Act was enacted [January 1968] if the report mentioned in the amendment made by subsection (a) of this section had been correct (but without regard to the provisions of section 202(j)(1) of such Act [section 402(j)(1) of this title]).”

Effective Date of 1939 Amendment

Section 201 of act Aug. 10, 1939, provided that the amendment made by that section is effective Jan. 1, 1940.

§ 405  Evidence, procedure, and certification for payments

(a) Rules and regulations; procedures

The Commissioner of Social Security shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this subchapter, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

(b) Administrative determination of entitlement to benefits; findings of fact; hearings; investigations; evidentiary hearings in reconsiderations of disability benefit terminations; subsequent applications

(1) The Commissioner of Social Security is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this subchapter. Any such decision by the Commissioner of Social Security which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Commissioner’s determination and the reason or reasons upon which it is based. Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, surviving divorced father, husband, divorced husband, widower, surviving divorced husband, child, or parent who
makes a showing in writing that his or her rights may be prejudiced by any decision the Commissioner of Social Security has rendered, the Commissioner shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse the Commissioner's findings of fact and such decision. Any such request with respect to such a decision must be filed within sixty days after notice of such decision is received by the individual making such request. The Commissioner of Social Security is further authorized, on the Commissioner's own motion, to hold such hearings and to conduct such investigations and other proceedings as the Commissioner may deem necessary or proper for the administration of this subchapter. In the course of any hearing, investigation, or other proceeding, the Commissioner may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Commissioner of Social Security even though inadmissible under rules of evidence applicable to court procedure.

(2) In any case where—

(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability,

(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and

(C) as a consequence of the finding described in subparagraph (B), such individual is determined by the Commissioner of Social Security not to be entitled to such benefits, any reconsideration of the finding described in subparagraph (B), in connection with a reconsideration by the Commissioner of Social Security (before any hearing under paragraph (1) on the issue of such entitlement) of the Commissioner's determination described in subparagraph (C), shall be made only after opportunity for an evidentiary hearing, with regard to the finding described in subparagraph (B), which is reasonably accessible to such individual. Any reconsideration of a finding described in subparagraph (B) may be made either by the State agency or the Commissioner of Social Security where the finding was originally made by the State agency, and shall be made by the Commissioner of Social Security where the finding was originally made by the Commissioner of Social Security. In the case of a reconsideration by a State agency of a finding described in subparagraph (B) which was originally made by such State agency, the evidentiary hearing shall be held by an adjudicatory unit of the State agency other than the unit that made the finding described in subparagraph (B).

(3) (A) A failure to timely request review of an initial adverse determination with respect to an application for any benefit under this subchapter or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any benefit under this subchapter if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for benefits in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration or any State agency acting under section 421 of this title.

(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Commissioner of Social Security shall describe in clear and specific language the effect on possible entitlement to benefits under this subchapter of choosing to reapply in lieu of requesting review of the determination.

(c) Wage records

(1) For the purposes of this subsection—

(A) The term "year" means a calendar year when used with respect to wages and a taxable year when used with respect to self-employment income.

(B) The term "time limitation" means a period of three years, three months, and fifteen days.

(C) The term "survivor" means an individual's spouse, surviving divorced wife, surviving divorced husband, surviving divorced mother, surviving divorced father, child, or parent, who survives such individual.

(D) The term "period" when used with respect to self-employment income means a taxable year and when used with respect to wages means—

(i) a quarter if wages were reported or should have been reported on a quarterly basis on tax returns filed with the Secretary of the Treasury or his delegate under section 6011 of the Internal Revenue Code of 1986 or regulations thereunder (or on reports filed by a State under section 418(e) of this title (as in effect prior to December 31, 1986) or regulations thereunder),

(ii) a year if wages were reported or should have been reported on a yearly basis on such tax returns or reports, or

(iii) the half year beginning January 1 or July 1 in the case of wages which were reported or should have been reported for calendar year 1937.

(2)(A) On the basis of information obtained by or submitted to the Commissioner of Social Security, and after such verification thereof as the Commissioner deems necessary, the Commissioner of Social Security shall establish and maintain records of the amounts of wages paid to, and the amounts of self-employment income derived by, each individual and of the periods in which such wages were paid and such income was derived and, upon request, shall inform any individual or his survivor, or the legal rep-

1 See References in Text note below.
ties under subparagraph (A) and subparagraph (F), the Commissioner of Social Security shall take affirmative measures to assure that social security account numbers will, to the maximum extent practicable, be assigned to all members of appropriate groups or categories of individuals by assigning such numbers (or ascertaining that such numbers have already been assigned): (I) to aliens at the time of their legal admission to the United States either for permanent residence or under other authority of law permitting them to engage in employment in the United States and to other aliens at such time as their status is so changed as to make it lawful for them to engage in such employment; (II) to any individual who is an applicant for or recipient of benefits under any program financed in whole or in part from Federal funds including any child on whose behalf such benefits are claimed by another person; and (III) to any other individual when it appears that he could have been but was not assigned an account number under the provisions of subclauses (I) or (II) but only after such investigation as is necessary to establish to the satisfaction of the Commissioner of Social Security, the identity of such individual, the fact that an account number has not already been assigned to such individual, and the fact that such individual is a citizen or a noncitizen who is not, because of his alien status, prohibited from engaging in employment; and, in carrying out such duties, the Commissioner of Social Security is authorized to take affirmative measures to assure the issuance of social security numbers: (IV) to or on behalf of children who are below school age at the request of their parents or guardians; and (V) to children of school age at the time of their first enrollment in school.

(ii) The Commissioner of Social Security shall require of applicants for social security account numbers such evidence as may be necessary to establish the age, citizenship, or alien status, and true identity of such applicants, and to determine which (if any) social security account number has previously been assigned to such individual. With respect to an application for a social security account number for an individual who has not attained the age of 18 before such application, such evidence shall include the information described in subparagraph (C)(ii).

(iii) In carrying out the requirements of this subparagraph, the Commissioner of Social Security shall enter into such agreements as may be necessary with the Attorney General and other officials and with State and local welfare agencies and school authorities (including nonpublic school authorities).

(C)(i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver’s license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Commissioner of Social Security for the purpose of establishing the identity of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Commissioner of Social Security.

(ii) In the administration of any law involving the issuance of a birth certificate, each State shall require each parent to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if the parent has more than one such number) issued to the parent unless the State (in accordance with regulations prescribed by the Commissioner of Social Security) finds good cause for not requiring the furnishing of such number. The State shall make numbers furnished under this subclause available to the Commissioner of Social Security and the agency administering the State’s plan under part D of subchapter IV of chapter 5 of act [26 U.S.C. 9621 et seq.], the Secretary of Agriculture may require each applicant retail store or wholesale food concern to furnish the Secretary of Agriculture the social security account number of each individual who is an officer of the store or concern and, in the case of a privately owned applicant, furnish the social security account numbers of the owners of such applicant. No officer or employee of the Department of Agriculture shall have access to any such number for any purpose other than the establishment and maintenance of a list of the names and social security account numbers of such individuals for use in determining those applicants who have been previously sanctioned or convicted under section 12 or 15 of such Act [26 U.S.C. 9621 et seq.].

(ii) The Secretary of Agriculture may share any information contained in any list referred to in subclause (I) with any other agency or instrumentality of the United States which otherwise has access to social security account numbers in accordance with this subsection or other applicable Federal law, except that the Secretary of Agriculture may share such informa-
tion only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subclause may be used by such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.] or for the purpose of investigation of violations of other Federal laws or enforcement of such laws.

(III) The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in this subclause, shall restrict, to the satisfaction of the Commissioner of Social Security, access to social security account numbers obtained pursuant to this clause only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subclause (II).

(IV) The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to clause (II), shall provide such other safeguards as the Commissioner of Social Security determines to be necessary or appropriate to protect the confidentiality of the social security account numbers.

(iv) In the administration of section 506 of the Federal Crop Insurance Act [7 U.S.C. 1506], the Federal Crop Insurance Corporation may require each policyholder and each reinsured company to furnish to the insurer or to the Corporation the social security account number of such policyholder, subject to the requirements of this clause. No officer or employee of the Federal Crop Insurance Corporation shall have access to any such number for any purpose other than the establishment of a system of records necessary for the effective administration of such Act [7 U.S.C. 1501 et seq.]. The Manager of the Corporation may require each policyholder to provide to the Manager, at such times and in such manner as prescribed by the Manager, the social security account number of each individual that holds or acquires a substantial beneficial interest in the policyholder. For purposes of this clause, the term “substantial beneficial interest” means not less than 5 percent of all beneficial interest in the policyholder. The Secretary of Agriculture shall restrict, to the satisfaction of the Commissioner of Social Security, access to social security account numbers obtained pursuant to this clause only to officers and employees of the United States or authorized persons whose duties or responsibilities require access for the administration of the Federal Crop Insurance Act. The Secretary of Agriculture shall provide such other safeguards as the Commissioner of Social Security determines to be necessary or appropriate to protect the confidentiality of such social security account numbers. For purposes of this clause the term “authorized person” means an officer or employee of an insurer whom the Manager of the Corporation designates by rule, subject to appropriate safeguards including a prohibition against the release of such social security account number (other than to the Corporation) by such person.

(v) If and to the extent that any provision of Federal law heretofore enacted is inconsistent with the policy set forth in clause (i), such provision shall, on and after October 1, 1976, be null, void, and of no effect. If and to the extent that any such provision is inconsistent with the requirement set forth in clause (ii), such provision shall, on and after October 13, 1988, be null, void, and of no effect.

(vi)(I) For purposes of clause (i) of this subparagragh, an agency of a State (or political subdivision thereof) charged with the administration of any general public assistance, driver’s license, or motor vehicle registration law which did not use the social security account number for identification under a law or regulation adopted before January 1, 1975, may require an individual to disclose his or her social security number to such agency solely for the purpose of administering the laws referred to in clause (i) above and for the purpose of responding to requests for information from an agency administering a program funded under part A of subchapter IV of this chapter or an agency operating pursuant to the provisions of part D of such subchapter.

(II) Any State or political subdivision thereof (and any person acting as an agent of such an agency or instrumentality), in the administration of any driver’s license or motor vehicle registration law within its jurisdiction, may not display a social security account number issued by the Commissioner of Social Security (or any derivative of such number) on any driver’s license, motor vehicle registration, or personal identification card (as defined in section 7212(a)(2) of the 9/11 Commission Implementation Act of 2004), or include, on any such license, registration, or personal identification card, a magnetic strip, bar code, or other means of communication which conveys such number (or derivative thereof).

(vii) For purposes of this subparagraph, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

(viii)(I) Social security account numbers and related records that are obtained or maintained by authorized persons pursuant to any provision of law enacted on or after October 1, 1990, shall be confidential, and no authorized person shall disclose any such social security account number or related record.

(II) Paragraphs (1), (2), and (3) of section 7213(a) of the Internal Revenue Code of 1986 shall apply with respect to the unauthorized willful disclosure to any person of social security account numbers and related records obtained or maintained by an authorized person pursuant to a provision of law enacted on or after October 1, 1990, in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) of such Code shall apply with respect to the willful offer of any item of material value in exchange for any such social security account number or related record in the same manner and to the same extent as such
paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph.

(III) For purposes of this clause, the term "authorized person" means an officer or employee of the United States, an officer or employee of any State, political subdivision of a State, or agency of a State or political subdivision of a State, and any other person (or officer or employee thereof), who has or had access to social security account numbers or related records pursuant to any provision of law enacted on or after October 1, 1990. For purposes of this subclause, the term "officer or employee" includes a former officer or employee.

(IV) For purposes of this clause, the term "related record" means any record, list, or compilation that indicates, directly or indirectly, the identity of any individual with respect to whom a social security account number or a request for a social security account number is maintained pursuant to this clause.

(IX) In the administration of the provisions of chapter 1 of title 5 and the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.), the Secretary of Labor may require by regulation that any person filing a notice of injury or a claim for benefits under such provisions provide as part of such notice or claim such person's social security account number, subject to the requirements of this clause. No officer or employee of the Department of Labor shall have access to any such number for any purpose other than the establishment of a system of records necessary for the effective administration of such provisions. The Secretary of Labor shall restrict, to the satisfaction of the Commissioner of Social Security, access to social security account numbers obtained pursuant to this clause to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of such provisions. The Secretary of Labor shall provide such other safeguards as the Commissioner of Social Security determines to be necessary or appropriate to protect the confidentiality of the social security account numbers.

(X) The Secretary of Health and Human Services, and the Exchanges established under section 1311 of the Patient Protection and Affordable Care Act [42 U.S.C. 18031], are authorized to collect and use the names and social security account numbers of individuals as required to administer the provisions of, and the amendments made by, such Act. For purposes of this clause, the term "prisoner" means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of a criminal offense.

(IX)(i) It is the policy of the United States that—

(I) any State (or any political subdivision of a State) and any authorized blood donation facility may utilize the social security account numbers issued by the Commissioner of Social Security for the purpose of identifying blood donors, and

(II) any State (or political subdivision of a State) may require any individual who donates blood within such State (or political subdivision) to furnish to such State (or political subdivision), to any agency thereof having related administrative responsibility, or to any authorized blood donation facility the social security account number (or numbers, if the donor has more than one such number) issued to the donor by the Commissioner of Social Security.

(ii) If and to the extent that any provision of Federal law enacted before November 10, 1988, is inconsistent with the policy set forth in clause (i), such provision shall, on and after November 10, 1988, be null, void, and of no effect.

(iii) For purposes of this subparagraph—

(I) the term "authorized blood donation facility" means an entity described in section 13205–11c(1)(B) of this title, and

(II) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(E)(i) It is the policy of the United States that—

(I) any State (or any political subdivision of a State) may utilize the social security account numbers issued by the Commissioner of Social Security for the additional purposes described in clause (ii) if such numbers have been collected and are otherwise utilized by such State (or political subdivision) in accordance with applicable law, and

(II) any district court of the United States may use, for such additional purposes, any such social security account numbers which have been so collected and are so utilized by any State.

(ii) The additional purposes described in this clause are the following:

(I) Identifying duplicate names of individuals on master lists used for jury selection purposes.

(II) Identifying on such master lists those individuals who are ineligible to serve on a jury by reason of their conviction of a felony.

(iii) To the extent that any provision of Federal law enacted before August 15, 1994, is inconsistent with the policy set forth in clause (i), such provision shall, on and after August 15, 1994, be null, void, and of no effect.

(iv) For purposes of this subparagraph, the term "State" has the meaning such term has in subparagraph (D).
(F) The Commissioner of Social Security shall require, as a condition for receipt of benefits under this subchapter, that an individual furnish satisfactory proof of a social security account number assigned to such individual by the Commissioner of Social Security or, in the case of an individual to whom no such number has been assigned, that such individual make proper application for assignment of such a number.

(G) The Commissioner of Social Security shall issue a social security card to each individual at the time of the issuance of a social security account number to such individual. The social security card shall be made of banknote paper, and (to the maximum extent practicable) shall be a card which cannot be counterfeited.

(H) The Commissioner of Social Security shall share with the Secretary of the Treasury the information obtained by the Commissioner pursuant to the second sentence of subparagraph (B)(ii) and to subparagraph (C)(ii) for the purpose of administering those sections of the Internal Revenue Code of 1986 which grant tax benefits based on support or residence of children.

(3) The Commissioner’s records shall be evidence for the purpose of proceedings before the Commissioner of Social Security or any court of the amounts of wages paid to, and self-employment income derived by, an individual and of the periods in which such wages were paid and such income was derived. The absence of an entry in such records as to wages alleged to have been paid to, or as to self-employment income alleged to have been derived by, an individual in any period shall be evidence that no such alleged wages were paid to, or that no such alleged income was derived by, such individual during such period.

(4) Prior to the expiration of the time limitation following any year the Commissioner of Social Security may, if it is brought to the Commissioner’s attention that any entry of wages or self-employment income in the Commissioner’s records for such year is erroneous or that any item of wages or self-employment income for such year before the expiration of the time limitation following such year, in which case the Commissioner of Social Security shall include in the Commissioner’s records the self-employment income in the Commissioner’s records of such year for such individual or include in the Commissioner’s records of such year for such individual any omitted item of wages or self-employment income but only—

(A) if an application for monthly benefits or for a lump-sum death payment was filed within the time limitation following such year; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon the application for monthly benefits or lump-sum death payment;

(B) if within the time limitation following such year an individual or his survivor makes a request for a change or deletion, or for an inclusion of an omitted item, and alleges in writing that the Commissioner’s records of the wages paid to, or the self-employment income derived by, such individual in such year are in one or more respects erroneous; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon such request. Written notice of the Commissioner’s decision on any such request shall be given to the individual who made the request;

(C) to correct errors apparent on the face of such records;

(D) to transfer items to records of the Railroad Retirement Board if such items were credited under this subchapter when they should have been credited under the Railroad Retirement Act of 1937 or 1974 when they were credited by the Railroad Retirement Board if such items were transferred by the Railroad Retirement Board which have been credited under the Railroad Retirement Act of 1937 or 1974 when they should have been credited under this subchapter;

(E) to delete or reduce the amount of any entry which is erroneous as a result of fraud;

(F) to conform the Commissioner’s records to—

(i) tax returns or portions thereof (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act, under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code of 1939, under chapter 2 or 21 of the Internal Revenue Code of 1954 or the Internal Revenue Code of 1966, or under regulations made under authority of such title, subchapter, or chapter;

(ii) wage reports filed by a State pursuant to an agreement under section 418 of this
title or regulations of the Commissioner of Social Security thereunder; or

(iii) assessments of amounts due under an agreement pursuant to section 418 of this title (as in effect prior to December 31, 1980), if such assessments are made within the period specified in subsection (q) of such section (as so in effect), or allowances of credits or refunds of overpayments by a State under an agreement pursuant to such section;

except that no amount of self-employment income of an individual for any taxable year (if such return or statement was filed after the expiration of the time limitation following the taxable year) shall be included in the Commissioner’s records pursuant to this subparagraph;

(G) to correct errors made in the allocation, to individuals or periods, of wages or self-employment income entered in the records of the Commissioner of Social Security;

(H) to include wages paid during any period in such year to an individual by an employer;

(I) to enter items which constitute remuneration for employment under subsection (o) of this section, such entries to be in accordance with certified reports of records made by the Railroad Retirement Board pursuant to section 5(k)(3) of the Railroad Retirement Act of 1937 [45 U.S.C. 228e(k)(3)] or section 7(b)(7) of the Railroad Retirement Act of 1974 [45 U.S.C. 231(b)(7)]; or

(J) to include self-employment income for any taxable year, up to, but not in excess of, the amount of wages deleted by the Commissioner of Social Security as payments erroneously included in such records as wages paid to such individual, if such income (or net earnings from self-employment), not already included in such records as self-employment income, is included in a return or statement (referred to in subparagraph (F) of this subsection) filed before the expiration of the time limitation following the taxable year in which such deletion of wages is made.

(6) Written notice of any deletion or reduction under paragraph (4) or (5) of this subsection shall be given to the individual whose record is involved or to his survivor, except that (A) in the case of a deletion or reduction with respect to any entry of wages such notice shall be given to such individual only if he has previously been notified by the Commissioner of Social Security of the amount of his wages for the period involved, and (B) such notice shall be given to such survivor only if he or the individual whose record is involved has previously been notified by the Commissioner of Social Security of the amount of such individual’s wages and self-employment income for the period involved.

(7) Upon request in writing (within such period, after any change or refusal of a request for a change of the Commissioner’s records pursuant to this subsection, as the Commissioner of Social Security may prescribe), opportunity for hearing with respect to such change or refusal shall be afforded to any individual or his survivor. If a hearing is held pursuant to this paragraph the Commissioner of Social Security shall make findings of fact and a decision based upon the evidence adduced at such hearing and shall include any omitted items, or change or delete any entry, in the Commissioner’s records as may be required by such findings and decision.

(8) A translation into English by a third party of a statement made in a foreign language by an applicant for or beneficiary of monthly insurance benefits under this subchapter shall not be regarded as reliable for any purpose under this subchapter unless the third party, under penalty of perjury—

(A) certifies that the translation is accurate; and

(B) discloses the nature and scope of the relationship between the third party and the applicant or recipient, as the case may be.

(9) Decisions of the Commissioner of Social Security under this subsection shall be reviewable by commencing a civil action in the United States district court as provided in subsection (g) of this section.

(d) Issuance of subpoenas in administrative proceedings

For the purpose of any hearing, investigation, or other proceeding authorized or directed under this subchapter, or relative to any other matter within the Commissioner’s jurisdiction hereunder, the Commissioner of Social Security shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the Commissioner of Social Security. Such attendance of witnesses and production of evidence at the designated place of such hearing, investigation, or other proceeding may be required from any place in the United States or in any Territory or possession thereof. Subpoenas of the Commissioner of Social Security shall be served by anyone authorized by the Commissioner (1) by delivering a copy thereof to the individual named therein, or (2) by registered mail or by certified mail addressed to such individual at his last dwelling place or principal place of business. A verified return by the individual so serving the subpoena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post-office receipt therefor signed by the individual so served, shall be proof of service. Witnesses so subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(e) Judicial enforcement of subpoenas; contempt

In case of contumacy by, or refusal to obey a subpoena duly served upon, any person, any district court of the United States for the judicial district in which said person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Commissioner of Social Security, shall have jurisdiction to issue an order requiring such person to appear and give testimony, or to appear and produce evidence, or both; any failure to obey such order of the court may be punished by said court as contempt thereof.
Judicial review

Any individual, after any final decision of the Commissioner of Social Security made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Commissioner of Social Security may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the United States District Court for the District of Columbia. As part of the Commissioner’s answer the Commissioner of Social Security shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing. The findings of the Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be conclusive, and where a claim has been denied by the Commissioner of Social Security or a decision is rendered under subsection (b) of this section which is adverse to an individual who was a party to the hearing before the Commissioner of Social Security, because of failure of the claimant or such individual to submit proof in conformity with any regulation prescribed under subsection (a) of this section, the court shall review only the question of conformity with such regulations and the validity of such regulations. The court may, on motion of the Commissioner of Social Security made for good cause shown before the Commissioner files the Commissioner’s answer, remand the case to the Commissioner of Social Security for further action by the Commissioner of Social Security, and it may at any time order additional evidence to be taken before the Commissioner of Social Security, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding; and the Commissioner of Social Security shall, after the case is remanded, and after hearing such additional evidence as it deems necessary, affirm or modify the findings of fact or the Commissioner’s decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript of the additional record and testimony upon which the Commissioner’s action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.

Finality of Commissioner’s decision

The findings and decision of the Commissioner of Social Security after a hearing shall be binding upon all individuals who were parties to such hearing. No findings of fact or decision of the Commissioner of Social Security shall be reviewed by any person, tribunal, or governmental agency except as herein provided. No action against the United States, the Commissioner of Social Security, or any officer or employee thereof shall be brought under section 1331 or 1346 of title 28 to recover on any claim arising under this subchapter.

Certification for payment

Upon final decision of the Commissioner of Social Security, or upon final judgment of any court of competent jurisdiction, that any person is entitled to any payment or payments under this subchapter, the Commissioner of Social Security shall certify to the Managing Trustee the name and address of the person so entitled to receive such payment or payments, the amount of such payment or payments, and the time at which such payment or payments should be made, and the Managing Trustee, through the Fiscal Service of the Department of the Treasury, and prior to any action thereon by the Government Accountability Office, shall make payment in accordance with the certification of the Commissioner of Social Security (except that in the case of (A) an individual who will have completed ten years of service (or five or more years of service, all of which accrues after December 31, 1995) creditable under the Railroad Retirement Act of 1937 [45 U.S.C. 228a et seq.] or the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.], (B) the wife or husband of such an individual, (C) any survivor of such an individual if such survivor is entitled, or could upon application become entitled, to an annuity under section 2 of the Railroad Retirement Act of 1974 [45 U.S.C. 231a], and (D) any other person entitled to benefits under section 402 of this title on the basis of the wages and self-employment income of such an individual (except a survivor of such an individual where such individual did not have a current connection with the railroad industry, as defined in the Railroad Retirement Act of 1974, at the time of his death), such certification shall be made to the Railroad Retirement Board which shall provide for such payment or payments to such person on behalf of the Managing Trustee in accordance with the provisions of the Railroad Retirement Act of 1974): Provided, That where a review of the Commissioner’s decision is or may be sought under subsection (g) of this section the Commissioner of Social Security may withhold certification of payment pending such review. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Commissioner of Social Security.
(j) Representative payees

(1)(A) If the Commissioner of Social Security determines that the interest of any individual under this subchapter would be served thereby, certification of payment of such individual’s benefit under this subchapter may be made, regardless of the legal competency or incompetency of the individual, either for direct payment to the individual, or for his or her use and benefit, to another individual, or an organization, with respect to whom the requirements of paragraph (2) have been met (hereinafter in this subsection referred to as the individual’s “representative payee”). If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee has misused any individual’s benefit paid to such representative payee pursuant to this subsection or section 1007 or 1383(a)(2) of this title, the Commissioner of Social Security shall promptly revoke certification for payment of benefits to such representative payee pursuant to this subsection and certify payment to an alternative representative payee.

(B) In the case of an individual entitled to benefits based on disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.

(2)(A) Any certification made under paragraph (1) for payment of benefits to an individual’s representative payee shall be made on the basis of—

(i) an investigation by the Commissioner of Social Security of the person to serve as representative payee, which shall be conducted in advance of such certification and shall, to the extent practicable, include a face-to-face interview with such person, and

(ii) adequate evidence that such certification is in the interest of such individual (as determined by the Commissioner of Social Security in regulations).

(B)(i) As part of the investigation referred to in subparagraph (A)(i), the Commissioner of Social Security shall—

(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity has been submitted with an application for benefits under this subchapter, subchapter VIII of this chapter, or subchapter XVI of this chapter.

(II) verify such person’s social security account number (or employer identification number).

(III) determine whether such person has been convicted of a violation of section 408, 1011, or 1383a of this title.

(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year.

(V) obtain information concerning whether such person is a person described in section 402(x)(1)(A)(iv) of this title, and

(VI) determine whether certification of payment of benefits to such person has been revoked pursuant to this subsection, the designation of such person as a representative payee has been revoked pursuant to section 1007(a) of this title, or payment of benefits to such person has been terminated pursuant to section 1383(a)(2)(A)(iii) of this title by reason of misuse of funds paid as benefits under this subchapter, subchapter VIII of this chapter, or subchapter XVI of this chapter.

(ii) The Commissioner of Social Security shall establish and maintain a centralized file, which shall be updated periodically and which shall be in a form which renders it readily retrievable by each servicing office of the Social Security Administration. Such file shall consist of—

(I) a list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom certification of payment of benefits has been revoked on or after January 1, 1991, pursuant to this subsection, whose designation as a representative payee has been revoked pursuant to section 1007(a) of this title, or with respect to whose payment of benefits has been terminated on or after such date pursuant to section 1383(a)(2)(A)(iii) of this title, by reason of misuse of funds paid as benefits under this subchapter, subchapter VIII of this chapter, or subchapter XVI of this chapter, and

(II) a list of the names and social security account numbers (or employer identification numbers) of all persons who have been convicted of a violation of section 408, 1011, or 1383a of this title.

(iii) Notwithstanding the provisions of section 552a of title 5 or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1306(c) of this title), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

(I) such person is described in section 402(x)(1)(A)(iv) of this title.

(II) such person has information that is necessary for the officer to conduct the officer’s official duties, and

(III) the location or apprehension of such person is within the officer’s official duties.

(C)(i) Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if—

(I) such person has previously been convicted as described in subparagraph (B)(i)(III), (ii) except as provided in clause (ii), certification of payment of benefits to such person under this subsection has previously been revoked as described in subparagraph (B)(i)(VI), and

(ii) a person described in subparagraph (B)(i)(VI)"
the designation of such person as a representative payee has been revoked pursuant to section 1007(a) of this title, or payment of benefits to such person pursuant to section 1383(a)(2)(A)(ii) of this title has previously been terminated as described in section 1383(a)(2)(B)(ii)(V) of this title.

(iii) except as provided in clause (iii), such person is a creditor of such individual who provides such individual with goods or services for consideration,

(iv) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

(V) such person is a person described in section 1007(a)(1)(A)(iv) of this title.

(ii) The Commissioner of Social Security shall prescribe regulations under which the Commissioner of Social Security may grant exemptions to any person from the provisions of clause (i)(II) on a case-by-case basis if such exemption is in the best interest of the individual whose benefits would be paid to such person pursuant to this subsection.

(iii) Clause (i)(III) shall not apply with respect to any person who is a creditor referred to therein if such creditor is—

(I) a relative of such individual if such relative resides in the same household as such individual,

(II) a legal guardian or legal representative of such individual,

(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State,

(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if such individual resides in such facility, and the certification of payment to such facility or such person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom such certification of payment would serve the best interests of such individual, or

(V) an individual who is determined by the Commissioner of Social Security, on the basis of written findings and under procedures which the Commissioner of Social Security shall prescribe by regulation, to be acceptable to serve as a representative payee.

(iv) The procedures referred to in clause (iii)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Commissioner of Social Security, that—

(I) such individual poses no risk to the beneficiary,

(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest, and

(III) no other more suitable representative payee can be found.

(v) In the case of an individual described in paragraph (1)(B), when selecting such individual's representative payee, preference shall be given to—

(I) a certified community-based nonprofit social service agency (as defined in paragraph (10)),

(II) a Federal, State, or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities,

(III) a State or local government agency with fiduciary responsibilities, or

(IV) a designee of an agency (other than of a Federal agency) referred to in the preceding subclauses of this clause, if the Commissioner of Social Security deems it appropriate, unless the Commissioner of Social Security determines that selection of a family member would be appropriate.

(D)(i) Subject to clause (ii), if the Commissioner of Social Security makes a determination described in the first sentence of paragraph (I) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Commissioner of Social Security may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subsection.

(ii)(I) Except as provided in subclause (II), any deferral or suspension of direct payment of a benefit pursuant to clause (i) shall be for a period of not more than 1 month.

(II) Subclause (I) shall not apply in any case in which the individual is, as of the date of the Commissioner's determination, legally incompetent, under the age of 15 years, or described in paragraph (I)(B).

(iii) Payment pursuant to this subsection of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the individual or the representative payee as a single sum or over such period of time as the Commissioner of Social Security determines in the best interest of the individual entitled to such benefits.

(E)(i) Any individual who is dissatisfied with a determination by the Commissioner of Social Security to certify payment of such individual's benefits to a representative payee under paragraph (1) or with the designation of a particular person to serve as representative payee shall be entitled to a hearing by the Commissioner of Social Security to the same extent as is provided in subsection (b) of this section, and to judicial review of the Commissioner's final decision as is provided in subsection (g) of this section.

(ii) In advance of the certification of payment of an individual's benefit to a representative payee under paragraph (1), the Commissioner of Social Security shall provide written notice of the Commissioner's initial determination to certify such payment. Such notice shall be provided to such individual, except that, if such individual—

(I) is under the age of 15,

(II) is an unmarried minor under the age of 18, or

(III) is legally incompetent,

then such notice shall be provided solely to the legal guardian or legal representative of such individual.
(iii) Any notice described in clause (ii) shall be clearly written in language that is easily understandable to the reader, shall identify the person to be designated as such individual's representative payee, and shall explain to the reader the right under clause (i) of such individual or of such individual's legal guardian or legal representative—

(I) to appeal a determination that a representative payee is necessary for such individual's payments;

(II) to appeal the designation of a particular person to serve as the representative payee of such individual, and

(III) to review the evidence upon which such designation is based and submit additional evidence.

(3)(A) In any case where payment under this subchapter is made to a person other than the individual entitled to such payment, the Commissioner of Social Security shall establish a system of accountability monitoring whereby such person shall report not less often than annually with respect to the use of such payments. The Commissioner of Social Security shall establish and implement statistically valid procedures for reviewing such reports in order to identify instances in which such persons are not properly using such payments.

(B) Subparagraph (A) shall not apply in any case where the other person to whom such payment is made is a State institution. In such cases, the Commissioner of Social Security shall establish a system of accountability monitoring for institutions in each State.

(C) Subparagraph (A) shall not apply in any case where the individual entitled to such payment is a resident of a Federal institution and the other person to whom such payment is made is the institution.

(D) Notwithstanding subparagraphs (A), (B), and (C), the Commissioner of Social Security may require a report at any time from any person receiving payments on behalf of another, if the Commissioner of Social Security has reason to believe that the person receiving such payments is misusing such payments.

(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.

(F) The Commissioner of Social Security shall maintain a centralized file, which shall be updated periodically and which shall be in a form which will be readily retrievable by each servicing office of the Social Security Administration, or—

(i) the address and the social security account number (or employer identification number) of each representative payee who is receiving benefit payments pursuant to this subsection, section 1007 of this title, or section 1383(a)(2) of this title, and

(ii) the address and social security account number of each individual for whom each representative payee is reported to be providing services as representative payee pursuant to this subsection, section 1007 of this title, or section 1383(a)(2) of this title.

(G) Each servicing office of the Administration shall maintain a list, which shall be updated periodically, of public agencies and certified community-based nonprofit social service agencies (as defined in paragraph (10)) which are qualified to serve as representative payees pursuant to this subsection or section 1007 or 1383(a)(2) of this title and which are located in the area served by such servicing office.

(4)(A)(i) Except as provided in the next sentence, a qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to this subsection if such fee does not exceed the lesser of—

(I) 10 percent of the monthly benefit involved, or

(II) $25.00 per month ($50.00 per month in any case in which the individual is described in paragraph (1)(B)).

A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner shall adjust annually (after 1995) each dollar amount set forth in subclause (II) under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 415(i)(2)(A) of this title, except that any amount so adjusted that is not a multiple of $1.00 shall be rounded to the nearest multiple of $1.00. Any agreement providing for a fee in excess of the amount permitted under this subsection shall be void and shall be treated as misuse by such organization of such individual's benefits.

(ii) In the case of an individual who is no longer currently entitled to monthly insurance benefits under this subchapter but to whom all past-due benefits have not been paid, for purposes of clause (i), any amount of such past-due benefits payable in any month shall be treated as a monthly benefit referred to in clause (i)(I).

(B) For purposes of this paragraph, the term "qualified organization" means any State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, or any certified community-based nonprofit social service agency (as defined in paragraph (10)), if such agency, in accordance with any applicable regulations of the Commissioner of Social Security—

(i) regularly provides services as the representative payee, pursuant to this subsection
or section 1007 or 1383(a)(2) of this title, concurrently to 5 or more individuals.\(^7\)

(ii) demonstrates to the satisfaction of the Commissioner of Social Security that such agency is not otherwise a creditor of any such individual.

The Commissioner of Social Security shall prescribe regulations under which the Commissioner of Social Security may grant an exception from clause (ii) for any individual on a case-by-case basis if such exception is in the best interests of such individual.

(C) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under subparagraph (A) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, or imprisoned not more than 6 months, or both.

(5) In cases where the negligent failure of the Commissioner of Social Security to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to such misused benefits. In any case in which a representative payee that—

(A) is not an individual (regardless of whether it is a "qualified organization" within the meaning of paragraph (4)(B)); or

(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this subchapter, subchapter VIII of this chapter, subchapter XVI of this chapter, or any combination of such subchapters;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (4)(B). The Commissioner of Social Security shall make a good faith effort to obtain restitution from the terminated representative payee.

(6) (A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this subchapter (alone or in combination with benefits payable under chapter XVIII of this chapter or subchapter XVI of this chapter) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 1007 of this title, or section 1383(a)(2) of this title in any case in which—

(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (10) of this subsection or section 1383(a)(2)(I) of this title); or

(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this subchapter. Such each report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

(i) the number of such reviews;

(ii) the results of such reviews;

(iii) the number of cases in which the representative payee was changed and why;

(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

(v) the number of cases discovered in which there was a misuse of funds;

(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

(viii) such other information as the Commissioner deems appropriate.

(7) (A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this subchapter to the representative payee for all purposes of this chapter and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.

(8) For purposes of this subsection, the term "benefit based on disability" of an individual means a disability insurance benefit of such individual under section 423 of this title or a
child's, widow's, or widower's insurance benefit of such individual under section 402 of this title based on such individual's disability.

(9) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this subchapter for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term “use and benefit” for purposes of this paragraph.

(10) For purposes of this subsection, the term “certified community-based nonprofit social service agency” means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.

(k) Payments to incompetents

Any payment made after December 31, 1939, under conditions set forth in subsection (j) of this section, any payment made before January 1, 1940, to or on behalf of, a legally incompetent individual, and any payment made after December 31, 1939, to a legally incompetent individual without knowledge by the Commissioner of Social Security of incompetency prior to certification of payment, if otherwise valid under this subchapter, shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

(f) Delegation of powers and duties by Commissioner

The Commissioner of Social Security is authorized to delegate to any member, officer, or employee of the Social Security Administration designated by the Commissioner any of the powers conferred upon the Commissioner by this section, and is authorized to be represented by the Commissioner's own attorneys in any court in any case or proceeding arising under the provisions of subsection (e) of this section.


(n) Joint payments

The Commissioner of Social Security may, in the Commissioner's discretion, certify to the Managing Trustee any two or more individuals of the same family for joint payment of the total benefits payable to such individuals for any month, and if one of such individuals dies before a check representing such joint payment is negotiated, payment of the amount of such unnegotiated check to the surviving individual or individuals may be authorized in accordance with regulations of the Secretary of the Treasury; except that appropriate adjustment or recovery shall be made under section 404(a) of this title with respect to so much of the amount of such check as exceeds the amount to which such surviving individual or individuals are entitled under this subchapter for such month.

(o) Crediting of compensation under Railroad Retirement Act

If there is no person who would be entitled, upon application therefor, to an annuity under section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a), or to a lump-sum payment under section 6(b) of such Act (45 U.S.C. 231b), with respect to the death of an employee (as defined in such Act), then, notwithstanding section 410(a)(9) of this title, compensation (as defined in such Railroad Retirement Act, but excluding compensation attributable as having been paid during any month on account of military service creditable under section 3(l) of such Act (45 U.S.C. 231b(l)) if wages are deemed to have been paid to such employee during such month under subsection (a) or (e) of section 417 of this title) of such employee shall constitute remuneration for employment for purposes of determining (A) entitlement to and the amount of any lump-sum death payment under this subchapter on the basis of such employee's wages and self-employment income and (B) entitlement to and the amount of any monthly benefit under this subchapter, for the month in which such employee died or for any month thereafter, on the basis of such wages and self-employment income. For such purposes, compensation (as so defined) paid in a calendar year before 1978 shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee rendered services for such compensation.

(p) Special rules in case of Federal service

(1) With respect to service included as employment under section 410 of this title which is performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, including service, performed as a member of a uniformed service, performed as a volunteer or volunteer leader within the meaning of the Peace Corps Act [22 U.S.C. 2501 et seq.], to which the provisions of section 410(b)(1) of such Act are applicable, and including service, performed as a volunteer or volunteer leader within the meaning of the Peace Corps Act [22 U.S.C. 2501 et seq.], to which the provisions of section 410(o) of this title are applicable, the Commissioner of Social Security shall not make determinations as to the amounts of remuneration for such service, or the periods in which or for which such remuneration was paid, but shall accept the determinations with respect thereto of the head of the appropriate Federal agency or instrumentality, and of such agents as such head may designate, as evidenced by returns filed in accordance with the provisions of section 3122 of the Internal Revenue Code of 1954 and certifications made pursuant to this sub-section. Such determinations shall be final and conclusive. Nothing in this paragraph shall be construed to affect the Commissioner's authority to determine under section 409 of this title whether any such service constitutes employment, the periods of such employment, and whether remuneration paid for any such service constitutes wages.
(q) Expedited benefit payments

(1) The Commissioner of Social Security shall establish and put into effect procedures under which expedited payment of monthly insurance benefits under this subchapter will, subject to paragraph (4) of this subsection, be made as set forth in paragraphs (2) and (3) of this subsection.

(2) In any case in which—

(A) an individual makes an allegation that a monthly benefit under this subchapter was due him in a particular month but was not paid to him; and

(B) such individual submits a written request for the payment of such benefit—

(i) in the case of an individual who received a regular monthly benefit in the month preceding the month with respect to which such allegation is made, not less than 30 days after the 15th day of the month with respect to which such allegation is made (and in the event that such request is submitted prior to the expiration of such 30-day period, it shall be deemed to have been submitted upon the expiration of such period), and

(ii) in any other case, not less than 90 days after the later of (I) the date on which such allegation is alleged to have been due, or (II) the date on which such individual furnished the last information requested by the Commissioner of Social Security (and such written request will be deemed to be filed on the day on which it was filed, or the ninetieth day after the first day on which the Commissioner of Social Security has evidence that such allegation is true, whichever is later),

the Commissioner of Social Security shall, if the Commissioner finds that benefits are due, certify such benefits for payment, and payment shall be made within 15 days immediately following the date on which the written request is deemed to have been filed.

(3) In any case in which the Commissioner of Social Security determines that there is evidence, although additional evidence might be required for a final decision, that an allegation described in paragraph (2)(A) is true, the Commissioner may make a preliminary certification of such benefit for payment even though the 30-day or 90-day periods described in paragraph (2)(B)(i) and (B)(ii) have not elapsed.

(4) Any payment made pursuant to a certification under paragraph (3) of this subsection shall not be considered an incorrect payment for purposes of determining the liability of the certifying or disbursing officer.

(5) For purposes of this subsection, benefits payable under section 423 of this title shall be treated as monthly insurance benefits payable under this subchapter. However, this subsection shall not apply with respect to any benefit for which a check has been negotiated, or with respect to any benefit alleged to be due under either section 423 of this title, or section 402 of this title to a wife, husband, or child of an individual entitled to or applying for benefits under section 423 of this title, or to a widow or widower on the basis of being under a disability.

(r) Use of death certificates to correct program information

(1) The Commissioner of Social Security shall undertake to establish a program under which—

(A) States (or political subdivisions thereof) voluntarily contract with the Commissioner of Social Security to furnish the Commissioner of Social Security periodically with information (in a form established by the Commissioner of Social Security in consultation with the States) concerning individuals with respect to whom death certificates (or equivalent documents maintained by the States or subdivisions) have been officially filed with them; and

(B) there will be (i) a comparison of such information on such individuals with information on such individuals in the records being used in the administration of this chapter, (ii) validation of the results of such comparisons, and (iii) corrections in such records to accurately reflect the status of such individuals.

(2) Each State (or political subdivision thereof) which furnishes the Commissioner of Social Security with information on records of deaths in the State or subdivision under this subsection may be paid by the Commissioner of Social Security from amounts available for administration of this chapter the reasonable costs (established by the Commissioner of Social Security

(2) The head of any such agency or instrumentality is authorized and directed, upon written request of the Commissioner of Social Security, to make certification to the Commissioner with respect to any matter determinable for the Commissioner of Social Security by such head or his agents under this subsection, which the Commissioner of Social Security finds necessary in administering this subchapter.

(3) The provisions of paragraphs (1) and (2) of this subsection shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of paragraphs (1) and (2) of this subsection the Secretary of Defense shall be deemed to be the head of such instrumentality. The provisions of paragraphs (1) and (2) shall be applicable also in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Homeland Security, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard; and for purposes of paragraphs (1) and (2) the Secretary of Homeland Security shall be deemed to be the head of such instrumentality.
in consultations with the States) for transcribing and transmitting such information to the Commissioner of Social Security.

(3) In the case of individuals with respect to whom federally funded benefits are provided by (or through) a Federal or State agency other than under this chapter, the Commissioner of Social Security shall to the extent feasible provide such information through a cooperative arrangement with such agency, for ensuring proper payment of those benefits with respect to such individuals if—

(A) under such arrangement the agency provides reimbursement to the Commissioner of Social Security for the reasonable cost of carrying out such arrangement, and

(B) such arrangement does not conflict with the duties of the Commissioner of Social Security under paragraph (1).

(4) The Commissioner of Social Security may enter into similar agreements with States to provide information for their use in programs wholly funded by the States if the requirements of subparagraphs (A) and (B) of paragraph (3) are met.

(5) The Commissioner of Social Security may use or provide for the use of such records as may be corrected under this section, subject to such safeguards as the Commissioner of Social Security determines are necessary or appropriate to protect the information from unauthorized use or disclosure, for statistical and research activities conducted by Federal and State agencies.

(6) Information furnished to the Commissioner of Social Security under this subsection may not be used for any purpose other than the purpose described in this subsection and is exempt from disclosure under section 552 of title 5 and from the requirements of section 552a of such title.

(7) The Commissioner of Social Security shall include information on the status of the program established under this section and impediments to the effective implementation of the program in the 1984 report required under section 904 of this title.

(8)(A) The Commissioner of Social Security shall, upon the request of the official responsible for a State driver's license agency pursuant to the Help America Vote Act of 2002—

(i) enter into an agreement with such official for the purpose of verifying applicable information, so long as the requirements of subparagraphs (A) and (B) of paragraph (3) are met; and

(ii) include in such agreement safeguards to assure the maintenance of the confidentiality of any applicable information disclosed and procedures to permit such agency to use the applicable information for the purpose of maintaining its records.

(B) Information provided pursuant to an agreement under this paragraph shall be provided at such time, in such place, and in such manner as the Commissioner determines appropriate.

(C) The Commissioner shall develop methods to verify the accuracy of information provided by the agency with respect to applications for voter registration, for whom the last 4 digits of a social security number are provided instead of a driver’s license number.

(D) For purposes of this paragraph—

(i) the term “applicable information” means information regarding whether—

(I) the name (including the first name and any family forename or surname), the date of birth (including the month, day, and year), and social security number of an individual provided to the Commissioner match the information contained in the Commissioner’s records, and

(II) such individual is shown on the records of the Commissioner as being deceased; and

(ii) the term “State driver’s license agency” means the State agency which issues driver’s licenses to individuals within the State and maintains records relating to such licensure.

(E) Nothing in this paragraph may be construed to require the provision of applicable information with regard to a request for a record of an individual if the Commissioner determines there are exceptional circumstances warranting an exception (such as safety of the individual or interference with an investigation).

(F) Applicable information provided by the Commission pursuant to an agreement under this paragraph or by an individual to any agency that has entered into an agreement under this paragraph shall be considered as strictly confidential and shall be used only for the purposes described in this paragraph and for carrying out an agreement under this paragraph. Any officer or employee or former officer or employee of a State, or any officer or employee of a contractor of a State, who, without the written authority of the Commissioner, publishes or communicates any applicable information in such individual’s possession by reason of such employment or position as such an officer, shall be guilty of a felony and upon conviction thereof shall be fined or imprisoned, or both, as described in section 408 of this title.

(9)(A) The Commissioner of Social Security shall, upon the request of the Secretary or the Inspector General of the Department of Health and Human Services—

(i) enter into an agreement with the Secretary or such Inspector General for the purpose of matching data in the system of records of the Social Security Administration and the system of records of the Department of Health and Human Services; and

(ii) include in such agreement safeguards to assure the maintenance of the confidentiality of any information disclosed.

(B) For purposes of this paragraph, the term “system of records” has the meaning given such term in section 552a(a)(5) of title 5.

(s) Notice requirements

The Commissioner of Social Security shall take such actions as are necessary to ensure that any notice to one or more individuals issued pursuant to this subchapter by the Commissioner of Social Security or by a State agency—

(1) is written in simple and clear language, and
(2) includes the address and telephone number of the local office of the Social Security Administration which serves the recipient.

In the case of any such notice which is not generated by a local servicing office, the requirements of paragraph (2) shall be treated as satisfied if such notice includes the address of the local office of the Social Security Administration which services the recipient of the notice and a telephone number through which such office can be reached.

(t) Same-day personal interviews at field offices in cases where time is of essence

In any case in which an individual visits a field office of the Social Security Administration and represents during the visit to an officer or employee of the Social Security Administration in the office that the individual’s visit is occasioned by—

(1) the receipt of a notice from the Social Security Administration indicating a time limit for response by the individual, or

(2) the theft, loss, or nonreceipt of a benefit payment under this subchapter;

the Commissioner of Social Security shall ensure that the individual is granted a face-to-face interview with an officer or employee of the Social Security Administration before the close of business on the day of the visit.

(u) Redetermination of entitlement

(1)(A) The Commissioner of Social Security shall immediately redetermine the entitlement of an individual to monthly insurance benefits under this subchapter if there is reason to believe that fraud or similar fault was involved in the application of the individual for such benefits, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that such action by the Commissioner of Social Security would jeopardize the criminal prosecution of a person involved in a suspected fraud.

(B) When redetermining the entitlement, or making an initial determination of entitlement, of an individual under this subchapter, the Commissioner of Social Security shall disregard any evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence.

(2) For purposes of paragraph (1), similar fault is involved with respect to a determination if—

(A) an incorrect or incomplete statement that is material to the determination is knowingly made; or

(B) information that is material to the determination is knowingly concealed.

(3) If, after redetermining pursuant to this subsection the entitlement of an individual to monthly insurance benefits, the Commissioner of Social Security determines that there is insufficient evidence to support such entitlement, the Commissioner of Social Security may terminate such entitlement and may treat benefits paid on the basis of such insufficient evidence as overpayments.
REFERENCES IN TEXT

Subsecs. (e) and (q) of section 418 of this title, referred to in subsec. (c)(5)(D), (i), and (o) of section 418 of this title was redesignated as subsec. (e), by Pub. L. 99–509, title IX, §9002(c)(1), Oct. 21, 1986, 100 Stat. 171.

Section 7(a) of the Privacy Act of 1974, referred to in subsec. (c)(5)(F)(i), was section 7(a) of Pub. L. 93–579, which is set out as a note under section 552a of Title 5, Government Organization and Employees.

The Food and Nutrition Act of 2008, referred to in subsec. (c)(2)(C)(i), is section 201 of the 1937 Act, which is classified generally to Title 49, Transportation.

The Internal Revenue Code of 1986, referred to in subsec. (c)(2)(C)(v), was originally enacted as subcl. (II) of subsec. (c)(2)(C), see 1986 Amendment note below, and was subsequently redesignated as cl. (ii) of subsec. (c)(2)(C), see 1990 Amendment note below.


Subsec. (g). Pub. L. 108–203, § 411(a), substituted “and, in every case in which the Commissioner has not made a decision favorably to the individual, a transcript of the additional record and testimony” for “and, in every case in which the Commissioner has not made a decision fully favorable to the individual, a transcript of the additional record and testimony”.


Subsec. (j)(2)(B)(iv)(V) to (VI). Pub. L. 108–203, § 105(a)(2), added subcls. (V) and (V) and redesignated former subcl. (IV) as (VI).


Pub. L. 108–203, § 102(a)(1)(A), substituted “a certified community-based nonprofit social service agency (as defined in paragraph (9)) for a community-based nonprofit social service agency licensed or bonded by the State”.


Pub. L. 108–203, § 105(a)(2), substituted “paragraph (10)” for “paragraph (9)”.

Pub. L. 108–203, § 102(a)(1)(B), substituted “A qualified organization may not collect a fee from an individual for any month with respect to which a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit so misused. The organization misused all or part of the individual’s benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B)” for “‘The Commissioner of Social Security shall make’”.

Subsec. (j)(6)(A)(ii). Pub. L. 108–203, § 102(b)(1), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “The Commissioner of Social Security shall include as a part of the annual report required under section 904 of this title information with respect to the implementation of the preceding provisions of this subsection, including the number of cases in which the representative payee was changed, the number of cases discovered where there has been a misuse of funds, how any such cases were dealt with by the Commissioner of Social Security, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Commissioner of Social Security determines to be appropriate.”


2001—Subsec. (i). Pub. L. 107–90 inserted “or five or more years of service, all of which accrues after December 31, 1965” after “ten years of service”.


Subsec. (j)(2)(B)(i)(A). Pub. L. 105–34, § 1090(b)(1)(A), inserted at end “With respect to an application for a social security account number for an individual who has not attained the age of 18 before such application, such evidence shall include the information described in subparagraph (C)(i)”.


1996—Subsec. (c)(2)(C)(vi). Pub. L. 104–183 inserted “an agency administering a program funded under part A of subchapter IV of this chapter or before an agency operating” and substituted “part D of such subchapter” for “part A or D of subchapter IV of this chapter”.


Subsec. (j)(2)(B)(i)(A). Pub. L. 105–34, § 1090(b)(1)(A), inserted at end “With respect to an application for a social security account number for an individual who has not attained the age of 18 before such application, such evidence shall include the information described in subparagraph (C)(i)”.

Subsec. (c)(2)(C)(vi). Pub. L. 104–183 inserted “an agency administering a program funded under part A of subchapter IV of this chapter or before an agency operating” and substituted “part D of such subchapter” for “part A or D of subchapter IV of this chapter”.

Subsec. (j)(2)(B)(i)(A). Pub. L. 108–203, § 102(b)(1), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “The Commissioner of Social Security shall include as a part of the annual report required under section 904 of this title information with respect to the implementation of the preceding provisions of this subsection, including the number of cases in which the representative payee was changed, the number of cases discovered where there has been a misuse of funds, how any such cases were dealt with by the Commissioner of Social Security, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Commissioner of Social Security determines to be appropriate.”
§ 405. Benefits based on disability, if alcoholism or drug addiction is a contributing factor material to the Commissioner's determination that the individual is under a disability, certification of payment of such benefits to a representative payee. If alcoholism or drug addiction is a contributing factor material to the Commissioner's determination that the individual is under a disability, certification of payment of such benefits to a representative payee shall be made by the Commissioner in accordance with the procedures prescribed in section 2201(b)(3) of this title.

Subsec. (j)(2)(C)(iv). Pub. L. 103–296, § 107(a)(4)(B), redesignated the cl. (iv) as (v), added a new cl. (iii) redesignated as (iv) and redesignated cl. (v) as (vi). Former cl. (v) redesignated (vii).


Subsec. (o)(2)(E), (F), Pub. L. 103–296, § 107(a)(4)(B), (C), redesignated the cl. (vii) added by Pub. L. 101–624, § 1735(b), as (viii) and inserted “a Social Security account number” before “a request for” in subcl. (IV).


§ 304(a)(3), added subpars. (E), (F), and (G) as redesignated by Pub. L. 103–296, § 310(a)(2), substituted “Commissioner of Social Security” for “Secretary” wherever appearing.

Subsec. (q)(1). Pub. L. 103–296, § 107(a)(4), in subpars. (A) and (B), substituted “Commissioner’s” for “Secretary’s” and “Commissioner of Social Security” for “Secretary” wherever appearing.

Subsec. (r)(5). Pub. L. 103–296, § 107(a)(4), in introductory provisions substituted “Commissioner of Social Security” for “Secretary” and substituted “the Commissioner’s records” for “Secretary’s records”.

Subsec. (s)(2)(A), (B), Pub. L. 103–296, § 107(a)(4), substituted “Secretary” for “Commissioner”.
Subsec. (c)(5)(B). Pub. L. 103–296, §107(a)(4), substituted “Commissioner’s” for “Secretary’s” in two places.

Subsec. (c)(5)(F). Pub. L. 103–296, §107(a)(4), substituted “the Commissioner’s” for “his” in introductory provisions, “Commissioner of Social Security” for “Secretary” in cl. (ii), and “Commissioner’s” for “Secretary’s” in closing provisions.


Subsec. (c)(5)(G). (J), (6), (7). Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing and “the Commissioner’s” for “his” before “records” in two places in par. (7).


Subsec. (d). Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing, “the Commissioner’s” for “his” before “jurisdiction”, and “by the Commissioner” for “by him”.

Subsec. (e). Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary”.

Subsec. (g). Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing, “the Commissioner’s” for “his” wherever appearing except in second sentence, and “the Commissioner files” for “he files”.

Subsec. (h). Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing and “Commissioner’s” for “Secretary’s”.


Subsec. (j)(1). Pub. L. 103–296, §201(a)(1)(A), designated existing provisions as subpar. (A). In last sentence inserted “, if the interest of the individual under this subchapter would be served thereby,” after “payee or”, and added subpar. (B).

Pub. L. 103–296, §107(a)(4), in par. (1) as amended by Pub. L. 103–296, §201(a)(1)(A), substituted “Commissioner of Social Security” for “Secretary” wherever appearing and “Commissioner’s” for “Secretary’s” in two places in par. (B).


Subsec. (j)(2)(D)(ii)(I). Pub. L. 103–296, §201(a)(1)(B), substituted “, under the age of 15 years, or (if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is under a disability) is eligible for benefits under this subchapter by reason of disability.” for “or under the age of 15”.


Subsec. (j)(2)(D)(iii). (E), (3)(A), (H), (D), (E). Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing and “Commissioner’s” for “Secretary’s” in par. (2)(E)(i) and (ii).

Subsec. (j)(4)(A). Pub. L. 103–296, §201(a)(2)(B)(i), designated existing provisions as cl. (I), redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, added new subcl. (II) and struck out former subcl. (II) (as redesignated) which read “$25.00 per month.”, inserted “The Secretary shall adjust annually (after 1995) each dollar amount set forth in subclause (II) under procedures for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 415(d)(2)(A) of this title, except that any amount so adjusted that is not a multiple of $1.00 shall be rounded to the nearest multiple of $1.00,” before “Any agreement” in concluding provisions, and added cl. (II).

Pub. L. 103–296, §107(a)(4), in subpar. (A) as amended by Pub. L. 103–296, §201(a)(2)(B)(ii), substituted “Commissioner’s” for “Secretary’s” and “Commissioner of Social Security” for “Secretary”.

Subsec. (j)(4)(B). Pub. L. 103–296, §201(a)(2)(B)(ii), in introductory provisions, inserted “State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, or any” after “means any”, substituted “representative payee, if such agency,” for “representative payee and which,”, substituted a period for “,” and “at end of cl. (ii), and struck out cl. (iii) which read as follows: “was in existence on October 1, 1988.”.


Subsec. (k). Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary”.

Subsec. (l). Pub. L. 103–296, §107(a)(2), (4), substituted “Commissioner of Social Security” for “Secretary” of “Social Security Administration” for “Department of Health and Human Services”, “by the Commissioner” for “by him”, “upon the Commissioner” for “upon him”, and “the Commissioner’s” for “his”.

Subsec. (m). Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security may, in the Commissioner’s discretion” for “Secretary may, in his discretion”.

Subsec. (p)(1), (2). Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing, “the Commissioner’s” for “Secretary’s” in par. (1), and “to the Commissioner” for “to him” in par. (2).

Subsecs. (q), (r). Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing, “the Commissioner finds” for “he finds” in subsec. (q)(2), and “the Commissioner may” for “he may” in subsec. (q)(3).

Subsec. (s). Pub. L. 103–296, §321(a)(11), made technical amendment to heading.


any case where the other person to whom such payment
spectively, and struck out former subpar. (B) which
is made is a parent or spouse of the individual entitled
(ii), redesignated subpars. (C) and (D) as (B) and (C), re-
to such payment who lives in the same household as
such individual. The Secretary shall require such par-
hold as such individual.''

''(A), (B), and (C)'' for ''(A), (B), (C), and (D)'. Former
vestigate or monitor. Former par. (5), relating to an-
nual report, redesignated (6).

L. 101–624, are set out second.

and (vii), as added by § 1735 of Pub. L. 101–624, are set
and (II) of former cl. (i) as cls. (i) and (ii), respectively,
adding two clts. (iii) which are different, redesignating
clts. (ii) to (iv) as (I) to (IV), respectively, and
adding two substantially identical clts. (vII). Clts. (iii)
and (vII), as added by §1735 of Pub. L. 101–624, are set
out first and clts. (ii) and (vII), as added by §2201 of Pub.
L. 101–624, are set out second.

heading "Representative payees".

par. (1) generally. Prior to amendment, par. (1) read as
follows: "When it appears to the Secretary that the in-
terest of an applicant entitled to a payment would be
served thereby, certification of payment may be made,
regardless of the legal competency or incompetency of
the individual entitled thereto, either for direct pay-
tment to such applicant, or for his use and benefit to a
relative or some other person."

ed par. (2) generally. Prior to amendment, par. (2) read as
follows: "Any certification made under paragraph (1) for
payment to a person other than the individual enti-
tled to such payment must be made on the basis of an
investigation, carried out either prior to such certifi-
cation or within forty-five days after such certifi-
cation, and on the basis of adequate evidence that such
certification is in the interest of the individual entitled
to such payment (as determined by the Secretary in
regulations). The Secretary shall ensure that such cer-
tifications are adequately reviewed."

(ii), redesignated subpars. (C) and (D) as (B) and (C), re-
spectively, and struck out former subpar. (B) which
read as follows: "Subparagraph (A) shall not apply in
any case where the other person to whom such payment
is made is a parent or spouse of the individual entitled
to such payment who lives in the same household as
such individual. The Secretary shall require such par-
ent or spouse to verify on a periodic basis that such
parent or spouse continues to live in the same house-
hold as such individual."

(iii), redesignated subpar. (E) as (D) and substituted
"(A), (B), and (C)" for "(A), (B), (C), and (D)". Former
subpar. (D) redesignated (C).

(iv), added subpars. (E) and (F) and redesignated former
subpar. (E) as (D).

par. (4). Former par. (4) redesignated (5).

par. (5) relating to negligent failure of the Secretary to
investigate or monitor. Former par. (5), relating to an-
nual report, redesignated (6).

relating to annual report, as (5).

par. (6) generally. Prior to amendment, par. (6) read as
follows: "(A) The Secretary shall make an initial report to
each House of the Congress on the implementation of
paragraphs (2) and (3) within 270 days after October 9,
1984.

(B) The Secretary shall include as a part of the an-
nual report required under section 904 of this title,
information with respect to the implementation of par-
agraphs (2) and (3), including the number of cases in
which the payee was changed, "Commissioner of So-
cial Security" for "Secretary" wherever appearing.

par. (3).

Subsec. (c)(2)(C). Pub. L. 101–624, §§1735(a), (b), 2201(b),
c), made similar amendments redesignating subcls. (I)
and (II) of former cl. (i) as cls. (i) and (ii), respectively,
adding two clts. (iii) which are different, redesignating
clts. (ii) to (iv) as (I) to (IV), respectively, and
adding two substantially identical clts. (vII). Clts. (iii)
and (vII), as added by §1735 of Pub. L. 101–624, are set
out first and clts. (ii) and (vII), as added by §2201 of Pub.
L. 101–624, are set out second.

heading "Representative payees".

Subsec. (p)(2). Pub. L. 98–369, § 266(h)(1), substituted “subparagraphs (A) and (B) of paragraph (3)” for “paragraph (3)(A) and (B)”.

Subsec. (p)(3). Pub. L. 98–369, § 266(h)(2), substituted “this Act” for “the Act” which was translated as “this title”.


Pub. L. 97–455 designated existing provisions as par. (1) and added par. (2).


1980—Subsec. (b). Pub. L. 96–265, § 305(a), inserted provisions relating to the information that must accompany a request for the Secretary.

Subsec. (g). Pub. L. 96–265, § 307, substituted “The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary, and may, at any time, on good cause shown, order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding;” for “The court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding;”.

1979—Subsec. (p)(3). Pub. L. 95–601 substituted “Secretary of Transportation” for “Secretary of the Treasury” in two places.


1976—Subsec. (b). Pub. L. 94–202 substituted provisions that a request for a hearing following the decision of the Secretary be made within sixty days after notice of such decision is received for provisions which authorized the Secretary to prescribe by regulation the period within which to file a request, including the limitation that the period so prescribed be not less than six months after notice of the decision was mailed.


1972—Subsec. (c)(2). Pub. L. 92–603 designated existing provisions as par. (A) and added par. (B).

1970—Subsec. (f). Pub. L. 91–452 struck out subsec. (f) which related to the immunity from prosecution of any person compelled to testify or produce evidence after claiming this privilege against self-incrimination.


Subsec. (n). Pub. L. 89–97, § 330, provided that Secretary of the Treasury may authorize surviving payees or payees of a combined benefit check to cash one or more such checks which were not negotiated before one of the payees died, provided that part of proceeds from each check that represents an overpayment is to be adjusted or recovered as provided in section 404(a) of this title.

1961—Subsec. (p)(1). Pub. L. 87–283 provided that head of Federal agency having control of service or such agents as the head may designate would make determinations with respect to employment and wages in case of service performed by volunteers and volunteer leaders in Peace Corps.

1960—Subsec. (c)(5)(F). Pub. L. 86–778, § 102(f)(2), authorized the Secretary to add, change, or delete entries to conform his records to assessments of amounts due under an agreement pursuant to section 418 of this title, if such assessments are made within the period specified in subsection (q) of such section, or allowances of credits or refunds of overpayments by a State under an agreement pursuant to such section, and inserted references to chapters 2 and 21 of the Internal Revenue Code of 1954.

Subsec. (a). Pub. L. 86–507 inserted “or by certified mail” after “registered mail” in two places.

Subsec. (g). Pub. L. 86–778, § 102(a), inserted sentence providing that any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.


1956—Subsec. (b). Act Aug. 1, 1956, ch. 836, § 111(a), required requests with respect to decisions to be filed within such period as the Secretary prescribes by regulation, which period may not be less than six months after notice of the decision is mailed.

Subsec. (c)(1)(B). Act Aug. 1, 1956, ch. 836, § 107(b), substituted “three months” for “two months”.

Subsec. (c)(5)(F). Act Aug. 1, 1956, ch. 836, § 117, struck out provisions prohibiting inclusion in records of amount of self-employment income in excess of the amount which had been deleted as payments erroneously included in such records as wages paid to such individual in such taxable year, which provisions are now covered by subsec. (c)(5)(J) of this section.


Subsec. (p)(1). Act Aug. 1, 1956, ch. 837, provided for determinations with respect to service performed as a member of a uniformed service to which the provisions of section 410(m)(1) of this title are applicable.


Subsec. (p)(3). Act Sept. 1, 1954, § 101(c)(3), inserted provisions making subsec. (p)(1) and (2) applicable to services performed by a civilian employee in the Coast Guard Exchanges or certain other activities at Coast Guard Installations.

1952—Subsec. (o). Act July 18, 1952, substituted “subsection (a) or (e) of section 417 of this title” for “section 417(a) of this title”.


Subsec. (b). Act Aug. 28, 1950, § 108(b), amended subsec. (c) generally to include definitions, to provide for the maintaining of records of self-employed persons, to allow for the revision of the Administrator’s record, to
authorize corrections after the times limitations if an application for monthly benefits or a lump-sum death payment is filed within the time limitation and no final decision has been made on it, to continue the requirement that written notice of any deletion or reduction of wages be given to the individual whose record is involved, to give the Administrator discretion to preclude the period, after any change or refusal to change his records, within which an individual may be granted a hearing, and to provide for judicial review.

Subsec. (l) Act Aug. 28, 1950, §109(b)(2), amended subsection (a)(2) [amending this section] shall apply to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to claims, actions, and final determinations issued (upon remand) on or after the date of the enactment of this Act [Mar. 2, 2004].

Effective Date of 2001 Amendment

Effective Date of 1997 Amendment
Section 1009(b)(2) of Pub. L. 105–34 provided that: "(A) The amendment made by paragraph (1)(A) [amending this section] shall apply to applications made after the date which is 180 days after the date of the enactment of this Act [Aug. 5, 1997]."

"(B) The amendments made by subparagraphs (B) and (C) of paragraph (1) [amending this section] shall apply to information obtained on, before, or after the date of the enactment of this Act."

Effective Date of 1996 Amendments
Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 10, Armed Forces.

"(A) The amendments made by paragraphs (1) and (4) [amending sections 425 and 427 of this title] shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act [Mar. 2, 2004]."

"(B) The amendments made by this section [amending this section and sections 1007 and 1383 of this title] shall apply to all cases, including any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act [Mar. 2, 2004]."

Pub. L. 106–170, title IV, §411(b), Mar. 2, 2004, 118 Stat. 527, provided that: "The amendment made by this section [amending this section] shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act [Mar. 2, 2004]."

Effective Date of 2004 Amendments
Pub. L. 108–458, title VII, §721(b), Dec. 17, 2004, 118 Stat. 3832, provided that: "The amendments made by subsection (a)(2) [amending this section] shall apply with respect to licenses, registrations, and identification cards issued or reissued 1 year after the date of enactment of Pub. L. 110–246, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.


Effective Date of 2004 Amendments
Pub. L. 108–458, title VII, §721(b), Dec. 17, 2004, 118 Stat. 3832, provided that: "The amendments made by subsection (a)(2) [amending this section] shall apply with respect to licenses, registrations, and identification cards issued or reissued 1 year after the date of enactment of this Act [Dec. 18, 2010]."

Effective Date of 2008 Amendment
Amendment of this section and repeal of Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–246, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.


Effective Date of 2004 Amendments
Pub. L. 108–458, title VII, §721(b), Dec. 17, 2004, 118 Stat. 3832, provided that: "The amendments made by subsection (a)(2) [amending this section] shall apply with respect to licenses, registrations, and identification cards issued or reissued 1 year after the date of enactment of this Act [Dec. 18, 2010]."

Effective Date of 2004 Amendment
Pub. L. 110–214, title II, §202(a)(3), Mar. 2, 2004, 118 Stat. 498, provided that: "The amendments made by this subsection [amending this section and sections 1007, 1382(b), and 1383 of this title] shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner of Social Security makes the determination of misuse on or after January 1, 1996."


Pub. L. 108–203, title I, §104(d), Mar. 2, 2004, 118 Stat. 504, provided that: "The amendments made by this section [amending this section and sections 1007 and 1383 of this title] shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act [Mar. 2, 2004]."

Pub. L. 108–203, title I, §106(d), Mar. 2, 2004, 118 Stat. 506, provided that: "The amendments made by this section [amending this section and sections 1007 and 1383 of this title] shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act [Mar. 2, 2004]."

Pub. L. 108–203, title IV, §411(b), Mar. 2, 2004, 118 Stat. 527, provided that: "The amendment made by this section [amending this section] shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act [Mar. 2, 2004]."

Effective Date of 1997 Amendment
Section 1009(b)(2) of Pub. L. 105–34 provided that: "(A) The amendment made by paragraph (1)(A) [amending this section] shall apply to applications made after the date which is 180 days after the date of the enactment of this Act [Aug. 5, 1997]."

"(B) The amendments made by subparagraphs (B) and (C) of paragraph (1) [amending this section] shall apply to information obtained on, before, or after the date of the enactment of this Act."

Effective Date of 1996 Amendments
Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 10, Armed Forces.

"(A) The amendments made by paragraphs (1) and (4) [amending sections 425 and 427 of this title] shall apply to any individual who applies for, or whose claim is finally adjudicated with respect to, benefits under title II of the Social Security Act [this subchapter] based on disability on or after the date of the enactment of this Act [Mar. 29, 1996], and, in the case of any individual who has applied for, and whose claim has been finally adjudicated with respect to, such benefits before such date of enactment, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

"(B) The amendments made by paragraphs (2) and (3) [amending this section and sections 422 of this title] shall take effect on July 1, 1996, with respect to any individual—

"(i) whose claim for benefits is finally adjudicated on or after the date of the enactment of this Act [Mar. 29, 1996]; or

"(ii) whose entitlement to benefits is based upon an entitlement redetermination made pursuant to subparagraph (C)."

"(C) Within 90 days after the date of the enactment of this Act [Mar. 29, 1996], the Commissioner of Social Security shall..."
Security shall notify each individual who is entitled to monthly insurance benefits under title II of the Social Security Act based on disability for the month in which this Act is enacted and whose entitlement to such benefits would terminate by reason of the amendments made by this subsection (amending this section and sections 422, 423, and 425 of this title). If such an individual reapplies for benefits under title II of this Act (as amended by this Act) based on disability within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the entitlement redetermination (including a new medical determination) with respect to such individual pursuant to the procedures of such title.

"(D) FOR PURPOSES OF THIS PARAGRAPH, AN INDIVIDUAL'S CLAIM, WITH RESPECT TO BENEFITS UNDER TITLE II BASED ON DISABILITY, WHICH HAS BEEN DENIED IN WHOLE BEFORE THE DATE OF THE ENACTMENT OF THIS ACT, MAY NOT BE CONSIDERED TO BE FINALLY ADJUDICATED BEFORE SUCH DATE IF, ON OR AFTER SUCH DATE—

"(i) THERE IS PENDING A REQUEST FOR EITHER ADMINISTRATIVE OR JUDICIAL REVIEW WITH RESPECT TO SUCH CLAIM;

"(ii) THERE IS PENDING, WITH RESPECT TO SUCH CLAIM, A READJUDICATION BY THE COMMISSIONER OF SOCIAL SECURITY PURSUANT TO RELIEF IN A CLASS ACTION OR IMPLEMENTATION OF A COURT REMAND ORDER.

"(E) NOTWITHSTANDING THE PROVISIONS OF THIS PARAGRAPH, WITH RESPECT TO ANY INDIVIDUAL FOR WHOM THE COMMISSIONER OF SOCIAL SECURITY DOES NOT PERFORM THE ENTITLEMENT REDETERMINATION BEFORE THE DATE MISDESCRIBED IN SUBPARAGRAPH (C), THE COMMISSIONER SHALL PERFORM SUCH ENTITLEMENT REDETERMINATION IN LIEU OF A CONTINUING DISABILITY REVIEW WHENEVER THE COMMISSIONER DETERMINES THAT THE INDIVIDUAL'S ENTITLEMENT IS SUBJECT TO REDETERMINATION BASED ON THE PRECEDING PROVISIONS OF THIS PARAGRAPH, AND THE PROVISIONS OF SECTION 223(f) (SECTION 423(f) OF THIS TITLE) SHALL NOT APPLY TO SUCH REDETERMINATION.


**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by section 1735(a), (b) of Pub. L. 101–624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, see section 1761(a) of Pub. L. 101–624, set out as a note under section 12320 of Title 7, Agriculture.

Section 5105(a)(5) of Pub. L. 101–508 provided that:

"(A) USE AND SELECTION OF REPRESENTATIVE PAYEES.—The amendments made by paragraphs (1) and (2) (amending this section and section 1333 of this title) shall take effect July 1, 1991, and shall apply only with respect to—

"(i) certifications of payment of benefits under title II of the Social Security Act [this subchapter] to representative payees made on or after such date; and

"(ii) provisions for payment of benefits and subchapter XVI of such Act [subchapter XVI of this chapter] to representatative payees made on or after such date.

"(B) COMPENSATION OF REPRESENTATIVE PAYEES.—The amendments made by paragraph (3) (amending this section and section 1333 of this title) shall take effect July 1, 1991, and the Secretary of Health and Human Services shall prescribe initial regulations necessary to carry out such amendments not later than such date.

Section 5105(b)(1)(B) of Pub. L. 101–508 provided that:

"The amendments made by subparagraph (A) (amending this section and section 1333 of this title) shall take effect July 1, 1991, and shall apply only with respect to adverse determinations made on or after such date.''

"(i) there is pending a request for either administrative or judicial review with respect to such claim;

"(ii) there is pending, with respect to such claim, a readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation of a court remand order.

"(E) Notwithstanding the provisions of this paragraph, with respect to any individual for whom the Commissioner of Social Security does not perform the entitlement redetermination before the date prescribed in subparagraph (C), the Commissioner shall perform such entitlement redetermination in lieu of a continuing disability review whenever the Commissioner determines that the individual's entitlement is subject to redetermination based on the preceding provisions of this paragraph, and the provisions of section 223(f) (section 423(f) of this title) shall not apply to such redetermination.


"(i) there is pending a request for either administrative or judicial review with respect to such claim;

"(ii) there is pending, with respect to such claim, a readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation of a court remand order.

"(E) Notwithstanding the provisions of this paragraph, with respect to any individual for whom the Commissioner of Social Security does not perform the entitlement redetermination before the date prescribed in subparagraph (C), the Commissioner shall perform such entitlement redetermination in lieu of a continuing disability review whenever the Commissioner determines that the individual's entitlement is subject to redetermination based on the preceding provisions of this paragraph, and the provisions of section 223(f) (section 423(f) of this title) shall not apply to such redetermination.'"
tion and section 1383 of this title] shall apply with respect to notices issued on or after July 1, 1991.""

**Effective Date of 1989 Amendment**

Section 1603(c) of Pub. L. 101–239 provided that: "The amendments made by this section [amending this section and section 1383 of this title] shall apply to visits to field offices of the Social Security Administration on or after January 1, 1990.""

**Effective Date of 1988 Amendments**

Section 8009(b) of Pub. L. 100–647 provided that: "The amendments made by this section [amending this section] shall apply to benefits entitlement to which commencements after the sixth month following the month in which this Act is enacted [November 1988]."

Amendment by section 8015(a)(1) of Pub. L. 100–647 applicable to determinations relating to service commenced in any position on or after Nov. 10, 1988, see section 8015(a)(2) of Pub. L. 100–647, set out as a note under section 3122 of Title 26, Internal Revenue Code.

Amendment by section 8016(a)(1) of Pub. L. 100–647 effective Nov. 10, 1988, except that any amendment to a provision of a particular Public Law which is referred to by its number, or to a provision of the Social Security Act [42 U.S.C. 301 et seq.], or to Title 26, as added or amended by a provision of a particular Public Law which is so referred to, effective as though included or reflected in the relevant provisions of that Public Law at the time of its enactment, see section 8016(b) of Pub. L. 100–647, set out as a note under section 3111 of Title 26.

Section 125(b) of Pub. L. 100–485 provided that: "The amendments made by subsection (a) [amending this section] shall become effective on the first day of the 25th month which begins on or after the date of the enactment of this Act [Oct. 13, 1988].""

**Effective Date of 1986 Amendment**

Amendment by Pub. L. 99–509 effective with respect to payments due with respect to wages paid after Dec. 31, 1986, including wages paid after such date by a State (or political subdivision thereof) that modified its agreement pursuant to section 418(e)(2) of this title prior to Oct. 21, 1986, with certain exceptions, see section 9002(d) of Pub. L. 99–509 set out as a note under section 418 of this title.

**Effective Date of 1984 Amendments**

Section 16(d) of Pub. L. 98–460 provided that: "The amendments made by this section [amending this section and sections 408, 1383, and 1383a of this title] shall become effective on the date of the enactment of this Act [Oct. 9, 1984], and, in the case of the amendments made by subsection (c) [amending sections 408 and 1383a of this title], shall apply with respect to violations occurring on or after such date."

Amendment by section 2661(h) of Pub. L. 98–369 effective as though included in the enactment of the Social Security Amendments of 1983, Pub. L. 98–21, see section 2664(a) of Pub. L. 98–369, set out as a note under section 401 of this title.

Amendment by section 2663(a)(4), (j)(4) of 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 sections 301(d) and 309(i) 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.

Section 341(b) of Pub. L. 98–21 provided that: "The amendment made by this section [amending this section] shall apply with respect to all new and replacement social security cards issued more than 193 days after the date of the enactment of this Act [Apr. 20, 1983]."

Section 4(b) of Pub. L. 97–455 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to reconsiderations (of findings described in section 205(b)(2)(B) of the Social Security Act [subsec. (b)(2)(B) of this section]) which are requested on or after such date as the Secretary of Health and Human Services may specify, but in any event not later than January 1, 1984.""

**Effective Date of 1980 Amendment**

Section 365(c) of Pub. L. 96–265 provided that: "The amendments made by this section [amending this section and section 1383 of this title] shall apply with respect to decisions made on or after the first day of the 13th month following the month in which this Act is enacted [June, 1980]."

**Effective Date of 1978 Amendment**

Amendment by Pub. L. 95–600 effective Oct. 4, 1976, see section 703(r) of Pub. L. 95–600, set out as a note under section 46 of Title 26, Internal Revenue Code.

**Effective Date of 1977 Amendment**


**Effective Date of 1976 Amendment**

Section 5 of Pub. L. 94–202 provided that: "The amendments made by the first two sections of this Act [amending section 1383 of this title], and the provisions of section 3 [enacting provisions set out as a note under section 1383 of this title], shall take effect on the date of the enactment of this Act [Jan. 2, 1976]. The amendment made by section 4 of this Act [amending this section] shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, after February 29, 1976. The amendment made by the first section of this Act [amending section 1383 of this title], to the extent that it changes the period within which hearings must be requested, shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, on or after the date of the enactment of this Act."

**Effective Date of 1974 Amendment**

Section 302(b) of Pub. L. 93–445 provided that: "The amendment made by this section [amending this section] shall apply only with respect to benefits payable to individuals who first become entitled to benefits under title II of the Social Security Act [this subchapter] after 1974."


**Effective Date of 1970 Amendment**

Amendment by Pub. L. 91–452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set as an Effective Date; Savings Provisions note under section 6001 of Title 18, Crimes and Criminal Procedure.

**Effective Date of 1968 Amendment**

Section 171(b) of Pub. L. 90–248 provided that: "The amendment made by subsection (a) of this section [amending this section] shall be effective with respect to written requests filed under section 205(q) of the Social Security Act [subsec. (q) of this section] after June 30, 1968."
under this subchapter beginning with the second month following July 1965, but, in the case of an individual who was not entitled to a monthly insurance benefit under section 402 of this title for the first month following July 1965, only on the basis of an application filed in or after July 1965, see section 308(e) of Pub. L. 89–97, set out as a note under section 402 of this title.

**Effective Date of 1961 Amendment**

Amendment by Pub. L. 87–293 applicable with respect to service performed after Sept. 22, 1961, but in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 302(c) of Pub. L. 87–293, set out as a note under section 3121 of Title 26, Internal Revenue Code.

**Effective Date of 1960 Amendment**

Amendment by section 102(f)(2) of Pub. L. 86–778 effective on first day of second calendar year following 1960, see section 102(f)(3) of Pub. L. 86–778, set out as a note under section 418 of this title.


Section 702(b) of Pub. L. 86–778 provided that: "The amendment made by subsection (a) [amending this section] shall apply to actions which are pending in court on the date of the enactment of this Act or are commenced after such date."

**Effective Date of 1956 Amendments**

Section 111(b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) [amending this section] shall be effective upon enactment [Aug. 1, 1956], except that the period of time prescribed by the Secretary pursuant to the third sentence of section 205(b) of the Social Security Act [subsec. (b) of this section], as amended by subsection (a) of this section, with respect to decisions notice of which has been mailed by him to any individual prior to the enactment of this Act, may not terminate for such individual less than six months after the date of enactment of this Act."

Amendment by act Aug. 1, 1956, ch. 837, effective Jan. 1, 1957, see section 603(a) of act Aug. 1, 1956.

**Effective Date of 1954 Amendment**

Section 101(n) of act Sept. 1, 1954, provided that: "The amendment made by paragraph (3) of subsection (g) [amending section 411 of this title] shall be applicable only with respect to taxable years beginning after 1954. The amendments made by paragraphs (1), (2), and (4) of such subsection [amending section 411 of this title] and by subsection (d) [amending section 411 of this title] shall except for purposes of section 203 of the Social Security Act [section 403 of this title], be applicable only with respect to taxable years ending after 1954. The amendments made by paragraphs (1), (2), and (3) of subsection (a) [amending section 409 of this title] shall be applicable only with respect to remuneration paid after 1954. The amendments made by paragraphs (4), (5), and (6) of subsection (a) [amending sections 410 and 418 of this title] shall be applicable only with respect to services (whether performed after 1954 or prior to 1955) for which the remuneration is paid after 1954. The amendment made by paragraph (3) of subsection (c) [amending this section] shall become effective January 1, 1955. The other amendments made by this section (other than the amendments made by subsections (h), (1), (i), and (m)(3) [amending section 410 of this title] shall be applicable only with respect to services performed after 1954. For purposes of section 203 of the Social Security Act [section 403 of this title], the amendments made by paragraphs (1), (2), and (4) of subsection (g) [amending section 411 of this title] and by subsection (d) [amending section 411 of this title] shall be effective with respect to net earnings from self-employment derived after 1954. The amount of net earnings from self-employment derived during any taxable year ending in, and not with the close of, 1955 shall be credited equally to the calendar quarter in which such taxable year ends and to each of the three or fewer preceding quarters any part of which is in such taxable year; and, for purposes of the preceding sentence of this subsection, net earnings from self-employment so credited to calendar quarters in 1955 shall be deemed to have been derived after 1954."

**Effective Date of 1950 Amendment**

Section 108(d) of act Aug. 28, 1950, provided that: "The amendments made by subsections (a) and (c) of this section [amending this section] shall take effect on September 1, 1950. The amendment made by subsection (b) of this section [amending this section] shall take effect January 1, 1951, except that, effective on September 1, 1950, the husband or former wife divorced of an individual shall be treated the same as a parent of such individual, and the legal representative of an individual or his estate shall be treated the same as the individual, for purposes of section 205(c) of the Social Security Act [subsec. (c) of this section] as in effect prior to the enactment of this Act [Aug. 28, 1950]."

Section 101(b)(2) of act Aug. 28, 1950, provided that: "Section 205(m) of the Social Security Act [subsec. (m) of this section] is repealed effective Sept. 13, 1960, see section 103(v)(1) of Pub. L. 87–293, set out as a note under section 418 of this title."

**Effective Date of 1939 Amendment**

Section 201 of act Aug. 10, 1939, provided that the amendment made by that section is effective Jan. 1, 1940.

**Repeals: Amendments and Application of Amendments Unaffected**

Section 302(b)(3) of Pub. L. 87–293, cited as a credit to this section, was repealed by Pub. L. 89–572, §5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulation, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub. L. 89–572, set out as a note under section 2515 of Title 22, Foreign Relations and Intercourse.

**Termination of Trust Territory of the Pacific Islands**

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territorial and Insular Matters.

**Social Security Cards and Numbers**


"(a) Security Enhancements.—The Commissioner of Social Security shall—

"(1) not later than 1 year after the date of enactment of this Act [Dec. 17, 2004]—

"(A) restrict the issuance of multiple replacement social security cards to any individual to 3 per year and 10 for the life of the individual, except that the Commissioner may allow for reasonable exceptions from the limits under this paragraph on a case-by-case basis in compelling circumstances; and

"(B) establish minimum standards for the verification of documents or records submitted by an individual to establish eligibility for an original or replacement social security card, other than for purposes of enumeration at birth; and

"(C) require independent verification of any birth record submitted by an individual to establish eligibility for a social security account number, other

"(2) issue a replacement social security card, other than for security purposes, only when there is a change in the social security number assigned to an individual on account of a change in name to which a card has been issued; and

"(3) require the Commissioner to establish a program to cancel all social security cards issued to individuals who were born before March 1983 and who have not yet applied for a card, including cards issued to individuals who were born after March 1983 but before the amendment made by the Act is in effect; and

"(4) require an individual to pay for the replacement of a lost or damaged social security card, unless the individual is under 18 years of age and the card was lost or damaged by reason of the death or loss of the original cardholder; and

"(5) require the Commissioner to establish a program to cancel all social security cards issued to individuals who reside outside the United States at the time the amendment is in effect to prevent the issuance of such cards to those individuals; and

"(6) require the Commissioner to establish a program to cancel all social security cards issued to individuals who were born before March 1960 and who have not yet applied for a card, including cards issued to individuals who were born after March 1960 but before the amendment made by the Act is in effect; and

"(7) not later than 1 year after the date of enactment of this Act [Dec. 17, 2004]—

"(A) cancel the social security numbers issued to all individuals who were born on or before December 1960, except as otherwise provided in paragraph (8), and

"(B) provide that any social security number issued to an individual who was born before January 1, 1961, may not be assigned to any other individual; and

"(8) for purposes of this section, an individual was born before January 1, 1961, if the individual was born before January 1, 1961, or the Commissioner determines that the individual was born before December 31, 1960; and

"(9) establish a program to issue replacement social security cards to individuals who were born before March 1983 and who have not yet applied for a card, including cards issued to individuals who were born after March 1983 but before the amendment made by the Act is in effect; and

"(10) issue a replacement social security card, other than for security purposes, only when there is a change in the social security number issued to an individual on account of a change in name to which a card has been issued; and

"(11) require independent verification of any birth record submitted by an individual to establish eligibility for a social security account number, other
than for purposes of enumeration at birth, except that the Commissioner may allow for reasonable exceptions from the requirement for independent verification under this subparagraph on a case by case basis in compelling circumstances; and

"(2) notwithstanding section 205(r) of the Social Security Act (42 U.S.C. 405(r)) and any agreement entered into thereafter, not later than 18 months after the date of enactment of this Act with respect to death indicators and not later than 36 months after the date of enactment of this Act with respect to fraud indicators, add death and fraud indicators to the social security number verification systems for employers, State agencies issuing driver's licenses and identity cards, and other verification routines that the Commissioner determines to be appropriate.

"(b) INTERAGENCY SECURITY TASK FORCE.—The Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall form an interagency task force for the purpose of further improving the security of social security cards and numbers. Not later than 18 months after the date of enactment of this Act [Dec. 17, 2004], the task force shall establish, and the Commissioner shall provide for the implementation of, security requirements, including—

"(1) standards for safeguarding social security cards from counterfeiting, tampering, alteration, and theft;

"(2) requirements for verifying documents submitted for the issuance of replacement cards; and

"(3) actions to increase enforcement against the fraudulent use or issuance of social security numbers and cards.

"(c) ENUMERATION AT BIRTH.—

"(1) IMPROVEMENT OF APPLICATION PROCESS.—As soon as practicable after the date of enactment of this Act [Dec. 17, 2004], the Commissioner of Social Security shall undertake to make improvements to the enumeration at birth program for the issuance of social security account numbers to newborns. Such improvements shall be designed to prevent—

"(A) the assignment of social security account numbers to unnamed children;

"(B) the issuance of more than 1 social security account number to the same child; and

"(C) other opportunities for fraudulently obtaining a social security account number.

"(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Commissioner shall transmit to each House of Congress a report specifying in detail the extent to which the improvements required under paragraph (1) have been made.

"(d) STUDY REGARDING PROCESS FOR ENUMERATION AT BIRTH.—

"(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act [Dec. 17, 2004], the Commissioner of Social Security shall conduct a study to determine the most efficient options for ensuring the integrity of the process for enumeration at birth. This study shall include an examination of available methods for reconciling hospital birth records with birth registrations submitted to agencies of States and political subdivisions thereof and with information provided to the Commissioner as part of the process for enumeration at birth.

"(2) REQUIREMENTS.—The study shall—

"(A) determine which improvements are necessary to implement needed improvements in the process for enumeration at birth;

"(B) make recommendations to the Commissioner for legislative changes as the Commissioner considers necessary to implement needed improvements in the process for enumeration at birth;

"(C) be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status;

"(D) be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status;

"(E) include evaluations of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The studies shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

"(3) DISTRIBUTION OF REPORTS.—Copies of the reports described in this subsection, along with facsimiles of the prototype cards as described in subsection (a), shall be submitted to committees of the Senate and Representatives.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD


"(a) DEVELOPMENT.—

"(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the 'Commissioner') shall, in accordance with the provisions of this section, develop a prototype of a counterfeit-resistant social security card. Such prototype card—

"(A) shall be made of a durable, tamper-resistant material such as plastic or polyester;

"(B) shall employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits; and

"(C) shall be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

"(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

"(b) STUDIES AND REPORTS.—

"(1) IN GENERAL.—The Comptroller General and the Commissioner of Social Security shall each conduct a study, and issue a report to the Congress, that examines different methods of improving the social security card application process.

"(2) ELEMENTS OF STUDIES.—The studies shall include evaluations of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The studies shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

"(3) DISTRIBUTION OF REPORTS.—Copies of the reports described in this subsection, along with facsimiles of the prototype cards as described in subsection (a), shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate not later than 1 year after the date of the enactment of this Act [Sept. 30, 1996].

"(4) SIMILAR PROCEDURES.—Similar provisions were contained in the following provisions:


NINETY-DAY DELAY IN DEFERRAL OR SUSPENSION OF BENEFITS FOR CURRENT BENEFICIARIES

Section 201(a)(1)(C) of Pub. L. 103-266 provided that:

"(1) IN GENERAL.—In the case of an individual under a disability, if alcoholism or drug addiction is a contributing factor material to the determination of the Secretary of Health and Human Services that the individual is under a disability, the Secretary may, notwithstanding clauses (i) and (ii) of section 205(c)(2)(D) of the Social Security Act [subsec. (j)(2)(D) of this section], make direct payment of benefits to such individual during the 90-day period commencing with the date on which such individual is provided the notice described in subparagraph (D)(ii) of this paragraph [set out above], until such time during such period as the selection of a representative payee is made pursuant to section 206(c) of such Act [subsec. (j) of this section]."

STUDY REGARDING FEASIBILITY, COST, AND EQUITY OF REQUIRING REPRESENTATIVE PAYEES FOR ALL DISABILITY BENEFICIARIES SUFFERING FROM ALCOHOLISM OR DRUG ADDICTION

Services, as soon as practicable after Aug. 15, 1994, to conduct a study of the feasibility, cost, and equity of requiring representative payees for all disability beneficiaries under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) who suffer from alcoholism or drug addiction, irrespective of whether the alcoholism or drug addiction was material to the determination of disability, the feasibility, cost, and equity of providing benefits through non-cash means; and the extent to which child beneficiaries and children's representative payees are afflicted by drug addiction or alcoholism and ways of addressing such affliction, and required the Secretary to submit a report to the appropriate committees of Congress by Dec. 31, 1995.

ANNUAL REPORTS ON REVIEWS OF OASDI AND SSI CASES

Section 206(g) of Pub. L. 103–296, as amended by Pub. L. 103–296, title I, §110(b)(10)(B), Aug. 15, 1994, 108 Stat. 1483, provided that: "The Commissioner of Social Security shall annually submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the extent to which the Commissioner has exercised his authority to review cases of entitlement to monthly benefits under title II of the Social Security Act [subchapter II of chapter 2 of this title] and the extent to which the cases reviewed were those that involved a high likelihood or probability of fraud."

REPORT ON FEASIBILITY OF OBTAINING READY ACCESS TO CERTAIN CRIMINAL FRAUD RECORDS

Pub. L. 101–508, title V, §5105(b)(3), Nov. 5, 1990, 104 Stat. 1388–264, required the Secretary of Health and Human Services, as soon as practicable after Nov. 5, 1990, to implement a demonstration project to make available to the State agencies responsible for regulating care facilities or providing for child and adult protective services a list of addresses where benefits under titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) were received by five or more individuals, and to report to the appropriate committees of Congress by July 1, 1992, on the feasibility and desirability of legislation implementing the programs established pursuant to section 5105(b)(3) of Pub. L. 101–508 on a permanent basis.

COUNTERFEITING OF SOCIAL SECURITY ACCOUNT NUMBER RECORDS

Pub. L. 99–603, title I, §101(c), Nov. 6, 1986, 100 Stat. 3373, directed the Comptroller General of the United States to investigate technological alternatives for producing and issuing social security account number cards that are more resistant to counterfeiting and to report to the appropriate committees of Congress not later than one year after Nov. 6, 1986.

INCLUSION OF SELF-EMPLOYMENT INCOME IN RECORDS OF SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Section 331(c) of Pub. L. 89–97 provided that: "Notwithstanding any provision of section 205(c)(5)(F) of the Social Security Act [subsec. (c)(5)(F) of this section], the Secretary of Health, Education, and Welfare may, before April 16, 1970, include in his records the returns or statements of earnings which constitute self-employment income solely by reason of the filing of the certificate which is effective under section 1402(e)(5) of such Code [section 1402(e)(5) of Title 26, Internal Revenue Code]."

§ 405a. Regulations pertaining to frequency or due dates of payments and reports under voluntary agreements covering State and local employees; effective date

Notwithstanding any other provision of law, no regulation and no modification of any regulation, promulgated by the Secretary of Health
and Human Services, after January 2, 1976, shall become effective prior to the end of the eighteen-month period which begins with the first day of the first calendar month which begins after the date on which such regulation or modification of a regulation is published in the Federal Register, if and insofar as such regulation or modification of a regulation pertains, directly or indirectly, to the frequency or due dates for payments and reports required under section 418(e) of this title.


REFERENCES IN TEXT
Subsec. (e) of section 418 of this title, referred to in text, which related to payments and reports by States, was repealed, and subsec. (f) of section 418 of this title was redesignated as subsec. (e), by Pub. L. 99–509, title IX, §902(c)(1), Oct. 21, 1986, 100 Stat. 1971.

CODIFICATION
Section was not enacted as part of the Social Security Act which comprises this chapter.

CHANGE OF NAME
"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in text pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

TIME FOR MAKING SOCIAL SECURITY CONTRIBUTIONS WITH RESPECT TO COVERED STATE AND LOCAL EMPLOYERS
Pub. L. 96–265, title V, §503(c), June 9, 1980, 94 Stat. 471, provided that: "The provisions of section 7 of Public Law 94–202 [this section] shall not be applicable to any regulation which becomes effective on or after July 1, 1980, and which is designed to carry out the purposes of subsection (a) of this section [amending section 418 of this title]."

§406. Representation of claimants before Commissioner
(a) Recognition of representatives; fees for representation before Commissioner

(1) The Commissioner of Social Security may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys as hereinafter provided, representing claimants before the Commissioner of Social Security, and may require of such agents or other persons, before being recognized as representatives of claimants that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Commissioner of Social Security. Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe. The Commissioner of Social Security may, after due notice and opportunity for hearing, suspend or prohibit from further practice before the Commissioner any such person, agent, or attorney who refuses to comply with the Commissioner's rules and regulations or who violates any provision of this section for which a penalty is prescribed. The Commissioner of Social Security may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Commissioner of Social Security under this subchapter, and any agreement in violation of such rules and regulations shall be void. Except as provided in paragraph (2)(A), whenever the Commissioner of Social Security, in any claim before the Commissioner for benefits under this subchapter, makes a determination favorable to the claimant, the Commissioner shall, if the claimant was represented by an attorney in connection with such claim, fix (in accordance with the regulations prescribed pursuant to the preceding sentence) a reasonable fee to compensate such attorney for the services performed by him in connection with such claim.

(2)(A) In the case of a claim of entitlement to past-due benefits under this subchapter, if—

(i) an agreement between the claimant and another person regarding any fee to be recovered by such person to compensate such person for services with respect to the claim is presented in writing to the Commissioner of Social Security prior to the time of the Commissioner's determination regarding the claim,

(ii) the fee specified in the agreement does not exceed the lesser of—

(I) 25 percent of the total amount of such past-due benefits (as determined before any applicable reduction under section 1320a–6(a) of this title), or

(II) $4,000, and

(iii) the determination is favorable to the claimant,

then the Commissioner of Social Security shall approve that agreement at the time of the favorable determination, and (subject to paragraph (3)) the fee specified in the agreement shall be

1 See References in Text note below.
the maximum fee. The Commissioner of Social Security may from time to time increase the dollar amount under clause (i)(II) to the extent that the rate of increase in such amount, as determined over the period since January 1, 1991, does not at any time exceed the rate of increase in primary insurance amounts under section 415(i) of this title since such date. The Commissioner of Social Security shall publish any such increased amount in the Federal Register.

(B) For purposes of this subsection, the term “past-due benefits” excludes any benefits with respect to which payment has been continued pursuant to subsection (g) or (h) of section 423 of this title.

(C) In any case involving—

(i) an agreement described in subparagraph (A) with any person relating to both a claim of entitlement to past-due benefits under this subchapter and a claim of entitlement to past-due benefits under subchapter XVI of this chapter, and

(ii) a favorable determination made by the Commissioner of Social Security with respect to both such claims,

the Commissioner of Social Security may approve such agreement only if the total fee or fees specified in such agreement does not exceed, in the aggregate, the dollar amount in effect under subparagraph (A)(ii)(II).

(D) In the case of a claim with respect to which the Commissioner of Social Security has approved an agreement pursuant to subparagraph (A), the Commissioner of Social Security shall provide the claimant and the person representing the claimant a written notice of—

(i) the dollar amount of the past-due benefits (as determined before any applicable reduction under section 1320a–6(a) of this title) and the dollar amount of the past-due benefits payable to the claimant,

(ii) the dollar amount of the maximum fee which may be charged or recovered as determined under this paragraph, and

(iii) a description of the procedures for review under paragraph (3).

(3)(A) The Commissioner of Social Security shall provide by regulation for review of the amount which would otherwise be the maximum fee as determined under paragraph (2) if, within 15 days after receipt of the notice provided pursuant to paragraph (2)(D)—

(i) the claimant, or the administrative law judge or other adjudicator who made the favorable determination, submits a written request to the Commissioner of Social Security to reduce the maximum fee, or

(ii) the person representing the claimant submits a written request to the Commissioner of Social Security to increase the maximum fee.

Any such review shall be conducted after providing the claimant, the person representing the claimant, and the adjudicator with reasonable notice of such request and an opportunity to submit written information in favor of or in opposition to such request. The adjudicator may request the Commissioner of Social Security to reduce the maximum fee only on the basis of evidence of the failure of the person representing the claimant to represent adequately the claimant’s interest or on the basis of evidence that the fee is clearly excessive for services rendered.

(B)(i) In the case of a request for review under subparagraph (A) by the claimant or by the person representing the claimant, such review shall be conducted by the administrative law judge who made the favorable determination or, if the Commissioner of Social Security determines that such administrative law judge is unavailable or if the determination was not made by an administrative law judge, such review shall be conducted by another person designated by the Commissioner of Social Security for such purpose.

(ii) In the case of a request by the adjudicator for review under subparagraph (A), the review shall be conducted by the Commissioner of Social Security or by an administrative law judge or other person (other than such adjudicator) who is designated by the Commissioner of Social Security.

(C) Upon completion of the review, the administrative law judge or other person conducting the review shall affirm or modify the amount which would otherwise be the maximum fee. Any such amount so affirmed or modified shall be considered the amount of the maximum fee which may be recovered under paragraph (2).

(4) Subject to subsection (d) of this section, if the claimant is determined to be entitled to past-due benefits under this subchapter and the person representing the claimant is an attorney, the Commissioner of Social Security shall, notwithstanding section 406(i) of this title, certify for payment out of such past-due benefits (as determined before any applicable reduction under section 1320a–6(a) of this title) to such attorney an amount equal to so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1320a–6(a) of this title).

(5) Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this subchapter by word, circular, letter or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Commissioner of Social Security shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both. The Commissioner of Social Security shall maintain in the electronic information retrieval system used by the Social Security Administration a current record, with respect to any claimant before the Commissioner of Social Security, of the identity of any person representing such claimant in accordance with this subsection.

(b) Fees for representation before court

(1)(A) Whenever a court renders a judgment favorable to a claimant under this subchapter who...
was represented before the court by an attorney, the court may determine and allow as part of its judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment, and the Commissioner of Social Security may, notwithstanding the provisions of section 405(i) of this title, but subject to subsection (d) of this section, certify the amount of such fee for payment to such attorney out of, and not in addition to, the amount of such past-due benefits. In case of any such judgment, no other fee may be payable or certified for payment for such representation except as provided in this paragraph.

(B) For purposes of this paragraph—

(i) the term “past-due benefits” excludes any benefits with respect to which payment has been continued pursuant to subsection (g) or (h) of section 423 of this title, and

(ii) amounts of past-due benefits shall be determined before any applicable reduction under section 1320a-6(a) of this title.

(2) Any attorney who charges, demands, receives, or collects for services rendered in connection with proceedings before a court to which paragraph (1) of this subsection is applicable any amount in excess of that allowed by the court therefor shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500, or imprisonment for not more than one year, or both.

c) Notification of options for obtaining attorneys

The Commissioner of Social Security shall notify each claimant in writing, together with the notice to such claimant of an adverse determination, of the options for obtaining attorneys to represent individuals in presenting their cases before the Commissioner of Social Security. Such notification shall also advise the claimant of the availability to qualifying claimants of legal services organizations which provide legal services free of charge.

d) Assessment on attorneys

(1) In general

Whenever a fee for services is required to be certified for payment to an attorney from a claimant’s past-due benefits pursuant to subsection (a)(4) or (b)(1) of this section, the Commissioner shall impose on the attorney an assessment calculated in accordance with paragraph (2).

(2) Amount

(A) The amount of an assessment under paragraph (1) shall be equal to the product obtained by multiplying the amount of the representative’s fee that would be required to be so certified by subsection (a)(4) or (b)(1) of this section before the application of this subsection, by the percentage specified in subparagraph (B), except that the maximum amount of the assessment may not exceed the greater of $75 or the adjusted amount as provided pursuant to the following sentence. In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 \(^1\) take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 415(i)(2)(A)(ii) of this title, except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75.

(B) The percentage specified in this subparagraph is—

(i) for calendar years before 2001, 6.3 percent, and

(ii) for calendar years after 2000, such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and certifying fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

(3) Collection

The Commissioner may collect the assessment imposed on an attorney under paragraph (1) by offset from the amount of the fee otherwise required by subsection (a)(4) or (b)(1) of this section to be certified for payment to the attorney from a claimant’s past-due benefits.

(4) Prohibition on claimant reimbursement

An attorney subject to an assessment under paragraph (1) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

(5) Disposition of assessments

Assessments on attorneys collected under this subsection shall be credited to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as appropriate.

(6) Authorization of appropriations

The assessments authorized under this section shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this subchapter and related laws.

e) Extension of fee withholding and assessment procedures to qualified non-attorney representatives

(1) The Commissioner shall provide for the extension of the fee withholding procedures and assessment procedures that apply under the preceding provisions of this section to agents and other persons, other than attorneys, who represent claimants under this subchapter before the Commissioner.

(2) Fee-withholding procedures may be extended under paragraph (1) to any nonattorney \(^2\)

\(^1\) See References in Text note below.

\(^2\) So in original. Probably should be “non-attorney”. 
representative only if such representative meets at least the following prerequisites:

(A) The representative has been awarded a bachelor's degree from an accredited institution of higher education, or has been determined by the Commissioner to have equivalent qualifications derived from training and work experience.

(B) The representative has passed an examination, written and administered by the Commissioner, which tests knowledge of the relevant provisions of this chapter and the most recent developments in agency and court decisions affecting this subchapter and subchapter XVI.

(C) The representative has secured professional liability insurance, or equivalent insurance, which the Commissioner has determined to be adequate to protect claimants in the event of malpractice by the representative.

(D) The representative has undergone a criminal background check to ensure the representative’s fitness to practice before the Commissioner.

(E) The representative demonstrates ongoing completion of qualified courses of continuing education, including education regarding ethics and professional conduct, which are designed to enhance professional knowledge in matters related to entitlement to, or eligibility for, benefits based on disability under this subchapter and subchapter XVI. Such continuing education, and the instructors providing such education, shall meet such standards as the Commissioner may prescribe.

(3)(A) The Commissioner may assess reasonable fees to cover the cost to the Social Security Administration of administering the prerequisites described in paragraph (2).

(B) Fees collected under subparagraph (A) shall be credited to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, or deposited as miscellaneous receipts in the general fund of the Treasury, based on such allocations as the Commissioner determines appropriate.

(C) The fees authorized under this paragraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriation Acts. Amounts so appropriated are authorized to remain available in advance in appropriations Acts. Amounts so collected as provided pursuant to the following two sentences shall be satisfactory to the extent and in the amount of such amount as provided pursuant to the following two sentences after “paragraph (B)” and inserted at end of such sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the nearest lower multiple of $1, but in no case less than $75.

In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under the procedures used to adjust benefits amounts under section 415(i)(2)(A) of this title, except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the nearest lower multiple of $1, but in no case less than $75.

1999—Subsec. (a)(4). Pub. L. 106–170, § 406(a)(2)(A), (b), struck out “(A)” after “(4),” substituted “subsection (d)” for “subparagraph (B)” and inserted subpar. (B) which read as follows: “The Commissioner of Social Security shall not in any case certify any amount for payment to the attorney pursuant to this paragraph before the expiration of the 15-day period referred to in paragraph (3)(A) or, in the case of any review conducted under paragraph (3), before the completion of such review.”

Subsec. (b)(1)(A). Pub. L. 106–170, § 406(a)(2)(B), inserted “, but subject to subsection (d) of this section after “section 405(i) of this title”.


1994—Subsec. (a)(1). (2)(A). Pub. L. 103–296, § 107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing, “before the Commissioner” for “before him” in two places, “Commissioner’s” for “Secretary’s” in two places, and “the Commissioner shall, if the” for “he shall, if the” in par. (1).

§406

REFERENCES IN TEXT


AMENDMENTS


2004—Subsec. (a)(1). Pub. L. 108–203, § 205, inserted “Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe,” after “claimants before the Commissioner of Social Security.”

Subsec. (d)(2)(A). Pub. L. 108–203, § 301(a), inserted “, except that the maximum amount of the assessment may not exceed the greater of $75 or the adjusted amount as provided pursuant to the following two sentences” after “paragraph (B)” and inserted at end of such sentence.

In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefits amounts under section 415(i)(2)(A) of this title, except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the nearest lower multiple of $1, but in no case less than $75.

Subsec. (b)(1)(A). Pub. L. 106–170, § 406(a)(2)(B), inserted “, but subject to subsection (d) of this section after “section 405(i) of this title”.


1994—Subsec. (a)(1). (2)(A). Pub. L. 103–296, § 107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing, “before the Commissioner” for “before him” in two places, “Commissioner’s” for “Secretary’s” in two places, and “the Commissioner shall, if the” for “he shall, if the” in par. (1).


Subsec. (b)(1), Pub. L. 103–296, § 321(f)(3)(B)(i), designated existing provisions as subpar. (A) and added subpar. (B).


Subsec. (c), Pub. L. 103–296, § 107(a)(4), substituted “Commissioner of Social Security” for “Secretary” in two places.

1990—Subsec. (a), Pub. L. 101–508 designated existing provisions as par. (1), substituted “Except as provided in paragraph (2)(A), whenever” for “Whenever” in fifth sentence, substituted pars. (2) to (4) for “If as a result of such determination, such claimant is entitled to past-due benefits under this subchapter, the Secretary shall, notwithstanding section 405(i) of this title, certify for payment (out of such past-due benefits) to such claimant an amount equal to whichever of the following is the smaller: (A) 25 per centum of the total amount of such past-due benefits, (B) the amount of the attorney’s fee so fixed, or (C) the amount agreed upon between the claimant and such attorney as the fee for such attorney’s services,”, and inserted “(5)” before “Any person who”.

1989—Subsec. (a), Pub. L. 101–239, § 1307(b)(a)(1), inserted at end “The Secretary shall maintain in the electronic information retrieval system used by the Social Security Administration a current record, with respect to any claimant before the Secretary, of the identity of any person representing such claimant in accordance with this subsection.”

Subsec. (c), Pub. L. 101–239, § 1307(b)(1), added subsec. (c).

1984—Pub. L. 98–369 substituted “Secretary” and “Secretary’s” for “Administrator” and “Administrator’s”, respectively, wherever appearing.

1988—Subsec. (a), Pub. L. 99–248 provided for fixing of attorneys fees for claimants and for certification of amount for payment out of past-due benefits.

1985—Pub. L. 99–97 designated existing provisions as subsec. (a) and added subsec. (b).

1988—Pub. L. 100–45 struck out provisions which required attorneys to file a certificate of their right to practice.

1990—Act Aug. 28, 1989, substituted “Administrator” for “Board” and “Administrator’s” for “Board’s”.

1990—Act Aug. 10, 1939, substituted the provisions of this section for former provisions relating to overpayments during life, now covered by section 404 of this title.

**Effective Date of 2010 Amendment**

Pub. L. 111–142, § 3(c), Feb. 27, 2010, 124 Stat. 39, provided that: “The amendments made by this section [amending this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act [this section] on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act [Mar. 2, 2001].”

**Effective Date of 1999 Amendment**

Pub. L. 106–170, title IV, § 406(d), Dec. 17, 1999, 113 Stat. 1913, provided that: “The amendments made by this section [amending this section and enacting provisions set out as a note under this section] shall apply in the case of any attorney with respect to whose services is required to be certified for payment from a claimant’s past-due benefits pursuant to subsection (a)(4) or (b)(1) of section 206 of the Social Security Act (this section) after the later of—

1. December 31, 1999, or

2. the last day of the first month beginning after the month in which this Act is enacted [Dec. 1999].”

**Effective Date of 1994 Amendment**


**Effective Date of 1990 Amendment**

Amendment by Pub. L. 101–508 applicable with respect to determinations made on or after July 1, 1991, and to reimbursement for travel expenses incurred on or after Apr. 1, 1991, see section 5106(d) of Pub. L. 101–508, set out as a note under section 401 of this title.

**Effective Date of 1989 Amendment**

Section 10307(a)(3) of Pub. L. 101–239 provided that: “The amendments made by this subsection [amending this section and section 1383 of this title] shall take effect June 1, 1991.”

Section 10307(b)(3) of Pub. L. 101–239 provided that: “The amendments made by this subsection [amending this section and section 1383 of this title] shall apply with respect to adverse determinations made on or after January 1, 1991.”

**Effective Date of 1939 Amendment**

Section 201 of act Aug. 10, 1939, provided that the amendment made by that section is effective Jan. 1, 1940.

**Nationwide Demonstration Project Providing for Extension of Fee Withholding Procedures to Non-Attorney Representatives**

Pub. L. 108–203, title III, § 301(b), Mar. 2, 2004, 118 Stat. 521, as amended by Pub. L. 111–142, § 3(b)(2), Feb. 27, 2010, 124 Stat. 39, provided that: “(a) IN GENERAL.—The Commissioner of Social Security (hereafter in this section referred to as the ‘Commissioner’) shall develop and carry out a nationwide demonstration project under this section with respect to agents and other persons, other than attorneys, who represent claimants under titles II and XVI of the Social Security Act [subchapters II and XVI of this chapter] before the Commissioner. The demonstration project shall be designed to determine the potential results of extending to such representatives the fee withholding procedures and assessment procedures that apply under sections 206 and section 1382 of title XVIII of such Act [sections 406 and 1338(d)(2) of this title] to attorneys seeking direct payment out of past due benefits under such titles and shall include an analysis of the...
effect of such extension on claimants and program admin-
istration.

(b) Standards for Inclusion in Demonstration Procedures—Fee-withholding procedures may be extended under the demonstration project carried out pursuant to subsection (a) to any non-attorney repre-
sentative only if such representative meets at least the following prerequisites:

"(1) The representative has been awarded a bacc-
elor's degree from an accredited institution of higher
education, or has been determined by the Commis-
sioner to have equivalent qualifications derived from
training and work experience.

"(2) The representative has passed an examination,
written and administered by the Commissioner,
which tests knowledge of the relevant provisions of
the Social Security Act (this chapter) and the most
recent developments in agency and court decisions
affecting titles II and XVI of such Act [subchapters II
and XVI of this chapter].

"(3) The representative has secured professional li-
ability insurance, or equivalent insurance, which the
Commissioner has determined to be adequate to pro-
tect claimants in the event of malpractice by the repre-
sentative.

"(4) The representative has undergone a criminal
background check to ensure the representative's fit-
tness to practice before the Commissioner.

"(5) The representative demonstrates ongoing com-
pletion of qualified courses of continuing education,
including education regarding ethics and professional
conduct, which are designed to enhance professional
knowledge in matters related to entitlement to, or
eligibility for, benefits based on disability under
titles II and XVI of such Act. Such continuing edu-
cation, and the instructors providing such education,
shall meet such standards as the Commissioner may
prescribe.

"(c) Assessment of Fees.—

"(1) In general.—The Commissioner may assess
representatives reasonable fees to cover the cost to the
Social Security Administration of administering the
prerequisites described in subsection (b).

"(2) Disposition of Fees.—Fees collected under
paragraph (1) shall be credited to the Federal Old-Age
and Survivors Insurance Trust Fund and the Federal
Disability Insurance Trust Fund, or deposited as mis-
cellaneous receipts in the general fund of the Treas-
ury, based on such allocations as the Commissioner of
Social Security determines appropriate.

"(3) Authorization of Appropriations.—The fees
authorized under this subparagraph shall be collected
and available for obligation only to the extent and in
such amount provided in advance in appropriations
Acts. Amounts so appropriated are authorized to re-
main available until expended for administering the
prerequisites described in subsection (b).

"(d) Certificate to Congress on Applicability of Fee
Withholding Procedures.—Not later than 1 year after
the date of enactment of this Act [Mar. 2, 2004], the
Commissioner shall complete such actions as are nec-
essary to fully implement the requirements for full op-
eration of the demonstration project and shall submit
to each House of Congress a written notice of the com-
pletion of such actions [Such notices submitted Feb. 28,
2005.]. The applicability under this section to non-at-
torney representatives of the fee withholding proce-
dures and assessment procedures under sections 206 and
1631(d)(2) of the Social Security Act [sections 406 and
1383(d)(2) of this title] shall be effective with respect to
fees for representation of claimants in the case of
claims for benefits with respect to which the agree-
ment for representation is entered into by such non-at-
torney representatives during the period beginning
with the date of the submission of such notice by the
Commissioner to Congress and ending with the termi-
nation date of the demonstration project.

"(e) Reports by the Commissioner; Termination.—

"(1) Interim Reports.—On or before the date which
is 1 year after the date of enactment of this Act [Mar.
2, 2004], and annually thereafter, the Commissioner
shall transmit to the Committee on Ways and Means
of the House of Representatives and to the Commit-
tee on Finance of the Senate an annual interim re-
port on the progress of the demonstration project
 carried out under this section, together with any re-
lated data and materials that the Commissioner may
consider appropriate.

"(2) Termination Date.—The termination date of
the demonstration project under this section is the
date which is 5 years after the date of the submission
of the notice by the Commissioner to each House of
Congress pursuant to subsection (d). The authority
under the preceding provisions of this section shall
not apply in the case of claims for benefits with re-
spect to which the agreement for representation is
entered into after the termination date."

GAO Study Regarding the Fee Payment Process for Claimant Representatives
523, directed the Comptroller General of the United
States to study and evaluate the appointment and pay-
ment of attorney and non-attorney claimant representa-
tives appearing before the Commissioner of Social
Security in connection with benefit claims under titles II
and XVI of the Social Security Act (42 U.S.C. 401 et
seq.; 1381 et seq.) and to report to the appropriate com-
mittees of Congress not later than 3 years after the
date of the submission by the Commissioner of Social
Security to Congress pursuant to section 303(d) of Pub.
L. 108–203 (set out above) of written notice of com-
pletion of full implementation of the requirements for op-
eration of the demonstration project under section 303

GAO Study and Report
1912, directed the Comptroller General of the United
States to conduct a study, and to submit a report on
the study's results to the appropriate committees of
Congress not later than 1 year after Dec. 17, 1999, that
examined the costs incurred by the Social Security Ad-
ministration in administering 42 U.S.C. 406(a)(4), (b)(1)
and itemized the components of such costs; identified
efficiencies that the Administration could implement
to reduce such costs; examined the feasibility and ad-
visability of linking the payment of, or the amount of,
the assessment under 42 U.S.C. 406(d) to the timeliness
of the payment of the fee to the attorney as certified
by the Commissioner of Social Security pursuant to 42
U.S.C. 406(a)(4), (b)(1); determined whether 42 U.S.C.
406(a)(4), (b)(1) should be applied to claimants under
title XVI of the Social Security Act (42 U.S.C. 1381 et
seq.); determined whether the dollar limit specified in 42
U.S.C. 406(d) impaired access to legal representation for
claimants.

§ 407. Assignment of benefits

(a) In general

The right of any person to any future payment
under this subchapter shall not be transferable or assignable, at
law or in equity, and none of the moneys paid or payable or rights
existing under this subchapter shall be subject to execution,
levy, attachment, garnishment, or other legal process, or to the oper-
ation of any bankruptcy or insolvency law.

(b) Amendment of section

No other provision of law, enacted before, on,
or after April 20, 1983, may be construed to limit,
supersede, or otherwise modify the provisions of this section except to the extent that it does so by express reference to this section.

(c) Withholding of taxes

Nothing in this section shall be construed to prohibit withholding taxes from any benefit under this subchapter, if such withholding is done pursuant to a request made in accordance with section 3402(p)(1) of the Internal Revenue Code of 1986 by the person entitled to such benefit or such person’s representative payee.


REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (c), is classified generally to Title 26, Internal Revenue Code.

Codification

In subsec. (b), “April 20, 1983” substituted for “the date of the enactment of this section”, which was translated as meaning the date of enactment of this subchapter, as the probable intent of Congress.

Amendments


1983—Pub. L. 98–21 designated existing provisions as subsec. (a) and added subsec. (b).


Effective Date of 1983 Amendment

Section 335(c) of Pub. L. 98–21 provided that: “The amendments made by subsection (a) [amending this section] shall apply only with respect to benefits payable or rights existing under the Social Security Act [this chapter] on or after the date of the enactment of this Act [Apr. 20, 1983].”

Effective Date of 1939 Amendment

Section 201 of act Aug. 10, 1939, provided that the amendment made by that section is effective Jan. 1, 1940.

§ 408. Penalties

(a) In general

Whoever—

(1) for the purpose of causing an increase in any payment authorized to be made under this subchapter, or for the purpose of causing any payment to be made where no payment is authorized under this subchapter, shall make or cause to be made any false statement or representation (including any false statement or representation in connection with any matter arising under subchapter E of chapter 1, or subchapter A or E of chapter 9 of the Internal Revenue Code of 1939, or chapter 2 or 21 or subtitle F of the Internal Revenue Code of 1954) as to—

(A) whether wages were paid or received for employment (as said terms are defined in this subchapter and the Internal Revenue Code), or the amount of wages or the period during which paid or the person to whom paid; or

(B) whether net earnings from self-employment (as such term is defined in this sub-
chapter and in the Internal Revenue Code) were derived, or as to the amount of such net earnings or the period during which or the person by whom derived; or

(C) whether a person entitled to benefits under this subchapter had earnings in or for a particular period (as determined under section 403(f) of this title for purposes of deductions from benefits), or as to the amount thereof; or

(2) makes or causes to be made any false statement or representation of a material fact in any application for any payment or for a disability determination under this subchapter; or

(3) at any time makes or causes to be made any false statement or representation of a material fact for use in determining rights to payment under this subchapter; or

(4) having knowledge of the occurrence of any event affecting (1) his initial or continued right to any payment under this subchapter, or (2) the initial or continued right to any payment of any other individual in whose behalf he has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure payment either in a greater amount than is due or when no payment is authorized; or

(5) having made application to receive payment under this subchapter for the use and benefit of another and having received such a payment, knowingly and willfully converts such a payment, or any part thereof, to a use other than for the use and benefit of such other person; or

(6) willfully, knowingly, and with intent to deceive the Commissioner of Social Security as to his true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Commissioner of Social Security with respect to any information required by the Commissioner of Social Security in connection with the establishment and maintenance of the records provided for in section 405(c)(2) of this title; or

(7) for the purpose of causing an increase in any payment authorized under this subchapter (or any other program financed in whole or in part from Federal funds), or for the purpose of causing a payment under this subchapter (or any such other program) to be made when no payment is authorized thereunder, or for the purpose of obtaining (for himself or any other person) any payment or any other benefit to which he (or such other person) is not entitled, or for the purpose of obtaining anything of value from any person, or for any other purpose—

(A) willfully, knowingly, and with intent to deceive, uses a social security account number, assigned by the Commissioner of Social Security (in the exercise of the Commissioner’s authority under section 405(c)(2) of this title to establish and maintain records) on the basis of false information furnished to the Commissioner of Social Security by him or by any other person; or

(B) with intent to deceive, falsely represents a number to be the social security account number assigned by the Commis-
tion of Social Security to him or to another person, when in fact such number is
not the social security account number assigned by the Commissioner of Social Security
to him or to such other person; or
(C) knowingly alters a social security card issued by the Commissioner of Social Security,
buys or sells a card that is, or purports to be, a card so issued, counterfeits a social security card, or possesses a social security card or counterfeit social security card with intent to sell or alter it; or
(8) discloses, uses, or compels the disclosure of the social security number of any person in
violation of the laws of the United States; shall be guilty of a felony and upon conviction
thereof shall be fined under title 18 or imprisoned for not more than five years, or both.
(b) Restitution
(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection
(a) of this section, may order, in addition to or in lieu of any other penalty authorized by law,
that the defendant make restitution to the victims of such offense specified in paragraph (4).
(2) Sections 3612, 3663, and 3664 of title 18 shall apply with respect to the issuance and enforce-
ment of orders of restitution to victims of such offense under this subsection.
(3) If the court does not order restitution, or orders only partial restitution, under this sub-
section, the court shall state on the record the reasons therefor.
(4) For purposes of paragraphs (1) and (2), the victims of an offense under subsection (a) of this
section are the following:
(A) Any individual who suffers a financial loss as a result of the defendant’s violation of subsection (a) of this section.
(B) The Commissioner of Social Security, to the extent that the defendant’s violation of subsection (a) of this section results in—
(i) the Commissioner of Social Security making a benefit payment that should not have been made; or
(ii) an individual suffering a financial loss due to the defendant’s violation of subsection (a) of this section in his or her capacity as the individual’s representative payee appointed pursuant to section 406(j) of this title.
(5)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security
as restitution pursuant to a court order shall be deposited in the Federal Old-Age and
Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund, as appropriate.
(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph 
(4)(B)(ii), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual’s outstanding financial loss, except that such amount may be reduced by the amount of any overpayments of benefits owed under this subchapter, subchapter VIII of this chapter, or subchapter XVI of this chapter by the individual.
(c) Violations by certified payees
Any person or other entity who is convicted of a violation of any of the provisions of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a certified payee under section 405(j) of this title on behalf of another individual (other than such person’s spouse), upon his second or any subsequent such conviction shall, in lieu of the penalty set forth in the preceding provisions of this section, be guilty of a felony and shall be fined under title 18 or imprisoned for not more than five years, or both.
(d) Effect upon certification as payee; definitions
Any individual or entity convicted of a felony under this section or under section 1383a(b) of this
title may not be certified as a payee under section 405(j) of this title. For the purpose of subsection (a)(7) of this section, the terms “social security number” and “social security account number” mean such numbers as are assigned by the Commissioner of Social Security under section 405(c)(2) of this title whether or not, in actual use, such numbers are called social security numbers.
(e) Application of subsection (a)(6) and (7) to certain aliens
(1) Except as provided in paragraph (2), an alien—
(A) whose status is adjusted to that of lawful temporary resident under section 1160 or 1255a
of title 8 or under section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988
and 1989, (B) whose status is adjusted to that of permanent resident—
(i) under section 202 of the Immigration Reform and Control Act of 1986, or
(ii) pursuant to section 1259 of title 8, or
(C) who is granted special immigrant status
under section 1101(a)(27)(I) of title 8, shall not be subject to prosecution for any alleged conduct described in paragraph (6) or (7) of subsection (a) of this section if such conduct is alleged to have occurred prior to 60 days after November 5, 1990.
(2) Paragraph (1) shall not apply with respect to conduct (described in subsection (a)(7)(C) of this section) consisting of—
(A) selling a card that is, or purports to be, a social security card issued by the Commissioner of Social Security,
(B) possessing a social security card with intent to sell it, or
(C) counterfeiting a social security card with intent to sell it.
(3) Paragraph (1) shall not apply with respect to any criminal conduct involving both the conduct described in subsection (a)(7) of this section to which paragraph (1) applies and any other criminal conduct if such other conduct would be criminal conduct if the conduct described in subsection (a)(7) of this section were not committed.

See References in Text note below.

REFERENCES IN TEXT


For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1986 Code, see section 785(b)(2) of the 1986 Code. For table of comparisons of the 1939 Code to the 1986 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1986 is classified generally to Title 26.

Sections 219(a)(6), 213(a)(1), and 213(a)(6), respectively, were redesignated subsecs. (c) and (d) as (d) and (e), respectively.

Section 1320b–3 of this title, was redesignated section 1320b–23(d) of this title, knowingly and willfully displays or sells for the general public (as defined in section 1320b–23(g) of this title) any individual’s social security number, or any identifiable derivative of such number, without the affirmative expression of consent (as defined in section 1320b–23(c) of this title), electronically or in writing, of such individual; or


Subsec. (c). Pub. L. 103–296, §321(a)(12), substituted “subsection (a)(7)” for “subsection (g)”.

Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary”.


1990—Pub. L. 101–508, §5211, inserted “(a)” before “Whoever”—, redesignated former subsecs. (a) to (h) as paras. (1) to (8), respectively, of subsec. (a), in pars. (1) and (7) redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, inserted “(b)” before “Any person or other entity who is convicted”, inserted “(c)” before “Any individual or entity convicted of a felony”, and added subsec. (d).

Pub. L. 101–508, §130(a)(1), in the last undesignated paragraph substituted “section 405(c)(2) of this title” for “section 605(c)(2) of this title”.

Pub. L. 103–410 substituted “under title 18” for “not more than $5,000” in first undesignated par., substituted “under title 18” for “not more than $25,000” in second undesignated par., and inserted provisions at end defining for purposes of subsec. (g) “social security number” and “social security account number”.

1994—Pub. L. 98–460 inserted provisions imposing a penalty of $25,000 or imprisonment for not more than five years, or both, on any person or other entity convicted for a second or subsequent violation of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a certified payee under section 405(g) of this title, and also granting the court discretion, in any case, including a first offense, involving a willful misuse of funds, to require full or partial restitution, and prohibiting the certification of any individual or entity convicted of a felony under this section or under section 1383a(b) of this title.

Subsecs. (f) to (h), Pub. L. 98–369 realigned margins of subsecs. (f) to (h).

1981—Pub. L. 97–123 substituted provisions making violation of section a felony for provisions making it a misdemeanor, increased the punishment from one to five years and penalty from $1,000 to $5,000, and in subsec. (g), in opening paragraph, substituted “or for the purpose of obtaining anything of value from any person, or for any other purpose” for “or for any other purpose”, and added par. (3).

1976—Subsec. (g). Pub. L. 94–455, §121(a), inserted “, or for any other purpose” after “entitled” in provisions preceding cl. (1).


1972—Subsecs. (f), (g). Pub. L. 92–603 added subsecs. (f) and (g).

1960—Subsec. (a)(3). Pub. L. 86–778 substituted “section 403(f) of this title” for “section 403(e) of this title”.

1958—Pub. L. 85–840 amended section generally, by, among other changes, inserting references to the Internal Revenue Code of 1954, and making penalty provisions applicable to cases (1) where false statements or representations as to whether wages were paid or re-
ceived for employment, or whether net earnings from self-employment were derived, or whether a person entitled to benefits under this subchapter had earnings in or for a particular period, or as to the amount thereof, are made for the purpose of obtaining or increasing benefits; (2) where false statements or representations are made in any application for disability determination; (3) where a person intentionally conceals or fails to disclose knowledge of any event affecting his or another's initial or continued right to payment, and (4) where a person converts a payment that he received for the use and benefit of another.

1954—Act Sept. 1, 1954, made it clear that the penalty provisions of the section extend to cases of false statements or representations as to the amount of net earnings from self-employment derived or the period during which derived.

1950—Act Aug. 28, 1950, substituted "subchapter E of chapter 1, or subchapter A or E of chapter 9 of the Internal Revenue Code of 1954" for "the Federal Insurance Contributions Act".


**Effective Date of 2004 Amendment**

Pub. L. 108–203, title II, §209(d), Mar. 2, 2004, 118 Stat. 516, provided that: "The amendments made by subsections (a), (b), and (c) amending this section and sections 1011 and 1338a of this title shall apply with respect to violations occurring on or after the date of enactment of this Act [Mar. 2, 2004]."

**Effective Date of 2000 Amendment**

Pub. L. 106–554, §1(a)(4) [div. A, §213(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–180, provided that: "The amendments made by this section [amending this section, section 10061 of this title, and section 2709 of Title 22, Judiciary and Judicial Procedure, and repealing section 1230–23 of this title, amending provisions set out as notes under sections 4001 and 4013 of Title 18, Crimes and Criminal Procedure, and section 524 of Title 28, Judiciary and Judicial Procedure, and repealing provisions set out as notes under this section and sections 1095 and 1230–23 of this title] shall take effect as if included in the enactment of Pub. L. 106–553 on the date of its enactment [Dec. 21, 2000]."

Pub. L. 106–553, §1(a)(2) [title VI, §635(c)(2)(3)], Dec. 21, 2000, 114 Stat. 2762, 2762A–177, which provided that the amendments made by §1(a)(2) [title VI, §635(c)] of Pub. L. 106–553, enacting section 1230–23 of this title and amending this section, would apply with respect to information furnished to the Secretary after the date of enactment of this Act (Oct. 30, 1972).

**Effective Date of 1998 Amendment**

Amendment by Pub. L. 98–460 effective Oct. 9, 1984, and applicable with respect to violations occurring on or after such date, see section 16(d) of Pub. L. 98–460, §7883, effective Oct. 9, 1984, see section 5130(a) of Pub. L. 101–508 effective as if included in the enactment of Pub. L. 100–472, §7880, effective as if included in the enactment of Pub. L. 100–472, §7880, see section 5130(b) of Pub. L. 101–508, effective as if included in the enactment of Pub. L. 101–508, and applicable with respect to violations occurring on or after such date, see section 16(d) of Pub. L. 98–460, set out as a note under section 1402 of Title 26, Internal Revenue Code, and applicable with respect to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

1. (A) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $3,600 with respect to employment has been paid to an individual during any calendar year prior to 1955, is paid to such individual during such calendar year;

2. (B) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $4,200 with respect to employment has been paid to an individual during any calendar year after 1954 and prior to 1959, is paid to such individual during such calendar year;

3. (C) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $4,800 with respect to employment has been paid to an individual during any calendar year after 1955 and prior to 1966, is paid to such individual during such calendar year;

4. (D) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $6,000 with respect to employment has been paid to an individual during any calendar year after 1965 and prior to 1968, is paid to such individual during such calendar year;

5. (E) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $7,800 with respect to em-
employment has been paid to an individual during any calendar year after 1967 and prior to 1972, is paid to such individual during such calendar year;

(F) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $9,000 with respect to employment has been paid to an individual during any calendar year after 1971 and prior to 1973, is paid to such individual during any such calendar year;

(G) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $10,800 with respect to employment has been paid to an individual during any calendar year after 1972 and prior to 1974, is paid to such individual during such calendar year;

(H) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $13,200 with respect to employment has been paid to an individual during any calendar year after 1973 and prior to 1975, is paid to such individual during such calendar year;

(I) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to the contribution and benefit base (determined under section 430 of this title) with respect to employment has been paid to an individual during any calendar year after 1974 with respect to which such contribution and benefit base is effective, is paid to such individual during such calendar year;

(2) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of (A) sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this clause shall exclude from the term “wages” only payments which are received under a workmen’s compensation law), or (B) medical or hospitalization expenses in connection with sickness or accident disability, or (C) death, except that this subsection does not apply to a payment for group-term life insurance to the extent that such payment is includible in the gross income of the employee under the Internal Revenue Code of 1986;

(3) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer;

(4) Any payment made to, or on behalf of, an employee or his beneficiary (A) from or to a trust exempt from tax under section 165(a) of the Internal Revenue Code of 1939 at the time of such payment or, in the case of a payment after 1964, under sections 401 and 501(a) of the Internal Revenue Code of 1954 or the Internal Revenue Code of 1966, unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (B) under or to an annuity plan which, at the time of such payment, meets the requirements of section 165(a)(3), (4), (5), and (6) of the Internal Revenue Code of 1954 or, in the case of a payment after 1954 and prior to 1963, the requirements of section 401(a)(3), (4), (5), and (6) of the Internal Revenue Code of 1954, or (C) under or to an annuity plan which, at the time of any such payment after 1962, is a plan described in section 403(a) of the Internal Revenue Code of 1986, or (D) under or to a bond purchase plan which, at the time of any such payment after 1962, is a qualified bond purchase plan described in section 405(a) of the Internal Revenue Code of 1984 (as in effect before July 18, 1984), or (E) under or to an annuity contract described in section 403(b) of the Internal Revenue Code of 1986, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement (whether evidenced by a written instrument or otherwise), or (F) under or to an exempt governmental deferred compensation plan (as defined in section 3121(vi)(3) of such Code), or (G) to supplement pension benefits under a plan or trust described in any of the foregoing provisions of this subsection to take into account some portion or all of the increase in the cost of living (as determined by the Secretary of Labor) since retirement but only if such supplemental payments are under a plan which is treated as a welfare plan under section 3(22)(B)(ii) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1002(2)(B)(ii)]; or (H) under a simplified employee pension (as defined in section 403(a)(3), (4), (5), and (6) of the Internal Revenue Code of 1986) if any amount or any portion of any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment, is constructively received; or (J) under a plan or arrangement to which section 408(p) of such Code applies, other than any elective contributions under paragraph (2)(A)(i) thereof; or (K) under a qualified bond purchase plan described in section 405(a) of the Internal Revenue Code of 1984, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement (whether evidenced by a written instrument or otherwise), or (L) under or to an exempt governmental deferred compensation plan (as defined in section 3121(vi)(3) of such Code), or (M) to supplement pension benefits under a plan or trust described in any of the foregoing provisions of this subsection to take into account some portion or all of the increase in the cost of living (as determined by the Secretary of Labor) since retirement but only if such supplemental payments are under a plan which is treated as a welfare plan under section 3(22)(B)(ii) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1002(2)(B)(ii)]; or (N) under a simplified employee pension (as defined in section 403(a)(3), (4), (5), and (6) of the Internal Revenue Code of 1986) if such plan would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received; or (O) under an arrangement to which section 408(p) of such Code applies, other than any elective contributions under paragraph (2)(A)(i) thereof; or (P) under a plan described in section 457(e)(11)(A)(ii) of the Internal Revenue Code of 1986 and maintained by an eligible employer (as defined in section 457(e)(1) of such Code);

(5) The payment by an employer (without deduction from the remuneration of the employee)—

(A) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1986, or

(B) of any payment required from an employee under a State unemployment compensation law,
with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;

(6)(A) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service on a farm operated for profit), if the cash remuneration paid in such year by the employer to the employee for such service is less than $100. As used in this paragraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in section 410(f)(5) of this title;

(C) Cash remuneration paid by an employer in any calendar year to an employee for service not in the course of the employer's trade or business, if the cash remuneration paid in such year by the employer to the employee for such service is less than $100. As used in this paragraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in section 410(f)(5) of this title;

(7)(A) Remuneration paid in any medium other than cash for agricultural labor;

(B) Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless—

(i) the cash remuneration paid in such year by the employer to the employee for such labor is $150 or more, or

(ii) the employer's expenditures for agricultural labor in such year equal or exceed $2,500,

except that clause (ii) shall not apply in determining whether remuneration paid to an employee constitutes "wages" under this section if such employee (I) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (II) commutes daily from his permanent residence to the farm on which he is so employed, and (III) has been employed in agriculture less than 13 weeks during the preceding calendar year;

(8) Remuneration paid by an employer in any year to an employee for service described in section 410(j)(3)(C) of this title (relating to home workers), if the cash remuneration paid in such year by the employer to the employee for such service is less than $100;

(9) Remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 of the Internal Revenue Code of 1986 (determined without regard to section 274(n) of such Code);

(10)(A) Tips paid in any medium other than cash;

(B) Cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is $20 or more;

(11) Any payment or series of payments by an employer to an employee or any of his dependents which is paid—

(A) upon or after the termination of an employee's employment relationship because of (A) death, or (B) retirement for disability, and

(B) under a plan established by the employer which makes provision for his employees generally or a class or classes of his employees (or for such employees or class or classes of employees and their dependents), other than any such payment or series of payments which would have been paid if the employee's employment relationship had not been so terminated;

(12) Any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died;

(13) Any payment made by an employer to an employee, if at the time such payment is made such employee is entitled to disability insurance benefits under section 423(a) of this title and such entitlement commenced prior to the calendar year in which such payment is made, and if such employee did not perform any services for such employer during the period for which such payment is made;

(14)(A) Remuneration paid by an organization exempt from income tax under section 501 of the Internal Revenue Code of 1986 in any calendar year to an employee for service rendered in the employ of such organization, if the remuneration paid in such year by the organization to the employee for such service is less than $100;

(B) Any contribution, payment, or service, provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 of the Internal Revenue Code of 1986 (relating to amounts received under qualified group legal services plans);

(15) Any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127 or 129 of the Internal Revenue Code of 1986;

(16) The value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119 of the Internal Revenue Code of 1986;

(17) Any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 74(c), 108(f)(4), 117, or 132 of the Internal Revenue Code of 1986;

(18) Remuneration consisting of income excluded from taxation under section 7873 of the Internal Revenue Code of 1986 (relating to income derived by Indians from exercise of fishing rights);

1 So in original. Probably should be designated cls. (i) and (ii), respectively.
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(19) Remuneration on account of—
(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b) of the Internal Revenue Code of 1986) or under an employee stock purchase plan (as defined in section 423(b) of such Code), or
(B) any disposition by the individual of such stock; or

(20) Any benefit or payment which is excludable from the gross income of the employee under section 139B(b) of the Internal Revenue Code of 1986).2

(b) Regulations providing exclusions from term

Nothing in the regulations prescribed for purposes of chapter 24 of the Internal Revenue Code of 1986 (relating to income tax withholding) which provides an exclusion from "wages" as used in such chapter shall be construed to require a similar exclusion from "wages" in the regulations prescribed for purposes of this subchapter.

(c) Individuals performing domestic services

For purposes of this subchapter, in the case of domestic service described in subsection (a)(6)(B) of this section, any payment of cash remuneration for such service is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this subchapter, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to $1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (a)(6)(B) of this section.

(d) Members of uniformed services

For purposes of this subchapter, in the case of an individual performing service, as a member of a uniformed service, to which the provisions of section 410(l)(1) of this title are applicable, the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service only amounts certified as payable pursuant to section 5(c) or 6(l) of the Peace Corps Act (22 U.S.C. 2504(c) or 2505(1)), and (2) any such amount shall be deemed to have been paid to such individual at the time the service, with respect to which it is paid, is performed.

(f) Tips

For purposes of this subchapter, tips received by an employee in the course of his employment shall be considered remuneration for employment. Such remuneration shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1986 or (if no statement including such tips is so furnished) at the time received.

(g) Members of religious orders

For purposes of this subchapter, in any case where an individual is a member of a religious order (as defined in section 3123(r)(2) of the Internal Revenue Code of 1986) performing service in the exercise of duties required by such order, and an election of coverage under section 3121(r) of such Code is in effect with respect to such order or with respect to the autonomous subdivision thereof to which such member belongs, the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service the fair market value of any board, lodging, clothing, and other perquisites furnished to such member by such order or subdivision thereof or by any other person or organization pursuant to an agreement with such order or subdivision, except that the amount included as such individual's remuneration under this paragraph shall not be less than $100 a month.

(h) Retired justices and judges

For purposes of this subchapter, in the case of an individual performing service under the provisions of section 294 of title 28 (relating to assignment of retired justices and judges to active duty), the term "wages" shall not include any payment under section 371(b) of such title which is received during the period of such service.

(i) Employer contributions under sections 401(k) and 414(b)(2) of Internal Revenue Code

Nothing in any of the foregoing provisions of this section (other than subsection (a) of this section) shall exclude from the term "wages"—

(1) Any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k) of the Internal Revenue Code of 1986) to the extent not includable in gross income by reason of section 402(a)(8) of such Code, or

(2) Any amount which is treated as an employer contribution under section 414(h)(2) of such Code where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise).

(j) Amounts deferred under nonqualified deferred compensation plans

Any amount deferred under a nonqualified deferred compensation plan (within the meaning of

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2So in original. The closing parenthesis probably should not appear.
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section 3121(v)(2)(C) of the Internal Revenue
Code of 1986) shall be taken into account for purposes of this subchapter as of the later of when
the services are performed, or when there is no
substantial risk of forfeiture of the rights to
such amount. Any amount taken into account
as wages by reason of the preceding sentence
(and the income attributable thereto) shall not
thereafter be treated as wages for purposes of
this subchapter.
(k) ‘‘National average wage index’’ and ‘‘deferred
compensation amount’’ defined
(1) For purposes of sections 403(f)(8)(B)(ii),
413(d)(2)(B),
415(a)(1)(B)(ii),
415(a)(1)(C)(ii),
415(a)(1)(D),
415(b)(3)(A)(ii),
415(i)(1)(E),
415(i)(2)(C)(ii), 424a(f)(2)(B), and 430(b)(2) (and
430(b)(2) of this title as in effect immediately
prior to the enactment of the Social Security
Amendments of 1977), the term ‘national average
wage index’ for any particular calendar year
means, subject to regulations of the Commissioner of Social Security under paragraph (2),
the average of the total wages for such particular calendar year.
(2) The Commissioner of Social Security shall
prescribe regulations under which the national
average wage index for any calendar year shall
be computed—
(A) on the basis of amounts reported to the
Secretary of the Treasury or his delegate for
such year,
(B) by disregarding the limitation on wages
specified in subsection (a)(1) of this section,
(C) with respect to calendar years after 1990,
by
incorporating
deferred
compensation
amounts and factoring in for such years the
rate of change from year to year in such
amounts, in a manner consistent with the requirements of section 10208 of the Omnibus
Budget Reconciliation Act of 1989, and
(D) with respect to calendar years before
1978, in a manner consistent with the manner
in which the average of the total wages for
each of such calendar years was determined as
provided by applicable law as in effect for such
years.
(3) For purposes of this subsection, the term
‘‘deferred compensation amount’’ means—
(A) any amount excluded from gross income
under chapter 1 of the Internal Revenue Code
of 1986 by reason of section 402(a)(8),3
402(h)(1)(B), or 457(a) of such Code or by reason
of a salary reduction agreement under section
403(b) of such Code,
(B) any amount with respect to which a deduction is allowable under chapter 1 of such
Code by reason of a contribution to a plan described in section 501(c)(18) of such Code, and
(C) to the extent provided in regulations of
the Commissioner of Social Security, deferred
compensation provided under any arrangement, agreement, or plan referred to in subsection (i) or (j) of this section.
Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362,
1373; Mar. 24, 1943, ch. 26, § 1(b)(2), 57 Stat. 47;
Apr. 4, 1944, ch. 161, § 2, 58 Stat. 188; Oct. 23, 1945,
3 See

References in Text note below.

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ch. 433, § 7(b), 59 Stat. 548; Dec. 29, 1945, ch. 652,
title I, § 5(a), 59 Stat. 671; Aug. 10, 1946, ch. 951,
title IV, §§ 407(a), 408(a), 409(a), 410, 411, 414, 60
Stat. 988, 989, 990; Apr. 20, 1948, ch. 222, § 1(a), 62
Stat. 195; Aug. 28, 1950, ch. 809, title I, § 104(a), 64
Stat. 492; Sept. 1, 1954, ch. 1206, title I,
§§ 101(a)(1)–(3), 104(a), 68 Stat. 1052, 1078; Aug. 1,
1956, ch. 836, title I, § 105(a), 70 Stat. 828; Aug. 1,
1956, ch. 837, title IV, § 401, 70 Stat. 869; Pub. L.
85–786, § 1, Aug. 27, 1958, 72 Stat. 938; Pub. L.
85–840, title I, § 102(a), Aug. 28, 1958, 72 Stat. 1019;
Pub. L. 86–778, title I, § 103(j)(2)(C), (F), Sept. 13,
1960, 74 Stat. 937, 938; Pub. L. 87–64, title I,
§ 102(c)(3)(A), June 30, 1961, 75 Stat. 134; Pub. L.
626; Pub. L. 88–272, title II, § 220(c)(3), Feb. 26,
1964, 78 Stat. 1077; Pub. L. 89–97, title III,
§§ 313(a), 320(a)(1), July 30, 1965, 79 Stat. 382, 393;
Pub. L. 90–248, title I, § 108(a)(1), title V, § 504(c),
417; Pub. L. 92–603, title I, §§ 104(g), 122(a),
123(c)(1), 138(a), Oct. 30, 1972, 86 Stat. 1341, 1354,
1356, 1365; Pub. L. 93–66, title II, § 203(a)(1), July
31, 1973, 87 Stat. 953; Pub. L. 95–216, title III,
2814; Pub. L. 96–499, title XI, § 1141(a)(2), Dec. 5,
1980, 94 Stat. 2693; Pub. L. 97–34, title I,
97–123, § 3(a), Dec. 29, 1981, 95 Stat. 1662; Pub. L.
98–21, title I, § 101(c)(1), title III, §§ 324(c)(1)–(3),
327(a)(2), (b)(2), 328(b), Apr. 20, 1983, 97 Stat. 70,
124, 125, 127, 128; Pub. L. 98–369, div. A, title IV,
§ 491(d)(39), title V, § 531(d)(1)(B), div. B, title VI,
§§ 2661(i), 2663(a)(6), July 18, 1984, 98 Stat. 851, 884,
1157, 1162; Pub. L. 99–272, title XII, § 12112(a), Apr.
7, 1986, 100 Stat. 288; Pub. L. 99–514, title I,
§ 122(e)(5), title XI, § 1151(d)(2)(C), Oct. 22, 1986,
100 Stat. 2112, 2505; Pub. L. 100–203, title IX,
§§ 9001(a)(2), 9002(a), 9003(a)(1), Dec. 22, 1987, 101
Stat. 1330–286, 1330–287; Pub. L. 100–647, title I,
§§ 1001(g)(4)(C), 1011(f)(8), 1011B(a)(22)(E), (23)(B),
title III, § 3043(a), title VIII, § 8017(a), Nov. 10,
1988, 102 Stat. 3352, 3463, 3486, 3641, 3793; Pub. L.
830; Pub. L. 101–239, title X, § 10208(a), (d)(1), Dec.
Pub. L. 103–296, title I, § 107(a)(4), title III,
§ 321(c)(4), (e)(1), Aug. 15, 1994, 108 Stat. 1478, 1538,
Stat. 4072; Pub. L. 104–188, title I, §§ 1421(b)(8)(B),
536; Pub. L. 108–357, title II, § 251(a)(1)(B), title
122 Stat. 1636.)
REFERENCES IN TEXT
Section 165 of the Internal Revenue Code of 1939, referred to in subsec. (a)(4)(A), (B), was a part of chapter
1 of the 1939 Code, and was repealed by section
7851(a)(1)(A), (3) of Title 26, Internal Revenue Code of
Revenue Code of 1954 redesignated Internal Revenue
2095.



(a)(B) a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1986 Code, see section 7852(b) of the 1986 Code. For table of comparisons of the 1939 Code to the 1986 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1986 is classified generally to Title 26.


Internal Revenue Code of 1986, referred to in text, is classified to Title 26.

The Peace Corps Act, referred to in subsec. (e), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.


Section 10238 of the Omnibus Budget Reconciliation Act of 1989, referred to in the case of domestic service as subsec. (c) and substituted “subsection (a)(6)(B)” for “subsection (g)(2)” in two places.

Subsec. (d). Pub. L. 101–239, § 10208(d)(1)(N), redesignated par. beginning with “For purposes of this subchapter, in the case of an individual performing service, as a member” as subsec. (d) and substituted “subsection (a)(1)” for “subsection (a)” in introductory provisions. Former subsec. (d) was amended by Pub. L. 102–318, § 521, and, as so amended, provisions formerly contained in section 402(a)(8) are contained in section 402(e)(5).

AMENDMENTS


Subsec. (a)(6)(B). Pub. L. 103–387 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “Cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than $30. As used in this paragraph, the term ‘domestic service in a private home of the employer’ does not include service described in section 410(f)(5) of this title;”.

Subsecs. (a)(15)(A), (B), (15) to (17), (B), (f), (g), (l), (j). Pub. L. 103–296, § 321(c)(4)(B)(ii)–(vi), (C), substituted “1986” for “1954” after “Code of”.

Subsec. (k). Pub. L. 103–296, § 321(e)(1), added subpar. (1) and struck out former subpar. (1) which defined “deemed average total wages”, added subpar. (2), and redesignated former par. (2) as (3) and in introductory provisions of par. (3) substituted “this subsection” for “paragraph (1)”.


1989—Subsec. (a). Pub. L. 101–239, § 10208(d)(1)(A)–(K), inserted “(a)” at beginning of text and in subsec. (a) as redesignated, respectively, for labor purposes, and substituted “(a)(1) to (9)” for “(1)(A) to (I)” after “Code of”.


Subsec. (a)(10)(A) and (B), former subsec. (m)(1) and (2) as par. (11)(A) and (B), and former subsect. (n) and (o) as par. (12) and (13), former subsec. (p)(1) and (2) as par. (14)(A) and (B), and former subsecs. (q) to (t) as pars. (15) to (18).


Subsec. (c). Pub. L. 101–239, § 10208(d)(1)(M), designated par. beginning with “For purposes of this subchapter” as subsec. (c) and substituted “subsection (a)(6)(B)” for “subsection (g)(2)” in two places.

Subsec. (d). Pub. L. 101–239, § 10208(d)(1)(N), redesignated par. beginning with “For purposes of this subchapter, in the case of an individual performing service, as a member” as subsec. (d) and substituted “subsection (a)” for “subsection (a)” in introductory provisions.

Former subsec. (d) was amended by Pub. L. 102–318, § 521, and, as so amended, provisions formerly contained in section 402(a)(8) are contained in section 402(e)(5).

Subsec. (e). Pub. L. 101–239, § 10208(d)(1)(O)–(R), designated pars. beginning with “For purposes of this subchapter, in the case of an individual performing service, as a member” and “For purposes of this subchapter, in any case where” and “For purposes of this subchapter, in the case of an individual performing service under the provisions”, as subsecs. (e) to (h), respectively. Former subsec. (e) redesignated subsec. (a)(4) to (7), respectively.


Pub. L. 101–149 amended cl. (2) and (3) of next to last indented par. of closing provisions [now subsec. (i)] to read as amended by Pub. L. 100–647, § 1011B(a)(22)(E), which had not been enacted, see 1988 Amendment note below.


1988—Pub. L. 100–647, § 1011B(a)(22)(E), in next to last indented par. of closing provisions, substituted “or” for “and” at end of cl. (2) and added cl. (3).

Subsec. (e)(8). Pub. L. 100–647, § 1011B(a)(22)(E), amended cl. (8) generally. Prior to amendment, cl. (8) read as follows: “under a simplified employee pension (as defined in section 403 of the Internal Revenue Code of 1986) if, at the time of the payment, it is reasonable to believe that the employee will be entitled to a deduction under section 219(b)(2) of such Code for such payment,”.

Subsec. (e)(9). Pub. L. 100–647, § 1011B(a)(22)(E), inserted “if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 129 would not treat any wages as constructively received” after “1986)”.

Subsec. (h)(2). Pub. L. 100–647, § 1011B(a)(22)(E), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor, unless A the cash remuneration paid in such year by the employer to the employee for such labor is $150 or

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more, or (B) the employer’s expenditures for agricultural labor in such year equal or exceed $2,500.”

Subsec. (b)(3). Pub. L. 198-203, § 9003(a)(1), substituted “death, except that the section does not apply to a payment for group-term life insurance to the extent that such payment is includible in the gross income of the employee under the Internal Revenue Code of 1986 for the taxable year.”

Subsec. (h)(2)(B). Pub. L. 198-203, § 9002(a), added cl. (B) and struck out former cl. (B) which read as follows: “(B) the employer performs agricultural labor for the employer on twenty days or more during such year for cash remuneration computed on a time basis.”


Subsec. (p). Pub. L. 98-369, § 2663(a)(6)(A)(iv), redesignated the subsec. (p) enacted by Pub. L. 95-216 as p. (1) and the subsec. (p) enacted by Pub. L. 95-472 as par. (2), and substituted a semicolon for a period in par. (1) as so redesignated.

Subsec. (k). Pub. L. 98-369, § 2663(a)(6)(V), realigned margins of subsecs. (q) and (r).


Pub. L. 98-369, § 2663(a)(6)(B), in undesignated par. relating to the meaning of “wages” in the case of a member of a uniformed service to which section 410(b)(1) of this title is applicable, substituted “chapter 3 and section 1009 of title 37” for “section 217 of the Internal Revenue Code of 1954”. Pub. L. 98-369, § 2661(i)(2), in undesignated par. relating to employer contributions as not being excluded from “wages”, inserted “where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise)”.

1983—Subsec. (b). Pub. L. 98-92-21, § 324(c)(3)(A), struck out cl. (1) which read “retirement”, and redesignated clss. (2) to (4) as (1) to (3), respectively.

Subsec. (c). Pub. L. 98-92-21, § 324(c)(3)(B), struck out subsec. (c) which related to any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement.

Subsec. (e)(5) to (7). Pub. L. 98-21-21, § 324(c)(2), added clss. (5) to (7).

Subsec. (e)(8). Pub. L. 98-21-21, § 324(c)(3)(C), struck out subsec. (i) which related to any payment (other than vacation or sick pay) made to an employee after the month in which he attained age 62, if he did not work for the employer in the period of one year during which such payment was made, and provided for this subsection that “sick pay” included remuneration for service in the employ of a State, a political subdivision (as defined in section 410(b)(2) of this title), or an instrumentality of two or more States, paid to an employee thereof for a period during which he was absent from work because of sickness.

Subsec. (m)(1)(C). Pub. L. 98-21, § 324(c)(3)(C), struck out subpar. (C) which related to retirement after attaining an age specified in the plan referred to in par. (2) or in a pension plan of the employer.


Pub. L. 98-21-21, § 327(b)(2), inserted, immediately following subsec. (r), provision that nothing in the regulations prescribed for purposes of chapter 21 of the Internal Revenue Code of 1964 (relating to income tax withholding) which provides an exclusion from “wages” as used in such chapter shall be construed to require a similar exclusion from “wages” in the regulations prescribed for purposes of this subchapter.

Pub. L. 98-21-21, § 101(c)(1), inserted, at end of section, two undesignated pars. specifying the inclusion of certain employer contributions as “wages” and directing that any amount deferred under a nonqualified deferred compensation plan be taken into account under certain conditions but not treated as wages thereafter for purposes of this subchapter.

Pub. L. 98-21-21, § 101(c)(1), inserted, at end of section, undesignated par. defining “wages” for purposes of this subchapter in the case of an individual performing service under provisions of section 294 of title 28 (relating to assignment of retired justices and judges to active duty) to include payments under section 371(b) of title 28 that is received during the period of such service.

1981—Subsec. (b)(2). Pub. L. 97-123 inserted “but, in the case of payments made to an employee or any of his dependents, this clause shall exclude from the term ‘wages’ only payments which are received under a workmen’s compensation law” after “sickness or accident disability”.

Subsec. (q). Pub. L. 97-34 substituted “section 127 or 129” for “section 127”.

1980—Subsec. (f). Pub. L. 96-499 substituted “section 3101 of the Internal Revenue Code of 1944” for “section 1400 of the Internal Revenue Code of 1939” in subpar. (1) and inserted “with respect to retirement payments paid to an employee for domestic service in a private home of the employer or for agricultural labor”.


1977—Subsecs. (g)(3), (j). Pub. L. 95-216, § 351(a)(1), (2), substituted “year” for “quarter” wherever appearing and “$100” for “$50”.

Subsec. (n). Pub. L. 95-216, § 351(a)(3)(A), struck out “or” after “such employee died”.

Subsec. (o). Pub. L. 95-216, § 351(a)(3)(B), substituted “payment is made; or” for “payment is made.”


Pub. L. 93-66 substituted “$12,600” for “$12,000.”


Subsec. (a)(7) to (9). Pub. L. 92-336, § 230(a)(1)(B), added pars. (7) to (9).

Subsec. (i). Pub. L. 92-603, § 104(g), struck out “if a woman and age 65 (if a man) after ‘attains age 62’. “


wage amounts (under amended provisions) for calendar years after 1990, see section 10208(c) of Pub. L. 101–239, set out as a note under section 430 of this title.

Amendment by Pub. L. 101–140 effective as if included in section 1151 of Pub. L. 99–514, see section 233(c) of Pub. L. 101–140, set out as a note under section 79 of Title 26, Internal Revenue Code.

**Effective Date of 1988 Amendment**

Amendment by sections 1001(g)(4)(C), 1011(f)(8), and 1011B(a)(23)(B) of Pub. L. 100–447 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–447, set out as a note under section 1 of Title 26, Internal Revenue Code.

Amendment by section 1011B(a)(22)(E) of Pub. L. 100–447 not applicable to any individual who separated from service with the employer before Jan. 1, 1986, see section 1011B(a)(22)(F) of Pub. L. 100–447, set out as a note under section 3121 of Title 26.

Amendment by section 3043(a) of Pub. L. 100–447 applicable to all periods beginning before, on, or after Nov. 10, 1986, with no inference created as to existence or non-existence or scope of any exemption from tax for income derived from fishing rights secured as of Mar. 17, 1986, by any treaty, law, or Executive Order, see section 3044 of Pub. L. 100–447, set out as an Effective Date note under section 7875 of Title 26.

Amendment by section 6017(a) of Pub. L. 100–447 effective as if included in amendments made by section 9002 of Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, see section 6017(c) of Pub. L. 100–447, set out as a note under section 3121 of Title 26.

**Effective Date of 1987 Amendment**

Amendment by section 9001(a)(2) of Pub. L. 100–203 applicable with respect to remuneration paid after Dec. 31, 1987, see section 9001(d) of Pub. L. 100–203, set out as a note under section 3121 of Title 26, Internal Revenue Code.

Amendment by section 9002(a) of Pub. L. 100–203 applicable with respect to remuneration for agricultural labor paid after Dec. 31, 1987, see section 9002(c) of Pub. L. 100–203, set out as a note under section 3121 of Title 26.

Amendment by section 9003(a)(1) of Pub. L. 100–203 applicable with respect to group-term life insurance coverage in effect after Dec. 31, 1987, with exception for employer's group-term life insurance payments for certain former employees, see section 9003(b) of Pub. L. 100–203, as amended, set out as a note under section 3121 of Title 26.

**Effective Date of 1986 Amendments**

Amendment by section 122(e)(5) of Pub. L. 99–514 applicable to prizes and awards granted after Dec. 31, 1986, see section 151(c) of Pub. L. 99–514, set out as a note under section 1 of Title 26, Internal Revenue Code.


Section 1212(c) of Pub. L. 99–272 provided that: ‘‘The amendments made by this section [amending this section and section 3121 of Title 26, Internal Revenue Code] shall be effective with respect to services performed after December 31, 1983.’’

**Effective Date of 1984 Amendment**


Amendment by section 2663(a)(6) of 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(h) of Pub. L. 98–369, set out as a note under section 401 of this title.

**Effective Date of 1983 Amendment**

Amendment by section 101(c)(1) of Pub. L. 98–21 effective with respect to services performed after Dec. 31, 1983, see section 101(d) of Pub. L. 98–21, as amended, set out as a note under section 3121 of Title 26, Internal Revenue Code.

Amendment by section 324(c)(1)–(3) of Pub. L. 98–21 applicable to remuneration paid after Dec. 31, 1983, except for certain employer contributions made during 1984 under a qualified cash or deferred arrangement, and except in the case of an agreement with certain nonqualified deferred compensation plans in existence on Mar. 24, 1983, see section 324(d) of Pub. L. 98–21, set out as a note under section 3121 of Title 26.


Amendment by section 327(b)(2) of Pub. L. 98–21 applicable to remuneration (other than amounts excluded under 26 U.S.C. 119) paid after Apr. 3, 1983, and to any such remuneration paid on or before such date which the employer treated as wages when paid, see section 327(d)(2) of Pub. L. 98–21, as amended, set out as a note under section 3121 of Title 26.

Amendment by section 328(b) of Pub. L. 98–21 applicable to remuneration paid after Dec. 31, 1983, see section 328(d)(1) of Pub. L. 98–21, set out as a note under section 3121 of Title 26.

**Effective Date of 1981 Amendments**

Amendment by Pub. L. 97–125 applicable, except as otherwise provided, to remuneration paid after Dec. 31, 1981, see section 3(g) of Pub. L. 97–125, set out as a note under section 3121 of Title 26, Internal Revenue Code.


**Effective Date of 1980 Amendment**

For effective date of amendment by Pub. L. 96–499, see section 1141(c) of Pub. L. 96–499, set out as a note under section 3121 of Title 26, Internal Revenue Code.

**Effective Date of 1978 Amendments**

Amendment by Pub. L. 95–600 applicable with respect to taxable years beginning after Dec. 31, 1978, see section 164(d) of Pub. L. 95–600, set out as an Effective Date note under section 127 of Title 26, Internal Revenue Code.

Amendment by Pub. L. 95–472 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 3(d) of Pub. L. 95–472, set out as a note under section 3121 of Title 26.

**Effective Date of 1977 Amendment**

Section 351(d) of Pub. L. 95–216 provided that: ‘‘The amendments made by subsection (a) [amending this section and section 410 of this title] shall apply with respect to remuneration paid and services rendered after December 31, 1977. The amendments made by subsections (b) and (c) [amending sections 412 and 413 of this title] shall be effective January 1, 1978.’’

**Effective Date of 1973 Amendments**

Section 5(e) of Pub. L. 93–233 provided that: ‘‘The amendments made by this section [amending this section and sections 411, 413, and 430 of this title and sec-
tions 3121, 3122, 3125, 6413, and 6654 of Title 26, Internal Revenue Code], except subsection (a)(4), shall apply only with respect to remuneration paid after, and taxable years beginning after, 1973. The amendments made by subsection (a)(4) [amending section 415 of this title] shall apply with respect to calendar years after 1973."

Section 203(e) of Pub. L. 93–68 provided that: "The amendments made by this section [amending this section and sections 411, 413 of this title and sections 1402 and 6654 of Title 26] except subsection (a)(4), shall apply only with respect to remuneration paid after, and taxable years beginning after, 1973. The amendments made by subsection (a)(4) [amending section 415 of this title] shall apply with respect to calendar years after 1973."

**Effective Date of 1972 Amendments**

Amendment by section 104(g) of Pub. L. 92–603 applicable only with respect to payments after 1974, see section 104(h) of Pub. L. 92–603, set out as a note under section 414 of this title.

Section 122(c) of Pub. L. 92–603 provided that: "The amendments made by this section [amending this section and section 3121 of Title 26, Internal Revenue Code] shall apply in the case of any payment made after December 1972."

Section 138(c) of Pub. L. 92–603 provided that: "The amendments made by this section [amending this section and section 3121 of Title 26, Internal Revenue Code] shall apply in the case of any payment made after December 1972."

Section 203(c) of Pub. L. 92–336 provided that: "The amendments made by subsections (a)(1) and (a)(3)(A) [amending this section and section 413 of this title], and the amendments made by subsection (b) [amending sections 3121, 3122, 3125, and 6413 of Title 26, Internal Revenue Code] (except paragraphs (1) and (7) thereof), shall apply only with respect to remuneration paid after December 1972. The amendments made by subsections (a)(2), (a)(3)(B), (b)(1), and (b)(7) [amending sections 411 and 413 of this title and sections 1402 and 6654 of Title 26] shall apply only with respect to taxable years beginning after 1972. The amendments made by subsection (a)(4) [amending section 415 of this title] shall apply only with respect to calendar years after 1972."

**Effective Date of 1971 Amendment**

Section 203(c) of Pub. L. 92–5 provided that: "The amendments made by subsections (a)(1) and (a)(3)(A) [amending this section and section 413 of this title], and the amendments made by subsection (b) [amending sections 3121, 3122, 3125, and 6413 of Title 26, Internal Revenue Code], shall apply only with respect to remuneration paid after December 1971. The amendments made by subsections (a)(2), (a)(3)(B), (b)(1), and (b)(7) [amending sections 411 and 413 of this title and sections 1402 and 6654 of Title 26] shall apply only with respect to taxable years beginning after 1971. The amendment made by subsection (a)(4) [amending section 415 of this title] shall apply only with respect to calendar years after 1971."

**Effective Date of 1968 Amendment**

Section 108(c) of Pub. L. 90–248 provided that: "The amendment made by subsections (a)(1) and (a)(3)(A) [amending this section and section 423 of this title], and the amendments made by subsection (b) (except paragraph (1) thereof) [amending sections 1402, 3121, 3122, 3125, and 6413 of Title 26, Internal Revenue Code], shall apply only with respect to remuneration paid after December 1967. The amendments made by subsections (a)(2), (a)(3)(B), and (b)(1) [amending sections 411 and 413 of this title and section 1402 of Title 26] shall apply only with respect to taxable years ending after 1967. The amendment made by subsection (a)(4) [amending section 415 of this title] shall apply only with respect to calendar years after 1967."

Amendment by section 504(c) of Pub. L. 90–248 applicable with respect to remuneration paid after Jan. 2, 1968, see section 504(d) of Pub. L. 90–248, set out as a note under section 3121 of Title 26.

**Effective Date of 1965 Amendment**

Amendment by section 313(a) of Pub. L. 89–97 applicable only with respect to payments received by employees after December 1965, see section 313(f) of Pub. L. 89–97, set out as an Effective Date note under section 6053 of Title 26, Internal Revenue Code.

Amendment by section 320(a)(1) of Pub. L. 89–97 applicable with respect to remuneration paid after December 1965, set out as a note under section 3121 of Title 26.

**Effective Date of 1964 Amendments**

Amendment by Pub. L. 88–650 applicable with respect to remuneration paid on or after the first day of the first calendar month which begins more than ten days after Oct. 13, 1964, see section 4(d) of Pub. L. 88–650, set out as a note under section 3121 of Title 26, Internal Revenue Code.

Amendment by Pub. L. 88–272 applicable to remuneration paid after Dec. 31, 1962, see section 220(d) of Pub. L. 88–272, set out as an Effective Date note under section 406 of Title 26.

**Effective Date of 1961 Amendments**

Amendment by Pub. L. 87–283 applicable with respect to service performed after Sept. 22, 1961, in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 202(c) of Pub. L. 87–283, set out as a note under section 3121 of Title 26, Internal Revenue Code.

Amendment by Pub. L. 87–64 applicable with respect to monthly benefits for months beginning on or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after Aug. 1, 1961, see sections 102(f) and 109 of Pub. L. 87–64, set out as a note under section 3121 of Title 26, Internal Revenue Code.

Amendment by Pub. L. 87–64 applicable with respect to monthly benefits for months beginning on or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after Aug. 1, 1961, see sections 102(f) and 109 of Pub. L. 87–64, set out as a note under section 3121 of Title 26, Internal Revenue Code.

**Effective Date of 1960 Amendment**


**Effective Date of 1958 Amendment**

Section 2 of Pub. L. 85–786 provided that: "The amendment made by section 1 [amending this section] shall be applicable to remuneration paid after the enactment of this Act [Aug. 27, 1958], except that, in the case of any coverage group which is included under the agreement of a State under section 218 of the Social Security Act [section 418 of this title], the amendment made by section 1 shall also be applicable to remuneration for any member of such coverage group with respect to services performed after the effective date, specified in such agreement, for such coverage group, if such State has paid or agrees, prior to January 1, 1959, to pay, prior to such date, the amounts which under section 218(e) [section 418(e) of this title] would have been payable with respect to remuneration of all members of such coverage group had the amendment made by section 1 been in effect on and after January 1, 1951. Failure by a State to make such payments prior to January 1, 1959, shall be treated the same as failure to make payments when due under section 218(e)."

**Effective Date of 1956 Amendment**

Amendment by act Aug. 1, 1956, ch. 837, effective Jan. 1, 1957, see section 103(a) of act Aug. 1, 1956. Section 103(d) of act Aug. 1, 1956, ch. 837, provided that: "The amendment made by subsection (a) of this..."
section (amending this section) shall apply with respect to remuneration paid after 1956, and the amendment made by subsection (b) of this section (amending section 410 of this title) shall apply with respect to service performed after 1956.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by section 101(a)(1)-(3) of act Sept. 1, 1954, applicable only with respect to remuneration paid after 1954, see section 101(m) of act Sept. 1, 1954, set out as a note under section 405 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 104(b) of act Aug. 28, 1950, provided that: "The amendment made by subsection (a) (amending this section] shall take effect January 1, 1951, except that sections 214, 215, and 216 of the Social Security Act [sections 414 to 416 of this title] shall be applicable (1) in the case of monthly benefits for months after August 1950, and (2) in the case of lump-sum death payments with respect to deaths after August 1950.''

EFFECTIVE DATE OF 1948 AMENDMENT

Section 1(b) of act Apr. 20, 1948, provided in part that: "The amendment made by subsection (a) (amending this section) shall be applicable with respect to services performed after the date of the enactment of this Act [Apr. 20, 1948]."

EFFECTIVE DATE OF 1946 AMENDMENT

Sections 407(b), 408(b), and 409(b) of act Aug. 10, 1946, each provided that: "The amendment made by subsection (a) of this section [amending this section] shall be applicable only in cases of applications for benefits under this title [this subchapter] filed after December 31, 1946."

EFFECTIVE DATE OF 1945 AMENDMENT

Section 5(a) of act Dec. 29, 1945, provided that the amendment made by that section is effective Jan. 1, 1946.

EFFECTIVE DATE OF 1939 AMENDMENT

Section 201 of act Aug. 10, 1939, provided that the amendment made by that section is effective Jan. 1, 1940.

REFRAILS: AMENDMENTS AND APPLICATION OF AMENDMENTS UNAFFECTED

Section 302(b)(2) of Pub. L. 87–283, cited as a credit to this section, was repealed by Pub. L. 89–572, § 5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal did not affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub. L. 89–572, set out as a note under former section 2515 of Title 22, Foreign Relations and Intercourse.

EXCLUSION FROM WAGES AND COMPENSATION OF REFUNDS REQUIRED FROM EMPLOYERS TO COMPENSATE FOR DUPLICATION OF MEDICARE BENEFITS BY HEALTH CARE BENEFITS PROVIDED BY EMPLOYERS

For purposes of this subchapter, the term "wages" shall not include the amount of any refund required under section 421 of Pub. L. 90–300 [42 U.S.C. 1396d note], see section 423 of Pub. L. 90–300, set out as a note under section 1396d of this title.

NONENFORCEMENT OF AMENDMENT MADE BY SECTION 1151 OF PUB. L. 90–248; MONIES APPROPRIATED FOR FISCAL YEAR 1990 NOT TO BE USED FOR ENFORCEMENT OR IMPLEMENTATION OF AMENDMENT

No monies appropriated by Pub. L. 101–136 to be used to implement or enforce section 1151 of Pub. L. 90–248 or the amendments made by such section, see section 528 of Pub. L. 101–136, set out as a note under section 89 of Title 26, Internal Revenue Code.

SOCIAL SECURITY COVERAGE OF RETIRED FEDERAL JUDGES ON ACTIVE DUTY

Notwithstanding section 101(d) of Pub. L. 98–21, set out as an Effective Date of 1983 Amendment note above, the amendment of this section by section 101(c)(1) of Pub. L. 98–21 is applicable only with respect to remuneration paid after Dec. 31, 1985, with remuneration paid prior to Jan. 1, 1986, under section 371(b) of Title 28, Judiciary and Judicial Procedure, to an individual performing service under section 294 of Title 28 not to be included in the term "wages" for purposes of section 101(c)(1) of Title 26, Internal Revenue Code, see section 4 of Pub. L. 98–118, set out as a note under section 3121 of Title 26.

PAYMENTS UNDER STATE TEMPORARY DISABILITY LAW TO BE TREATED AS REMUNERATION FOR SERVICE

For purposes of applying this section with respect to the parenthetical matter contained in subsec. (b)(2) of this section, payments under a State temporary disability law to be treated as remuneration for service, see section 3(e) of Pub. L. 97–123, set out as a note under section 3121 of Title 26, Internal Revenue Code.

SERVICES FOR COOPERATIVES PRIOR TO 1951

Section 110 of act Aug. 28, 1950, provided that: "In any case in which—

"(1) an individual has been employed at any time prior to 1951 by organizations enumerated in the first sentence of section 101(12) of the Internal Revenue Code [1939],

"(2) the service performed by such individual during the time he was so employed constituted agricultural labor as defined in section 209(l) of the Social Security Act [former subsec. (i) of this section] and section 126(b) of the Internal Revenue Code [1939], as in effect prior to the enactment of this Act [Aug. 28, 1950], and such service would, but for the provisions of such sections, have constituted employment for the purposes of title II of the Social Security Act (this subchapter) and subchapter A of chapter 9 of such Code [1939].

"(3) the taxes imposed by sections 1400 and 1410 of the Internal Revenue Code [1939] have been paid with respect to any part of the remuneration paid to such individual by such organization for such service and the payment of such taxes by such organization has been made in good faith upon the assumption that such service did not constitute agricultural labor as so defined, and

"(4) no refund of such taxes has been obtained, the amount of such remuneration with respect to which such taxes have been paid shall be deemed to constitute remuneration for employment as defined in section 209(b) of the Social Security Act [former subsec. (b) of this section] as in effect prior to the enactment of this Act [Aug. 28, 1950] (but it shall not constitute wages for purposes of deductions under section 203 of such Act [section 403 of this title]) for months for which benefits under title II of such Act [this subchapter] have been certified and paid prior to the enactment of this act."

REFUNDS OR CREDITS FOR OVERPAYMENTS

Section 3 of act Apr. 20, 1948, provided that: "If any amount paid prior to the date of the enactment of this Act [Apr. 20, 1948] constitutes an overpayment of tax solely by reason of an amendment made by this Act [amending this section], no refund or credit shall be made or allowed with respect to the amount of such overpayment."

§ 410. Definitions relating to employment

For the purposes of this subchapter—

(a) Employment

The term "employment" means any service performed after 1936 and prior to 1951 which was
employment for the purposes of this subchapter under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen or resident of the United States as an employee (i) of an American employer (as defined in subsection (e) of this section), or (ii) of a foreign affiliate (as defined in section 3121(b)(6) of the Internal Revenue Code of 1986) of an American employer during any period for which there is in effect an agreement, entered into pursuant to section 3121(l) of such Code, with respect to such affiliate, or (C) if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 433 of this title; except that, in the case of service performed after 1950, such term shall not include—

(1) Service performed by foreign agricultural workers lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3)(A) Service performed by a child under the age of 18 in the employ of his father or mother;

(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual under the age of 21 in the employ of his father or mother, or performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—

(i) the employer is a surviving spouse or a divorced individual and has not remarried, or has a spouse living in the home who has a mental or physical condition which results in such spouse's being incapable of caring for a son, daughter, stepson, or stepdaughter (referred to in clause (ii)) for at least 4 continuous weeks in the calendar quarter in which the service is rendered, and

(ii) a son, daughter, stepson, or stepdaughter of such employer is living in the home, and

(iii) the son, daughter, stepson, or stepdaughter (referred to in clause (ii)) has not attained age 18 or has a mental or physical condition which requires the personal care and supervision of an adult for at least 4 continuous weeks in the calendar quarter in which the service is rendered;

(4) Service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if (A) the individual is employed on and in connection with such vessel or aircraft when outside the United States and (B)(i) such individual is not a citizen of the United States or (ii) the employer is not an American employer;

(5) Service performed in the employ of the United States or any instrumentality of the United States, if such service—

(A) would be excluded from the term "employment" for purposes of this subchapter if the provisions of paragraphs (5) and (6) of this subsection as in effect in January 1963 had remained in effect, and

(B) is performed by an individual who—

(i) has been continuously performing service described in subparagraph (A) since December 31, 1963, and for purposes of this clause—

(1) Service performed by foreign agricultural workers lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3)(A) Service performed by a child under the age of 18 in the employ of his father or mother;

(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual under the age of 21 in the employ of his father or mother, or performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—

(i) the employer is a surviving spouse or a divorced individual and has not remarried, or has a spouse living in the home who has a mental or physical condition which results in such spouse's being incapable of caring for a son, daughter, stepson, or stepdaughter (referred to in clause (ii)) for at least 4 continuous weeks in the calendar quarter in which the service is rendered, and

(ii) a son, daughter, stepson, or stepdaughter of such employer is living in the home, and

(iii) the son, daughter, stepson, or stepdaughter (referred to in clause (ii)) has not attained age 18 or has a mental or physical condition which requires the personal care and supervision of an adult for at least 4 continuous weeks in the calendar quarter in which the service is rendered;

(4) Service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if (A) the individual is employed on and in connection with such vessel or aircraft when outside the United States and (B)(i) such individual is not a citizen of the United States or (ii) the employer is not an American employer;

(5) Service performed in the employ of the United States or any instrumentality of the United States, if such service—

(A) would be excluded from the term "employment" for purposes of this subchapter if the provisions of paragraphs (5) and (6) of this subsection as in effect in January 1963 had remained in effect, and

(B) is performed by an individual who—

(i) has been continuously performing service described in subparagraph (A) since December 31, 1963, and for purposes of this clause—

(1) Service performed by foreign agricultural workers lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3)(A) Service performed by a child under the age of 18 in the employ of his father or mother;

(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual under the age of 21 in the employ of his father or mother, or performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—

(i) the employer is a surviving spouse or a divorced individual and has not remarried, or has a spouse living in the home who has a mental or physical condition which results in such spouse's being incapable of caring for a son, daughter, stepson, or stepdaughter (referred to in clause (ii)) for at least 4 continuous weeks in the calendar quarter in which the service is rendered, and

(ii) a son, daughter, stepson, or stepdaughter of such employer is living in the home, and

(iii) the son, daughter, stepson, or stepdaughter (referred to in clause (ii)) has not attained age 18 or has a mental or physical condition which requires the personal care and supervision of an adult for at least 4 continuous weeks in the calendar quarter in which the service is rendered;

(4) Service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if (A) the individual is employed on and in connection with such vessel or aircraft when outside the United States and (B)(i) such individual is not a citizen of the United States or (ii) the employer is not an American employer;

(5) Service performed in the employ of the United States or any instrumentality of the United States, if such service—

(A) would be excluded from the term "employment" for purposes of this subchapter if the provisions of paragraphs (5) and (6) of this subsection as in effect in January 1963 had remained in effect, and

(B) is performed by an individual who—

(i) has been continuously performing service described in subparagraph (A) since December 31, 1963, and for purposes of this clause—

(1) Service performed by foreign agricultural workers lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3)(A) Service performed by a child under the age of 18 in the employ of his father or mother;

(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual under the age of 21 in the employ of his father or mother, or performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—

(i) the employer is a surviving spouse or a divorced individual and has not remarried, or has a spouse living in the home who has a mental or physical condition which results in such spouse's being incapable of caring for a son, daughter, stepson, or stepdaughter (referred to in clause (ii)) for at least 4 continuous weeks in the calendar quarter in which the service is rendered, and

(ii) a son, daughter, stepson, or stepdaughter of such employer is living in the home, and

(iii) the son, daughter, stepson, or stepdaughter (referred to in clause (ii)) has not attained age 18 or has a mental or physical condition which requires the personal care and supervision of an adult for at least 4 continuous weeks in the calendar quarter in which the service is rendered;
which section 450(e)(2) of title 25 applies, then the service performed for that tribal organization shall be considered service described in subparagraph (A); or

(ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);

except that this paragraph shall not apply with respect to any such service performed on or after any date on which such individual performed—

(C) service performed as the President or Vice President of the United States,

(D) service performed—

(1) in a position placed in the Executive Schedule under sections 5312 through 5317 of title 5,

(2) as a noncareer appointee in the Senior Executive Service or a noncareer member of the Senior Foreign Service, or

(3) in a position to which the individual is appointed by the President (or his designee) or the Vice President under section 105(a)(1), 106(a)(1), or 107(a)(1) or (b)(1) of title 3, if the maximum rate of basic pay for such position is at or above the rate for level V of the Executive Schedule,

(E) service performed as the Chief Justice of the United States, an Associate Justice of the Supreme Court, a judge of a United States court of appeals, a judge of a United States district court (including the district court of a territory), a judge of the United States Court of Federal Claims, a judge of the United States Court of International Trade, a judge of the United States Tax Court, a United States magistrate judge, or a referee in bankruptcy or United States bankruptcy judge,

(F) service performed as a Member, Delegate, or Resident Commissioner of or to the Congress,

(G) any other service in the legislative branch of the Federal Government if such service—

(i) is performed by an individual who was not subject to subchapter III of chapter 83 of title 5 or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983, or

(ii) is performed by an individual who has, at any time after December 31, 1983, received a lump-sum payment under section 8342(a) of title 5 or under the corresponding provision of the law establishing the other retirement system described in clause (i), or

(iii) is performed by an individual after such individual has otherwise ceased to be subject to subchapter III of chapter 83 of title 5, (without having an application pending for coverage under such subchapter), while performing service in the legislative branch (determined without regard to the provisions of subparagraph (B) relating to continuity of employment), for any period of time after December 31, 1983, and for purposes of this subparagraph (G) an individual is subject to such subchapter III or to any such other retirement system at any time only if (a) such individual’s pay is subject to deductions, contributions, or similar payments (concurrent with the service being performed at that time) under section 8334(a) of such title 5 or the corresponding provision of the law establishing such other system, or (in a case to which section 8332(k)(1) of such title applies) such individual is making payments of amounts equivalent to such deductions, contributions, or similar payments while on leave without pay, or (b) such individual is receiving an annuity from the Civil Service Retirement and Disability Fund, or is receiving benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), or

(H) service performed by an individual—

(i) on or after the effective date of an election by such individual, under section 301 of the Federal Employees’ Retirement System Act of 1986, section 2157 of title 50, or the Federal Employees’ Retirement System Open Enrollment Act of 1997 to become subject to the Federal Employees’ Retirement System provided in chapter 84 of title 5, or

(ii) on or after the effective date of an election by such individual, under regulations issued under section 860 of the Foreign Service Act of 1980 [22 U.S.C. 4071], to become subject to the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of such Act [22 U.S.C. 4071 et seq.];

(6) Service performed in the employ of the United States or any instrumentality of the United States if such service is performed—

(A) in a penal institution of the United States by an inmate thereof;

(B) by any individual as an employee included under section 3353(2) of title 5 (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or

(C) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(7) Service performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, except that this paragraph shall not apply in the case of—

(A) service included under an agreement under section 418 of this title.
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such service is not covered by a retirement system established by a law of Guam; except
that (i) the provisions of this subparagraph shall not apply to service performed—

(i) by an individual who is employed to relieve such individual from unemployment;

(ii) in a hospital, home, or other institution by a patient or inmate thereof;

(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under section 418(c)(8)(B) of this title for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year;

(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 411(c)(2)(E) of this title as a trade or business for purposes of inclusion of such fees in net earnings from self-employment;

for purposes of this subparagraph, except as provided in regulations prescribed by the Secretary of the Treasury, the term "retirement system" has the meaning given such term by section 418(b)(4) of this title;

(8)(A) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, except that this subparagraph shall not apply to service performed by a member of such an order in the exercise of such duties, if an election of coverage under section 3121(r) of the Internal Revenue Code of 1986 is in effect with respect to such order, or with respect to the autonomous subdivision thereof to which such member belongs;

(B) Service performed in the employ of a church or qualified church-controlled organization if such church or organization has in effect an election under section 3121(w) of the Internal Revenue Code of 1986, other than service in an unrelated trade or business (within the meaning of section 513(a) of such Code);

(9) Service performed by an individual as an employee or employee representative as defined in section 3231 of the Internal Revenue Code of 1986;

(10) Service performed in the employ of—

(A) a school, college, or university, or

(B) an organization described in section 509(a)(3) of the Internal Revenue Code of 1986 if the organization is organized, and at all
times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of a school, college, or university and is operated, supervised, or controlled by or in connection with such school, college, or university, unless it is a school, college, or university of a State or a political subdivision thereof and the services in its employ performed by a student referred to in section 418(c)(5) of this title are covered under the agreement between the Commissioner of Social Security and such State entered into pursuant to section 418 of this title:

if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university;

(11) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a non-diplomatic representative);

(12) Service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(13) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes at a nurses' training school chartered or approved pursuant to State law;

(14)(A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(15) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (59 Stat. 669) [22 U.S.C. 288 et seq.], except service which constitutes "employment" under subsection (r) of this section;

(16) Service performed by an individual under an arrangement with the owner or tenant of land pursuant to which—

(A) such individual undertakes to produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land,

(B) the agricultural or horticultural commodities produced by such individual, or the proceeds therefrom, are to be divided between such individual and such owner or tenant, and

(C) the amount of such individual's share depends on the amount of the agricultural or horticultural commodities produced;

(17) Service in the employ of any organization which is performed (A) in any year during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended [50 U.S.C. 781 et seq.], as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and (B) after June 30, 1956;

(18) Service performed in Guam by a resident of the Republic of the Philippines while in Guam on a temporary basis as a non-immigrant alien admitted to Guam pursuant to section 1101(a)(15)(H)(ii) of title 8;

(19) Service which is performed by a non-resident alien individual for the period he is temporarily present in the United States as a non-immigrant alien admitted to Guam pursuant to section 1101(a)(15) of title 8, and which is performed to carry out the purpose specified in subparagraph (F), (J), (M), or (Q) as the case may be;

(20) Service (other than service described in paragraph (3)(A)) performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which—

(A) such individual does not receive any additional compensation other than as provided in subparagraph (B) and other than cash remuneration—

(i) which does not exceed $100 per trip;

(ii) which is contingent on a minimum catch; and

(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,

(B) such individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and

(C) the amount of such individual's share depends on the amount of the boat's (or boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involv-
sectioning more than one boat) is normally made up of fewer than 10 individuals; or

(2) Domestic service in a private home of the employer which—

(A) is performed in any year by an individual under the age of 18 during any portion of such year; and

(B) is not the principal occupation of such employee.

For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals.

(b) Included and excluded service

If the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term “pay period” means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any such service is excepted by paragraph (9) of subsection (a) of this section.

(c) American vessel

The term “American vessel” means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States and includes any vessel which is employed on the high seas by a累累ifiable organization of any one or more of the foregoing, (C) an individual who is a resident of the United States, (D) a partnership, if two-thirds or more of the partners are residents of the United States, (E) a trust, if all of the trustees are residents of the United States, or (F) a corporation organized under the laws of the United States or of any State.

(d) American aircraft

The term “American aircraft” means an aircraft registered under the laws of the United States.

(e) American employer

(1) The term “American employer” means an employer which is (A) the United States or any instrumentality thereof, (B) a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing, (C) an individual who is a resident of the United States, (D) a partnership, if two-thirds or more of the partners are residents of the United States, (E) a trust, if all of the trustees are residents of the United States, or (F) a corporation organized under the laws of the United States or of any State.

(2) If any employee of a foreign person is performing services in connection with a contract between the United States Government (or any instrumentality thereof) and any member of any domestically controlled group of entities which includes such foreign person, such foreign person shall be treated as an American employer with respect to such services performed by such employee.

(3) For purposes of this paragraph—

(i) The term “domestically controlled group of entities” means a controlled group of entities the common parent of which is a domestic corporation.

(ii) The term “controlled group of entities” means a controlled group of corporations as defined in section 1563(a)(1) of the Internal Revenue Code of 1986, except that—

(I) “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears therein, and

(II) the determination shall be made without regard to subsections (a)(4) and (b)(2) of section 1563 of such Code.

A partnership or any other entity (other than a corporation) shall be treated as a member of a controlled group of entities if such entity is controlled (within the meaning of section 954(d)(3) of such Code) by members of such group (including any entity treated as a member of such group by reason of this sentence).

(C) Subparagraph (A) shall not apply to any services performed by a controlled group of entities if such service is performed on a farm.

The term “agricultural labor” includes all labor performed on a farm, in the employ of the operator of a farm, in the employ of the owner or tenant or operator of a farm, in the employ of any person, in connection with the production or harvesting of any agricultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 1141j(g) of title 12, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(4) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to market or to a market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed.

See References in Text note below.
(B) In the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A) of this paragraph, but only if such operators produced all of the commodity with respect to which such service is performed. For the purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than twenty at any time during the calendar year in which such service is performed.

(5) On a farm operated for profit if such service is not in the course of the employer's trade or business.

The provisions of subparagraphs (A) and (B) of paragraph (4) of this subsection shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(g) Farm

The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(h) State

The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(i) United States

The term "United States" when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(j) Employee

The term "employee" means—

(1) any officer of a corporation; or

(2) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or

(3) any individual (other than an individual who is an employee under paragraph (1) or (2) of this subsection) who performs services for remuneration for any person—

(A) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his principal;

(B) as a full-time life insurance salesman;

(C) as a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him; or

(D) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations;

if the contract of service contemplates that substantially all of such services are to be performed personally by such individual; except that an individual shall not be included in the term "employee" under the provisions of this paragraph if such individual has a substantial investment in facilities used in connection with the performance of such services (other than in facilities for transportation), or if the services are in the nature of a single transaction not part of a continuing relationship with the person for whom the services are performed.

(k) Covered transportation service

(1) Except as provided in paragraph (2) of this subsection, all service performed in the employ of a State or political subdivision in connection with its operation of a public transportation system shall constitute covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and prior to 1951.

(2) Service performed in the employ of a State or political subdivision in connection with the operation of its public transportation system shall not constitute covered transportation service if—

(A) any part of the transportation system was acquired from private ownership after 1936 and prior to 1951, and substantially all service in connection with the operation of the transportation system is, on December 31, 1950, covered under a general retirement system providing benefits which, by reason of a provision of the State constitution dealing specifically with retirement systems of the State or political subdivisions thereof, cannot be diminished or impaired; or

(B) no part of the transportation system operated by the State or political subdivision on December 31, 1950, was acquired from private ownership after 1936 and prior to 1951, except that if such State or political subdivision makes an acquisition after 1950 from private ownership of any part of its transportation system, then, in the case of any employee who—

(C) became an employee of such State or political subdivision in connection with and at the time of its acquisition after 1950 of such part, and

(D) prior to such acquisition rendered service in employment in connection with the operation of such part of the transportation system acquired by the State or political subdivision,

the service of such employee in connection with the operation of the transportation system shall constitute covered transportation service, commencing with the first day of the third calendar quarter following the calendar quarter in which the acquisition of such part took place, unless on such first day such service of such employee
is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees described in subparagraph (C) of this paragraph.

(3) All service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system shall constitute covered transportation service if the transportation system was not operated by the State or political subdivision prior to 1951 and, at the time of its first acquisition (after 1950) from private ownership of any part of its transportation system, the State or political subdivision did not have a general retirement system covering substantially all service performed in connection with the operation of the transportation system.

(4) For the purposes of this subsection—
(A) The term “general retirement system” means any pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof for employees of the State, political subdivision, or both; but such term shall not include such a fund or system which covers only service performed in positions connected with the operation of its public transportation system.
(B) A transportation system or a part thereof shall be considered to have been acquired by a State or political subdivision from private ownership if prior to the acquisition service performed by employees in connection with the operation of the system or part thereof acquired constituted employment under this subchapter, and some of such employees became employees of the State or political subdivision in connection with and at the time of such acquisition.
(C) The term “political subdivision” includes an instrumentality of (i) a State, (ii) one or more political subdivisions of a State, or (iii) a State and one or more of its political subdivisions.

(l) Service in uniformed services

(1) Except as provided in paragraph (4), the term “employment” shall, notwithstanding the provisions of subsection (a) of this section, include—
(A) service performed after December 1956 by an individual as a member of a uniformed service on active duty, but such term shall not include any such service which is performed while on leave without pay, and
(B) service performed after December 1987 by an individual as a member of a uniformed service on inactive duty training.

(2) The term “active duty” means “active duty” as described in paragraph (21) of section 101 of title 38, except that it shall also include “active duty for training” as described in paragraph (22) of such section.

(3) The term “inactive duty training” means “inactive duty training” as described in paragraph (23) of such section.

(4)(A) Paragraph (1) of this subsection shall not apply in the case of any service, performed by an individual as a member of a uniformed service, which is creditable under section 231(b)(1) of title 45. The Railroad Retirement Board shall notify the Commissioner of Social Security, with respect to all such service which is so creditable.

(B) In any case where benefits under this subchapter are already payable on the basis of such individual’s wages and self-employment income, and if such benefit will be so reduced or terminated by reason of subparagraph (A) of this paragraph, the Commissioner shall reduce or terminate such benefit; and if any such benefit will be reduced or terminated by reason of subparagraph (A) of this paragraph, the Commissioner shall reduce or terminate such benefit.

(m) Member of a uniformed service

The term “member of a uniformed service” means any person appointed, enlisted, or inducted in a component of the Army, Navy, Air Force, Marine Corps, or Coast Guard (including a reserve component as defined in section 101(27) of title 38), or in one of those services without specification of component, or as a commissioned officer of the Coast and Geodetic Survey, the National Oceanic and Atmospheric Administration Corps, or the Regular or Reserve Corps of the Public Health Service, and any person serving in the Army or Air Force under call or conscription. The term includes—
(1) a retired member of any of those services;
(2) a member of the Fleet Reserve or Fleet Marine Corps Reserve;
(3) a cadet at the United States Military Academy, a midshipman at the United States Naval Academy, and a cadet at the United States Coast Guard Academy or United States Air Force Academy;
(4) a member of the Reserve Officers’ Training Corps, the Naval Reserve Officers’ Training Corps, or the Air Force Reserve Officers’ Training Corps, when ordered to annual training duty for fourteen days or more, and while performing authorized travel to and from that duty; and
(5) any person while en route to or from, or at, a place for final acceptance or for entry upon active duty in the military, naval, or air service—

\[^3\]So in original. The comma probably should not appear.
(A) who has been provisionally accepted for such duty; or
(B) who, under the Military Selective Service Act [50 U.S.C. App. 451 et seq.], has been selected for active military, naval, or air service;
and has been ordered or directed to proceed to such place.

The term does not include a temporary member of the Coast Guard Reserve.

(n) Crew leader

The term “crew leader” means an individual who furnishes individuals to perform agricultural labor for another person, if such individual pays (either on his own behalf or on behalf of such person) the individuals so furnished by him for the agricultural labor performed by them and if such individual has not entered into a written agreement with such person whereby such individual has been designated as an employee of such person; and such individuals furnished by the crew leader to perform agricultural labor for another person shall be deemed to be the employees of such crew leader. A crew leader shall, with respect to services performed in furnishing individuals to perform agricultural labor for another person and service performed as a member of the crew, be deemed not to be an employee of such other person.

(o) Peace Corps volunteer service

The term “employment” shall, notwithstanding the provisions of subsection (a) of this section, include service performed by an individual as a volunteer or volunteer leader within the meaning of the Peace Corps Act [22 U.S.C. 2501 et seq.].

(p) Medicare qualified government employment

(1) For purposes of sections 426 and 426–1 of this title, the term “medicare qualified government employment” means any service which would constitute “employment” as defined in subsection (a) of this section but for the application of the provisions of—
(A) subsection (a)(5) of this section, or
(B) subsection (a)(7) of this section, except as provided in paragraphs (2) and (3).

(2) Service shall not be treated as employment by reason of paragraph (1)(B) if the service is performed—
(A) by an individual who is employed by a State or political subdivision thereof to relieve him from unemployment.
(B) in a hospital, home, or other institution by a patient or inmate thereof as an employee of a State or political subdivision thereof or of the District of Columbia.
(C) by an individual, as an employee of a State or political subdivision thereof or of the District of Columbia,
(D) by any individual as an employee included under section 5551(2) of title 5 (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or a medical or dental resident in training, or
(E) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $1,000 with respect to service performed during any calendar year commencing on or after January 1, 1986, and the adjusted amount determined under section 418(c)(8)(B) of this title for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year.

As used in this paragraph, the terms “State” and “political subdivision” have the meanings given those terms in section 418(b) of this title.

(3) Service performed for an employer shall not be treated as employment by reason of paragraph (1)(B) if—
(A) such service would be excluded from the term “employment” for purposes of this section if paragraph (1)(B) did not apply;
(B) such service is performed by an individual—
(i) who was performing substantial and regular service for remuneration for that employer before April 1, 1986,
(ii) who is a bona fide employee of that employer on March 31, 1986, and
(iii) whose employment relationship with that employer was not entered into for purposes of meeting the requirements of this subparagraph; and
(C) the employment relationship with that employer has not been terminated after March 31, 1986.

(4) For purposes of paragraph (3), under regulations (consistent with regulations established under section 3121(u)(2)(D) of the Internal Revenue Code of 1986)—
(A) all agencies and instrumentalities of a State (as defined in section 418(b) of this title) or of the District of Columbia shall be treated as a single employer, and
(B) all agencies and instrumentalities of a political subdivision of a State (as so defined) shall be treated as a single employer and shall not be treated as described in subparagraph (A).

(q) Treatment of real estate agents and direct sellers

Notwithstanding any other provision of this subchapter, the rules of section 3508 of the Internal Revenue Code of 1986 shall apply for purposes of this subchapter.

(r) Service in employ of international organizations by certain transferred Federal employees

(1) For purposes of this subchapter, service performed in the employ of an international organization by an individual pursuant to a transfer of such individual to such international organization pursuant to section 3582 of title 5 shall constitute “employment” if—
(A) immediately before such transfer, such individual performed service with a Federal agency which constituted “employment” as defined in subsection (a) of this section, and
(B) such individual would be entitled, upon separation from such international organiza-
tion and proper application, to reemployment with such Federal agency under such section 3582.

(2) For purposes of this subsection:

(A) The term "Federal agency" means an agency, as defined in section 3581(1) of title 5.

(B) The term "international organization," has the meaning provided such term by section 3581(3) of title 5.


References in Text

The Internal Revenue Code of 1986, referred to in text, is classified to Title 26, Internal Revenue Code.

The Civil Service Retirement and Disability Fund, referred to in subsec. (a)(5)(B)(ii), (G), is provided for in section 8338 of Title 5, Government Organization and Employees.

Section 301 of the Federal Employees’ Retirement System Act of 1960, referred to in subsec. (a)(5)(H)(ii), is section 301 of Pub. L. 99–335, which is set out as a note under section 8331 of Title 5.


The International Organizations Immunities Act, referred to in subsec. (a)(15), is act Dec. 29, 1945, ch. 652, 59 Stat. 369, which is classified principally to chapter 23 (§731 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 288 of Title 50 and Tables.


1999—Subsec. (f)(5). Pub. L. 108–203 struck out “or is domestic service in a private home of the employer” before period at end.


1996—Subsec. (a). Pub. L. 104–188, §1116(a)(2)(A), inserted at end “For purposes of paragraph (29), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals.”

Subsec. (a)(20)(A). Pub. L. 104–188, §1116(a)(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “such individual does not receive any cash remuneration (other than as provided in subparagraph (B)).”


Subsec. (a)(7)(F)(iv). Pub. L. 103–296, §303(a)(1), substituted “$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under section 418(c)(8)(B) of this title for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year” for “$100”.


Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary”.

Subsec. (a)(15). Pub. L. 103–296, §318(b)(3), inserted before semicolon at end “, except service which constitutes employment under subsection (r) of this section”.

Subsec. (a)(19). Pub. L. 103–296, §332(b), substituted “(J), (M), or (Q)” for “(J), or (M)” in two places.


Subsec. (c)(1)(F). Pub. L. 103–296 substituted “Commissioner of Social Security” for “Secretary” wherever appearing and “the Commissioner receives” for “he receives” in subpar. (B).

Subsec. (p)(2)(E). Pub. L. 103–296, §303(b)(1), substituted “$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1985, ending on or before December 31, 1989, and the adjusted amount determined under section 418(c)(8)(B) of this title for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year” for “$100”.


1988—Subsec. (a)(5). Pub. L. 100–647, §8015(c)(11), in provision following subpar. (B) inserted “any such service performed on or after any date on which such individual performs” after “with respect to”.

Subsec. (a)(5)(H). Pub. L. 100–647, §8015(b)(1), amended subpar. (H) generally. Prior to amendment, subpar. (H) read as follows: “service performed by an individual on or after the effective date of an election by such individual under section 301(a) of the Federal Employees’ Retirement System Act of 1966, or under regulations issued under section 860 of the Foreign Service Act of 1980 or section 307 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, to become subject to chapter 84 of title 5;”.

Subsec. (a)(19). Pub. L. 100–647, §1001(d)(2)(E), substituted “(F), (J), or (M)” for “(F) or (J)” in two places.


Pub. L. 100–203, §9004(a)(1), struck out reference to service performed by an individual in the employ of his spouse.


Pub. L. 100–203, §9004(a)(2), substituted introductory provisions for former introductory provisions which read as follows: “Service not in the course of the employer’s trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his son or daughter; except that the provisions of this subparagraph shall not be applicable to any such service if—”.

Subsec. (b)(1). Pub. L. 100–203, §9001(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Except as provided in paragraph (4) of this subsection, the term ‘employment’ shall not include—”.

Subsec. (p). Pub. L. 100–203, §9023(p), directed that the heading of subsec. (p) be amended to read the same as it was set out in the general amendment of subsec. (p) by Pub. L. 99–272, see 1986 Amendment note below.


Subsec. (p). Pub. L. 99–272, §13305(b)(1), amended subsec. (p) generally. Prior to amendment, subsec. (p) read as follows: “For purposes of sections 426 and 426–1 of this title, the term ‘medicare qualified Federal employment’ means any service which would constitute ‘employment’ as defined in subsection (a) of this section but for the application of the provisions of subsection (a)(5) of this section.”


1984—Subsec. (a). Pub. L. 98–369, §2661(c), struck out the second comma after “such affiliation”.

Subsec. (a)(1). Pub. L. 98–369, §2663(a)(7)(A), struck out “(A) under contracts entered into in accordance with title V of the Agricultural Act of 1949, as amended, or (B)”.
Subsec. (a)(5)(B). Pub. L. 98–369, § 2601(a)(1), in amending subpar. (B) generally, substituted “(i) has been continuously in the employ of the United States or in the employ of any instrumentality thereof” for “if the period of such separation began before, on, or after December 31, 1983, and for purposes of this clause—(I) if an individual performing service described in subparagraph (A) returns to the performance of such service after being separated therefrom for a period of less than 365 consecutive days, regardless of whether the period began before, on, or after December 31, 1983, then such service shall be considered continuous,” for “(i) has been continuously in the employ of the United States or an instrumentality thereof since December 31, 1983 (and for this purpose an individual who returns to the performance of such service after being separated therefrom following a previous period of such service shall nevertheless be considered upon such return as having been continuously in the employ of the United States or an instrumentality thereof, regardless of whether the period of such separation began before, on, or after December 31, 1983, if the period of such separation does not exceed 365 consecutive days),”.

Subsec. (a)(5)(C) to (F). Pub. L. 98–369, § 2601(a)(2)(A), (B), in provisions following “except that this paragraph shall not apply with respect to—” redesignated cl. (I), (II), (III), and (IV) as subpars. (B), (C), (D), and (E), respectively, and redesignated former subcls. (I), (II), and (III) as clss. (I), (II), and (III), respectively, of the redesignated subpar. (D).

Subsec. (a)(5)(G). Pub. L. 98–369, § 2601(a)(2)(C), in provisions following “except that this paragraph shall not apply with respect to—” redesignated former cl. (V) as subpar. (G), and in subpar. (G) as so redesignated, designated the existing provisions of subpar. (G) as the introductory language and the first phrase of cl. (I) and added the remainder of cl. (I) following “chapter 58 of title 5,” clss. (I) and (II), and the provisions following cl. (III).


Subsec. (a)(8). Pub. L. 98–369, § 2603(a)(1), designated existing provisions as subpar. (A), substituted “this subparagraph” for “this paragraph,” and added subpar. (B).


Subsec. (a)(19). Pub. L. 98–369, § 2603(a)(1), substituted “(v) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency; or”.

Subsec. (i)(2). Pub. L. 98–369, § 2663(a)(7)(E), substituted “paragraph (21) of section 101 of title 38” for “section 102 of the Servicemen’s and Veterans’ Survivor Benefits Act” and “paragraph (22) of such section”.

Subsec. (i)(3). Pub. L. 98–369, § 2663(a)(7)(F), substituted “paragraph (23) of such section 101” for “such section 102”.


Subsec. (m). Pub. L. 98–369, § 2663(a)(7)(C)(i), (ii), in provisions preceding par. (i), substituted “a reserve component as defined in section 101(27) of title 38” for “a reserve component of a uniformed service as defined in section 102(3) of the Servicemen’s and Veterans’ Survivor Benefits Act” and inserted reference to the National Oceanic and Atmospheric Administration Corps.


Subsec. (a). Pub. L. 98–21, § 322(a)(1), added cl. (C) and struck out “either” before “A” in provisions preceding par. (1).

Subsec. (a)(5). Pub. L. 98–21, § 321(b), amended cl. (B) in provisions preceding par. (1) generally, substituting reference to section 3121(b)(6) of the Internal Revenue Code of 1954 for reference to section 101(6) of such Code “an American employer” for “a domestic corporation (as determined in accordance with section 7701 of the Internal Revenue Code of 1954)”, and “affiliate” for “subsidiary” after “with respect to”.

Subsec. (a)(6). Pub. L. 98–21, § 322(a)(2), substituted a “citizen or resident of the United States” for “a citizen of the United States” in cl. (B) in provisions preceding par. (1).

Subsec. (a)(5). Pub. L. 98–21, § 101(a)(1), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “Service performed in the employ of any instrumentality of the United States, if such instrumentality is exempt from the tax imposed by section 1410 of the Internal Revenue Code of 1939, by virtue of any provision of law which specifically refers to such section in granting such exemption.”

Subsec. (a)(6). Pub. L. 98–21, § 101(a)(1), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “(A) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is covered by a retirement system established by law of the United States: (B) Service performed by an individual in the employ of an instrumentality of the United States if such instrumentality was exempt from the tax imposed by section 1410 of the Internal Revenue Code of 1939, on December 31, 1950, and if such service is covered by a retirement system established by such instrumentality; except that the provisions of this subparagraph shall not be applicable to—”

(i) service performed in the employment of a corporation which is wholly owned by the United States;

(ii) service performed in the employ of a Federal land bank, a Federal intermediate credit bank, a bank for cooperatives, a Federal land bank association, a production credit association, a Federal Reserve Bank, a Federal Home Loan Bank, or a Federal Credit Union;

(iii) service performed in the employ of a State, county, or community committee under the Production and Marketing Administration;

(iv) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department;

(v) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Transportation, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard.

(C) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is performed—

(i) as the President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner of or to the Congress;

(ii) in the legislative branch;

(iii) in a penal institution of the United States by an inmate thereof;

(iv) by any individual as an employee included under section 3531(2) of title 5, other than as a medical or dental intern or a medical or dental resident in training;

(v) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency; or
“(vi) by any individual to whom subchapter III of chapter 83 of title 5 does not apply because such individual is subject to another retirement system (other than the retirement system of the Tennessee Valley Authority)’’.

Subsec. (a)(8). Pub. L. 98–21, §102(a), struck out subpar. (A) designation, struck out subpar. (B) which had related to service performed by employees of nonprofit organizations, and substituted “this paragraph” for “this subparagraph”.

Subsec. (p). Pub. L. 98–21, §101(a)(2), struck out designations for pars. (1) and (2) out par. (1) which related to application of the provisions of subparagraph (A), (B), or (C)(i), (ii), or (vi) of subsection (a)(6) of this section.

Subsec. (q). Pub. L. 97–448 redesignated subsec. (p), relating to treatment of real estate agents and direct sellers, as (q).


1976—Subsec. (a)(8)(B). Pub. L. 94–563 inserted “(or deemed to have been so filed under paragraph (4) or (5) of such section 3121(k))” after “section 3121(k) of the Internal Revenue Code of 1954” in provisions preceding cl. (i), inserted “(or deemed to have been filed)” after “filed” in cls. (i), (ii), and (iii), and substituted “is (or is deemed to be) in effect” for “is in effect” in provisions following cl. (iii).


1964—Subsec. (a)(6)(C)(iv). Pub. L. 89–97, §311(a)(3), inserted “, other than as a medical or dental intern or a medical or dental resident in training”.


Subsec. (a)(13). Pub. L. 89–97, §311(a)(4), struck out from definition of employment the exclusion of service performed as an intern in the employ of a hospital by an individual who has completed a four years’ course in a medical school chartered or approved pursuant to State law.


Subsec. (a)(4). Act Sept. 1, 1954, §101(a)(5), (b), redesignated par. (5) as (4), and made the exclusion with respect to services on non-American vessels or aircraft applicable only if the individual is not a United States citizen or the employer is not an American employer. Former par. (4) redesignated (3).


Subsec. (a)(6)(B). Act Sept. 1, 1954, §101(a)(5), (c)(1)(A), redesignated par. (7) as (6), and inserted “by an individual” after “Service performed” and “and if such service is covered by a retirement system established by such instrumentality;” after “December 31, 1950.”


Subsec. (a)(6)(C). Act Sept. 1, 1954, §101(a)(5), (c)(2), redesignated par. (7) as (6), and struck out exception from coverage for services in the following categories: temporary employees in the Post Office Department field service; temporary census-taking employees of the Bureau of the Census; Federal employees paid on a contract or fee basis; Federal employees receiving compensation of $12 a year or less; certain consular agents; individuals employed under Federal unemployment relief programs; and members of State, county, or community committees under the Production and Marketing Administration and similar bodies, unless such bodies are composed exclusively of full-time Federal employee and limited the exclusion of inmates or patients of United States institutions to inmates of penal institutions.

Subsec. (a)(7) to (17). Act Sept. 1, 1954, §101(a)(5), (e), struck out par. (15) and redesignated pars. (7) to (14), (16), and (17) as (6) to (15), respectively.

Subsec. (k)(3)(C). Act Sept. 1, 1954, §101(f), struck out requirement that services of homeworkers be subject to State licensing laws in order to constitute covered employment.


CHANGE OF NAME


Effective Date of 1997 Amendment
Amendment by Pub. L. 105–33 applicable with respect to all months beginning after the date on which the Director of the Office of Personnel Management issues regulations to carry out section 11–1726, District of Columbia Code, see section 11246(b)(3) of Pub. L. 105–33, set out as a note under section 3121 of Title 26, Internal Revenue Code.

Effective Date of 1996 Amendment
Amendment by Pub. L. 104–188 applicable to remuneration paid after Dec. 31, 1994, and, unless payor treated such remuneration when paid, as being subject to tax under chapter 21 of Title 26, Internal Revenue Code, set out as a note under section 3121 of Title 26.

Effective Date of 1994 Amendments


Section 303(c) of Pub. L. 103–296 provided that: “The amendments made by subsections (a), (b), and (c) [amending this section, section 418 of this title, and section 3121 of Title 26, Internal Revenue Code] shall apply with respect to service performed on or after January 1, 1995.”

Amendment by section 319(b)(1), (3) of Pub. L. 103–296 applicable with respect to any agreement to perform services after a calendar quarter following calendar quarter in which Aug. 15, 1994, occurs, see section 319(c) of Pub. L. 103–296, set out as a note under section 1402 of Title 26, Internal Revenue Code.

Amendment by section 320(b) of Pub. L. 103–296 effective with calendar quarter following Aug. 15, 1994, see section 320(c) of Pub. L. 103–296, set out as a note under section 767 of Title 26.

Effective Date of 1992 Amendment

Effective Date of 1990 Amendment
Amendment by Pub. L. 101–508 applicable with respect to service performed after July 1, 1991, see section 11332(d) of Pub. L. 101–508, set out as a note under section 3121 of Title 26, Internal Revenue Code.

Effective Date of 1989 Amendment
Amendment by Pub. L. 101–239 applicable with respect to any agreement in effect under section 3121(i) of Title 26, Internal Revenue Code, on or after June 15, 1989, with respect to which no notice of termination is in effect on such date, see section 10201(c) of Pub. L. 101–239, set out as a note under section 406 of Title 26.

Effective Date of 1988 Amendment
Amendment by section 1001(d)(2)(B) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1986, Pub. L. 99–514, in section 3121 of Title 26, Internal Revenue Code, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of Title 26, Internal Revenue Code.

Amendment by section 3015(b)(1) of Pub. L. 100–647 applicable as if such amendment had been included or reflected in section 304 of Federal Employees’ Retirement System Act of 1986, Pub. L. 99–335, at the time of its enactment (June 6, 1986), see section 8015(b)(2) of Pub. L. 100–647, set out as a note under section 3121 of Title 26.

Amendment by section 8015(c)(1) of Pub. L. 100–647 applicable to any individual only upon the performance...
by such individual of service described in subpar. (C), (D), (E), (F), (G), or (H) of subsec. (a)(5) of this section on or after Nov. 10, 1988, see section 301(c)(3) of Pub. L. 100–447, set out as a note under section 3121 of Title 26. Amendment by section 8016(a)(4)(C), (B), of Pub. L. 100–647 effective Nov. 10, 1988, except that any amendment to a provision of a particular Public Law which is referred to by its number, or to a provision of the Social Security Act [42 U.S.C. 301 et seq.], or to Title 26, as added or amended by a provision of a particular Public Law which is so referred to, effective as though included or reflected in the relevant provisions of that Public Law at the time of its enactment, see section 8016(b) of Pub. L. 100–647, set out as a note under section 3111 of Title 26.

**Effective Date of 1987 Amendment**

Amendment by section 9001(a)(1) of Pub. L. 100–203 applicable with respect to remuneration paid after Dec. 31, 1987, see section 9001(d) of Pub. L. 100–203, set out as a note under section 3121 of Title 26, Internal Revenue Code.

Amendment by section 9004(a) of Pub. L. 100–203 applicable with respect to remuneration paid after Dec. 31, 1987, see section 9004(c) of Pub. L. 100–203, set out as a note under section 3121 of Title 26.

Amendment by section 9005(a) of Pub. L. 100–203 applicable with respect to remuneration paid after Dec. 31, 1987, see section 9005(c) of Pub. L. 100–203, set out as a note under section 3121 of Title 26.

**Effective Date of 1986 Amendments**


Amendment by section 1895(b)(18)(B) of Pub. L. 99–514 applicable to services performed after Mar. 31, 1986, see section 1895(b)(18)(C) of Pub. L. 99–514, set out as a note under section 3121 of Title 26, Internal Revenue Code.


Amendment by section 13205(d)(2) of Pub. L. 99–272 provided that:

"(A) In general.—The amendments made by subsection (b) [amending this section and sections 426, 426–1, and 1395c of this title] shall be effective after March 31, 1986, and the amendments made by paragraph (3) of that subsection [subsection does not contain a paragraph (3)] shall apply to services performed (for Medicare qualified government employment) after that date.

"(B) Treatment of certain 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), no individual may be considered to be under a disability for any period beginning before April 1, 1986."
going wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of American Samoa that the Government of American Samoa desires to have the insurance system established by this subchapter extended to the officers and employees of such Government and such political subdivisions and instrumentalities, see section 103(v)(1), (2) of Pub. L. 86–778, set out as a note under section 402 of this title.

Amendment by section 103(d) of Pub. L. 86–778 applicable only with respect to service performed after 1960, see section 103(v)(1) of Pub. L. 86–778, set out as a note under section 402 of this title.

Amendment by section 103(e), (f) of Pub. L. 86–778 applicable only with respect to service performed after 1960, except that insofar as the carrying on of a trade or business (other than performance of service as an employee) is concerned, the amendment shall be applicable only in the case of taxable years beginning after 1960, see section 103(v)(1), (3) of Pub. L. 86–778, set out as a note under section 402 of this title.


Section 104(c) of Pub. L. 86–778 provided that: "The amendments made by subsections (a) and (b) of section 3121(k)(1) of Title 26, Internal Revenue Code] shall apply only with respect to services performed after 1960."

Amendment by Pub. L. 86–624 effective Aug. 21, 1959, see section 47(f) of Pub. L. 86–624, set out as a note under section 201 of this title.

effective Date of 1959 Amendments


Amendment by Pub. L. 86–70 effective Jan. 3, 1959, see section 47(d) of Pub. L. 86–70.

Effective Date of 1958 Amendment

Section 311(b) of Pub. L. 85–840 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to service performed after 1958."


Effective Date of 1956 Amendments

Amendment by act Aug. 1, 1956, ch. 837, effective Jan. 1, 1957, see section 603(a) of act Aug. 1, 1956.

Section 104(1) of act Aug. 1, 1956, ch. 836, as amended by Pub. L. 92–605, title I, § 125(b), Oct. 30, 1972, 86 Stat. 1357, provided that:

"(1) The amendment made by subsection (a) [amending this section] shall apply with respect to service performed after 1955.

"(2) The amendment made by subsection (b) [amending section 3121(k)(1) of this title] shall apply with respect to certificates filed under section 3121(k)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (section 3121(k)(1) of Title 26, Internal Revenue Code] after the date of enactment of this Act [Aug. 28, 1958]."

Effective Date of 1956 Amendments

Amendment by act Aug. 1, 1956, ch. 387, effective Jan. 1, 1957, see section 603(a) of act Aug. 1, 1956.

Section 104(1) of act Aug. 1, 1956, ch. 836, as amended by Pub. L. 92–605, title I, § 125(b), Oct. 30, 1972, 86 Stat. 1357, provided:

"(1) The amendment made by subsection (a) [amending this section] shall apply with respect to service performed after 1955. The amendments made by paragraph (1) of subsection (c) [amending section 411 of this title] shall apply with respect to service performed after 1954. The amendments made by paragraph (2) of subsection (c) [amending section 411 of this title] shall apply with respect to service performed after 1953. The amendment made by paragraph (3) of subsection (c) [amending section 411 of this title] shall apply with respect to taxable years ending after 1953. The amendment made by subsection (d) [amending section 411 of this title] shall apply with respect to taxable years ending after 1954. The amendment made by subsection (h) [amending section 411 of this title] shall apply with respect to the same taxable years with respect to which the amendment made by subsection (b) [amending section 1402 of Title 26, Internal Revenue Code] applies.
“(2)(A) Except as provided in subparagraphs (B) and (C), the amendments made by subsection (b) [amending this section] shall apply only with respect to service performed after June 30, 1957, and only if—


“(ii) in the case of the amendment made by paragraph (2) of such subsection [amending this section] the conditions prescribed in subparagraph (C) are met.


“(C) The amendment made by paragraph (2) of subsection (b) [amending this section] shall be effective only if—

“(i) the Board of Directors of the Tennessee Valley Authority submits to the Secretary of Health, Education, and Welfare, and the Secretary approves, before July 1, 1967, a plan, with respect to employees of the Tennessee Valley Authority, for the coordination, on an equitable basis, of the benefits provided by the retirement system applicable to such employees with the benefits provided by title II of the Social Security Act [this subchapter], and

“(ii) such plan specifies, as the effective date of the plan, July 1, 1967, or the first day of a prior calendar quarter beginning not earlier than January 1, 1956. If the plan specifies as the effective date of the plan a day before July 1, 1957, the amendment made by paragraph (2) of subsection (b) [amending this section] shall apply with respect to service performed on or after such effective date; except that, if such effective date is prior to the day on which the Secretary approves the plan, such amendment shall not apply with respect to service performed, prior to the day on which the Secretary approves the plan, by an individual who is not an employee of the Tennessee Valley Authority on such day.

“(D) The Secretary of Health, Education, and Welfare shall, on or before July 31, 1967, submit a report to the Congress setting forth the details of any plan approved by him under subparagraph (B) or (C).”

Amendment by section 105(b) of act Aug. 1, 1956, ch. 836, applicable with respect to service performed after 1956, see section 105(d) of such act Aug. 1, 1956, set out as a note under section 499 of this title.

**Effective Date of 1954 Amendment**

Amendment by section 101(a)(4), (5) of act Sept. 1, 1954, applicable only with respect to services (whether performed after 1954 or prior to 1955) for which the renumeration is paid after 1954, and amendment by section 101(b), (c)(1), (2), (e), and (f) of act Sept. 1, 1954, applicable only with respect to services performed after 1954, see section 101(n) of act Sept. 1, 1954, set out as a note under section 409 of this title.

**Effective Date of 1950 Amendment**

Section as added by section 104(a) of act Aug. 28, 1950, effective Jan. 1, 1951, see section 104(b) of act Aug. 28, 1950, set out as a note under section 409 of this title.

Former section 410 was struck out effective Sept. 1, 1950, set out as a note under section 409 of this title.


**Qualification and Reallocation of Federal Employees for Benefits**


**Repeal**


**Repeals and Repeal of Federal Employees for Benefits**


“(1) Any individual who—

“(A) was subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983 (as determined for purposes of section 210(a)(5)(G) of the Social Security Act [subsec. (a)(5)(G) of this section]), and

“(B)(i) received a lump-sum payment under section 8342(a) of such title 5, or under the corresponding provision of the law establishing the other retirement system described in subparagraph (A), after December 31, 1983, and prior to June 15, 1984, or received such a payment on or after June 15, 1984, pursuant to an application which was filed in accordance with such section 8342(a) or the corresponding provision of the law establishing such other retirement system prior to that date, or

“(ii) otherwise ceased to be subject to subchapter III of chapter 83 of title 5, United States Code, for a period after December 31, 1983, to which section 210(a)(5)(G)(iii) of the Social Security Act applies,
shall, if such individual again becomes subject to sub-
chapter III of chapter 83 of title 5 (or effectively applies
for coverage under such subchapter) after the date on
which he last ceased to be subject to such subchapter
but prior to, or within 30 days after, the date of the en-
actment of this Act [July 18, 1984], requalify for the ex-
emption from social security coverage and taxes under
section 210(a)(5) of the Social Security Act and section
3121(b)(5) of the Internal Revenue Code of 1986 [formerly
I.R.C. 1954] [26 U.S.C. 3121(b)(5)] as if the cessation
of coverage under title 5 had not occurred.

(2) An individual meeting the requirements of sub-
paragraphs (A) and (B) of paragraph (1) who is not in
the employ of the United States or an instrumentality
thereof on the date of the enactment of this Act [July
18, 1984] may requalify for such exemptions in the same
manner as under paragraph (1) if such individual again
becomes subject to subchapter III of chapter 83 of title
5 (or effectively applies for coverage under such sub-
chapter) within 30 days after the date on which he first
returns to service in the legislative branch after such
date of enactment, if such date (on which he returns to
service) is within 365 days after he was last in the em-
ploy of the United States or an instrumentality there-
of.

(3) If an individual meeting the requirements of sub-
paragraphs (A) and (B) of paragraph (1) does not again
become subject to subchapter III of chapter 83 of title
5 (or effectively apply for coverage under such sub-
chapter) prior to the date of the enactment of this Act
or within the relevant 30-day period as provided in
paragraph (1) or (2), social security coverage and taxes
by reason of section 210(a)(5)(G) of the Social Security
Act and section 3121(b)(5)(G) of the Internal Revenue
Code of 1986 shall, with respect to such individual's
service in the legislative branch of the Federal Govern-
ment, become effective with the first month beginning
after such 30-day period.

(4) The provisions of paragraphs (1) and (2) shall
apply only for purposes of reestablishing an exemption
from social security coverage and taxes, and do not af-
fect the amount of service to be credited to an individ-
ual for purposes of title 5, United States Code.

Sec. 125(a) of Pub. L. 99–514, as amended by Pub.
L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) For purposes of section 210(a)(5)(B)(ii) of the Social
Security Act [subsec. (a)(5)(B)(ii) of this section] and
section 3121(b)(6)(B)(ii) of the Internal Revenue Code of
1986 [formerly I.R.C. 1954] [section 3121(b)(6)(B)(ii) of Title
26, Internal Revenue Code], insofar as they relate to
service performed in the employ of a Federal home
loan bank, shall be effective:

"(A) with respect to all service performed in the em-
ploy of a Federal home loan bank on and after the
first day of the first calendar quarter which begins on
or after the date of the enactment of this Act [Oct. 30,
1972]; and

"(B) in the case of individuals who are in the em-
ploy of a Federal home loan bank on such first day,
with respect to any service performed in the employ
of a Federal home loan bank after the last day of the
sixth calendar year preceding the year in which this
Act is enacted [1972]; but this paragraph shall be ef-
fective only if an amount equal to the taxes imposed
by sections 3101 and 3111 of such Code [sections 3101
and 3111 of Title 26, Internal Revenue Code] with re-
spect to the services of such individuals performed
in the employ of Federal home loan banks after the
last day of the sixth calendar year preceding the year
in which this Act is enacted [1972] are paid under the
provisions of section 3101 of such Code [section 3122
of Title 26] by July 1, 1973, or by such later date as may
be provided in an agreement entered into before such
date with the Secretary of the Treasury or his dele-
gate for purposes of this paragraph."

Sec. 115 of Pub. L. 93–635, which prohibited
counting employment under other Federal retirement
systems in determining eligibility for benefits under
this subchapter, was repealed by Pub. L. 91–630, § 1, Dec.
31, 1970, 84 Stat. 1675. Section 2 of Pub. L. 91–630 pro-
vided that such repeal shall not apply in the case of a
person who, on Dec. 31, 1970, is receiving or is entitled
to receive benefits under any retirement system estab-
lished by the United States or any instrumentality
thereof unless he requests, in writing, that the officer
who administers his retirement system to apply it in this
case, and that any additional benefits payable pursuant
to such request shall commence on Jan. 1, 1971.

1675. Section 2 of Pub. L. 91–630 provided that such
repeal shall not apply in the case of a person who, on
Dec. 31, 1970, is receiving or is entitled to receive
benefits under any retirement system established
by the United States or any instrumentality
thereof unless he requests, in writing, that the officer
who administers his retirement system to apply it in this
case, and that any additional benefits payable pursuant
to such request shall commence on Jan. 1, 1971.

1675. Section 2 of Pub. L. 91–630 provided that such
repeal shall not apply in the case of a person who, on
Dec. 31, 1970, is receiving or is entitled to receive
benefits under any retirement system established
by the United States or any instrumentality
thereof unless he requests, in writing, that the officer
who administers his retirement system to apply it in this
case, and that any additional benefits payable pursuant
to such request shall commence on Jan. 1, 1971.
business carried on by such individual, less the deductions allowed under such subchapter which are attributable to such trade or business, plus his distributive share (whether or not distributable) of the ordinary net income or loss, as computed under section 702(a)(8) of such Code, from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary net income or loss—

(1) There shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares, and including payments under section 3833(2) of title 16 to individuals receiving 'parsonages', under section 422 or 423 of this title), together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) in the production or the management of the production of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) with respect to any such agricultural or horticultural commodity.

(2) There shall be excluded dividends on any share of stock, and interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest benefits 1 or in registered form by any corporation (including one issued by a government or political subdivision thereof), unless such dividends and interest are received in the course of a trade or business as a dealer in stocks or securities.

(3) There shall be excluded any gain or loss (A) which is considered under subchapter A of the Internal Revenue Code of 1986 as gain or loss from the sale or exchange of a capital asset, (B) from the cutting of timber, or the disposal of timber, coal, or iron ore, if section 631 of the Internal Revenue Code of 1986 applies to such gain or loss, or (C) from the sale, exchange, involuntary conversion, or other disposition of property if such property is neither (i) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor (ii) property held primarily for sale to customers in the ordinary course of the trade or business;

(4) The deduction for net operating losses provided in section 172 of the Internal Revenue Code of 1986 shall not be allowed;

(5) (A) If any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions;

(B) If any portion of a partner's distributive share of the ordinary net income or loss from a trade or business carried on by a partnership is community income, all section 119 (community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner, and no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner;

(6) A resident of the Commonwealth of Puerto Rico shall compute his net earnings from self-employment in the same manner as a citizen of the United States but without regard to the provisions of section 933 of the Internal Revenue Code of 1986;

(7) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c)(4) of this section without regard to section 107 (relating to rental value of parsonages), section 119 (relating to meals and lodging furnished for the convenience of the employer), section 104(a) (relating to earned income from sources without the United States) of the Internal Revenue Code of 1986, but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires;

(8) The exclusion from gross income provided by section 931 of the Internal Revenue Code of 1986 shall not apply;

(9) There shall be excluded amounts received by a partner pursuant to a written plan of the partnership, which meets such requirements as are prescribed by the Secretary of the Treasury or his delegate, and which provides for payments on account of retirement, on a periodic basis, to partners generally or to a class or classes of partners, such payments to continue at least until such partner's death, if—

(A) such partner rendered no services with respect to any trade or business carried on by such partnership (or its successors) during the taxable year of such partnership (or its successors), ending within or with his taxable year, in which such amounts were received, and

1 So in original. Probably should be "coupons". See 2008 Amendment note below.
§ 411

as defined in section 410(f) of this title—

by an individual or by a partnership and in

the services would constitute agricultural labor

exclusively by employees, the major portion of

which, if such trade or business were carried on

the partnership for any taxable year of the part -

nership (even though beginning prior to 1951)

that of the partnership, the distributive share

of any item of income or loss of a lim -

ited partner, as such, other than guaranteed

payments described in section 707(c) of the In -

ternal Revenue Code of 1986 to that partner for

the partnership to the extent that those pay -

ments are established to be in the nature of

remuneration for those services;

(12) There shall be excluded the distributive

share of any item of income or loss of a lim -

ited partner, as such, other than guaranteed

payments described in section 707(c) of the In -

ternal Revenue Code of 1986 to that partner for

services actually rendered to or on behalf of

the partnership to the extent that those pay -

ments are established to be in the nature of

remuneration for those services;

(13) In the case of church employee income,

the special rules of subsection (1)(1) of this sec -

tion shall apply;

(14) There shall be excluded income excluded

from taxation under section 7873 of the Inter -

nal Revenue Code of 1986 (relating to income

derived by Indians from exercise of fishing

rights);

(15) The deduction under section 162(l) of the

Internal Revenue Code of 1986 (relating to

health insurance costs of self-employed indi -

viduals) shall not be allowed; and

(16) Notwithstanding the preceding provi -

sions of this subsection, each spouse’s share of

income or loss from a qualified joint venture

shall be taken into account as provided in sec -

tion 761(f) of the Internal Revenue Code of 1986

determining net earnings from self-employ -

ment of such spouse.

If the taxable year of a partner is different from

that of the partnership, the distributive share

which he is required to include in computing his

net earnings from self-employment shall be

based upon the ordinary net income or loss of

the partnership for any taxable year of the part -

nership (even though beginning prior to 1961)

ending within or with his taxable year. In the

case of any trade or business which is carried on

by an individual or by a partnership and in

which, if such trade or business were carried on

exclusively by employees, the major portion of

the services would constitute agricultural labor

as defined in section 410(f) of this title—

(1) in the case of an individual, if the gross

income derived by him from such trade or

business is not more than the upper limit, the

net earnings from self-employment derived by

him from such trade or business may, at his

option, be deemed to be 66⅔ percent of such

gross income; or

(ii) in the case of an individual, if the gross

income derived by him from such trade or

business is more than the upper limit and the

net earnings from self-employment derived by

him from such trade or business (computed

under this subsection without regard to this

sentence) are less than the lower limit, the net

earnings from self-employment derived by him

from such trade or business may, at his option,

be deemed to be the lower limit; and

(iii) in the case of a member of a partner -

ship, if his distributive share of the gross in -

come of the partnership derived from such

trade or business (after such gross income has

been reduced by the sum of all payments to

which section 707(c) of the Internal Revenue

Code of 1986 applies) is not more than the

upper limit, his distributive share of income

described in section 702(a)(8) of such Code de -

ived from such trade or business may, at his

option, be deemed to be an amount equal to

66⅔ percent of his distributive share of such

gross income (after such gross income has

been so reduced); or

(iv) in the case of a member of a partner -

ship, if his distributive share of the gross income

of the partnership derived from such trade or

business (after such gross income has been

reduced by the sum of all payments to which

section 707(c) of the Internal Revenue Code of

1986 applies) is more than the upper limit and

his distributive share (whether or not distrib -

uted) of income described in section 702(a)(8) of

such Code derived from such trade or business

(computed under this subsection without re -

gard to this sentence) is less than the lower

limit, his distributive share of gross income
described in such section 702(a)(8) derived from

such trade or business may, at his option, be
deemed to be the lower limit.

For purposes of the preceding sentence, gross in -

come means—

(v) in the case of any such trade or business

in which the income is computed under a cash

receipts and disbursements method, the gross

receipts from such trade or business reduced

by the cost or other basis of property which

was purchased and sold in carrying on such

trade or business, adjusted (after such reduc -

tion) in accordance with the provisions of

paragraphs (1) through (6) and paragraph (8) of

this subsection; and

(vi) in the case of any such trade or business

in which the income is computed under an acc -

rual method, the gross income from such

trade or business, adjusted in accordance with

the provisions of paragraphs (1) through (6) and

paragraph (8) of this subsection;

and, for purposes of such sentence, if an indi -

vidual (including a member of a partnership) de -

rives gross income from more than one such

trade or business, such gross income (includ -

ing his distributive share of the gross income of

any partnership derived from any such trade or

business) shall be deemed to have been derived

from one trade or business.

The preceding sentence and clauses (i) through

(iv) of the second preceding sentence shall also
apply in the case of any trade or business (other than a trade or business specified in such second preceding sentence) which is carried on by an individual who is self-employed on a regular basis as defined in subsection (g) of this section, or by a partnership of which an individual is a member on a regular basis as defined in subsection (g) of this section, but only if such individual's net earnings from self-employment in the taxable year as determined without regard to this sentence are less than the lower limit and less than $400.

(2) The net earnings from self-employment, if such net earnings for the taxable year are less than $400.

An individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for the purpose of this subsection, be considered to be a nonresident alien individual. In the case of church employee income, the special rules of subsection (i)(2) of this section shall apply for purposes of paragraph (2).

(c) Trade or business

The term "trade or business", when used with reference to self-employment income or net earnings from self-employment, shall have the same meaning as when used in section 162 of the Internal Revenue Code of 1986, except that such term shall not include—

(1) The performance of the functions of a public office, other than the functions of a public office of a State or a political subdivision thereof with respect to fees received in any period in which the functions are performed in a position compensated solely on a fee basis and in which such functions are not covered under an agreement entered into by such State and the Commissioner of Social Security pursuant to section 410 of this title;

(2) The performance of service by an individual as an employee, other than—

(A) service described in section 410(a)(16) of this title performed by an individual who has attained the age of eighteen;

(B) service described in section 410(a)(16) of this title;

(C) service described in section 410(a)(11), (12), or (15) of this title performed in the United States, except service which constitutes "employment" under section 410(r) of this title;

(D) service described in paragraph (4) of this subsection;

(E) service performed by an individual as an employee of a State or a political subdivision thereof in a position compensated solely on a fee basis with respect to fees received in any period in which such service is not covered under an agreement entered into by such State and the Commissioner of Social Security pursuant to section 410 of this title,

(F) service described in section 410(a)(16) of this title;

(G) service described in section 410(a)(16) of this title;

(3) The performance of service by an individual as an employee or employee representative as defined in section 3231 of the Internal Revenue Code of 1986;

(4) The performance of service by a duly ordained, commissioned, or licensed minister of
a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(5) The performance of service by an individual in the exercise of his profession as a Christian Science practitioner; or

(6) The performance of service by an individual during the period for which an exemption under section 1402(e) of the Internal Revenue Code of 1986 is effective with respect to him.

The provisions of paragraph (4) or (5) shall not apply to service (other than service performed by a member of a religious order who has taken a vow of poverty as a member of such order) performed by an individual unless an exemption under section 1402(e) of the Internal Revenue Code of 1986 is effective with respect to him.

(d) Partnership and partner

The term “partnership” and the term “partner” shall have the same meaning as when used in subchapter K of chapter 1 of the Internal Revenue Code of 1986.

(e) Taxable year

The term “taxable year” shall have the same meaning as when used in subtitle A of the Internal Revenue Code of 1986; and the taxable year of any individual shall be a calendar year unless he has a different taxable year for the purposes of subtitle A of such Code, in which case his taxable year for the purposes of this subchapter shall be the same as his taxable year under such subtitle A.

(f) Partner’s taxable year ending as result of death

In computing a partner’s net earnings from self-employment for his taxable year which ends as a result of his death (but only if such taxable year ends within, and not with, the taxable year of the partnership), there shall be included so much of the deceased partner’s distributive share of the partnership’s ordinary income or loss for the partnership taxable year as is not attributable to an interest in the partnership during any period beginning on or after the first day of the first calendar month following the month in which such partner died. For purposes of this subsection—

(1) in determining the portion of the distributive share which is attributable to any period specified in the preceding sentence, the ordinary income or loss of the partnership shall be treated as having been realized or sustained ratably over the partnership taxable year; and

(2) the term “deceased partner’s distributive share” includes the share of his estate or of any other person succeeding, by reason of his death, to rights with respect to his partnership interest.

(g) Regular basis

An individual shall be deemed to be self-employed on a regular basis in a taxable year, or to be a member of a partnership on a regular basis in such year, if he had net earnings from self-employment, as defined in the first sentence of subsection (a) of this section, of not less than $400 in at least two of the three consecutive taxable years immediately preceding such taxable year from trades or businesses carried on by such individual or such partnership.

(h) Option dealers and commodity dealers

(1) In determining the net earnings from self-employment of any options dealer or commodities dealer—

(A) notwithstanding subsection (a)(3)(A) of this section, there shall not be excluded any gain or loss (in the normal course of the taxpayer’s activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

(B) the deduction provided by section 1292 of the Internal Revenue Code of 1986 shall not apply.

(2) For purposes of this subsection—

(A) The term “options dealer” has the meaning given such term by section 1256(g)(8) of such Code.

(B) The term “commodities dealer” means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

(C) The term “section 1256 contracts” has the meaning given to such term by section 1256(b) of such Code.

(i) Church employee income

(1) In applying subsection (a) of this section—

(A) church employee income shall not be reduced by any deduction;

(B) church employee income and deductions attributable to such income shall not be taken into account in determining the amount of other net earnings from self-employment.

(2) (A) Subsection (b)(2) of this section shall be applied separately—

(i) to church employee income, and

(ii) to other net earnings from self-employment.

(B) In applying subsection (b)(2) of this section to church employee income, “$100” shall be substituted for “$400”.

(3) Paragraph (1) shall not apply to any amount allowable as a deduction under subsection (a)(11) of this section, and paragraph (1) shall be applied before determining the amount so allowable.

(4) For purposes of this section, the term “church employee income” means gross income for services which are described in section 410(a)(8)(B) of this title and are not described in section 410(a)(8)(A) of this title.

(j) Codification of treatment of certain termination payments received by former insurance salesmen

Nothing in subsection (a) of this section shall be construed as including in the net earnings from self-employment of an individual any amount received during the taxable year from an insurance company on account of services performed by such individual as an insurance salesman for such company if—

(1) such amount is received after termination of such individual’s agreement to perform such services for such company,
(2) such individual performs no services for such company after such termination and before the close of such taxable year,

(3) such individual enters into a covenant not to compete against such company which applies to at least the 1-year period beginning on the date of such termination, and

(4) the amount of such payment—

(A) depends primarily on policies sold by or credited to the account of such individual during the last year of such agreement or the extent to which such policies remain in force for some period after such termination, or both, and

(B) does not depend to any extent on length of service or overall earnings from services performed for such company (without regard to whether eligibility for payment depends on length of service).

(k) Upper and lower limits

For purposes of subsection (a)—

(1) The lower limit for any taxable year is the sum of the amounts required under section 413(d) of this title for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.

(2) The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.


REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in text, is classified to Title 26, Internal Revenue Code.

CON ephemizations


AMendments

2008—Subsec. (a). Pub. L. 110–246, §15352(b)(1), in concluding provisions, substituted “the upper limit” for “$2,400” wherever appearing and “the lower limit” for “$1,600” wherever appearing.

Subsec. (a)(1). Pub. L. 110–246, §15301(b), inserted “and including payments under section 3833(2) of title 16 to individuals receiving benefits under section 402 or 422 of this title” after “crop shares”.

Subsec. (a)(2). Pub. L. 110–246, §4115(c)(1)(A)(i), (B)(iii), substituted “benefits” for “coupons”.


2004—Subsec. (a)(9)(A). Pub. L. 108–203, §422(a), substituted “the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse” for “the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse”.

Subsec. (a)(7). Pub. L. 108–203, §422(a), inserted “, but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires” before semicolon at end.

Subsec. (a)(15). Pub. L. 108–203, §424(a), substituted “section 162(f)” for “section 162(m)”.


1994—Subsec. (a). Pub. L. 103–296, §321(c)(6)(E), substituted “1986” for “1954” after “Code of” wherever appearing in introductory provisions, in pars. (3), (4), (6), (10), (11), and (12), and in cls. (iii) and (iv) of closing provisions.

Subsec. (a)(13) to (15). Pub. L. 103–296, §321(a)(14), (c)(5), struck out “and” at end of par. (13), substituted “and for period at end of par. (14), and”, and inserted “of the Internal Revenue Code of 1986” after “section 162(m)” in par. (15).
Subsec. (c)(2)(C). Pub. L. 103–296, § 319(b)(2), which directed that subpar. (C) be amended by inserting ‘‘except service which constitutes ‘employment’ under section 412(d) of this title’’ before the semicolon, was executed by making the insertion before the comma at end, to reflect the probable intent of Congress.


1990—Substituted last undesignated paragraph, relating to income of an individual which results from or is attributable to performance of services by such individual as a director of a corporation, as subsec. (f)(5) of section 463 of this title.


Pub. L. 100–647, § 10011(b)(4), added par. (14) relating to nonallowability of deduction under section 162(m) (health insurance costs of self-employed individuals).

1987—Subsec. (a). Pub. L. 100–203, § 9022(a), inserted par. at end relating to income of an individual which results from or is attributable to the performance of services by such individual as a director of a corporation.


Subsec. (a)(8). Pub. L. 100–203, § 9023(b)(2), amended par. (8) generally. Prior to amendment, par. (8) read as follows: ‘‘The term ‘possession of the United States’ as used in sections 931 (relating to income from sources within the possessions of the United States) and 932 (relating to citizens of possessions of the United States) of the Internal Revenue Code of 1986 shall be deemed not to include the Virgin Islands, Guam, or American Samoa.’’

1986—Subsec. (a)(13). Pub. L. 99–514, § 1883(b)(2)(B)(1), amended par. (13) generally. Prior to amendment, par. (13) read as follows: ‘‘With respect to remuneration for service which are treated as services in a trade or business under subsection (c)(2)(G) of this section—

(A) no deduction for trade or business expenses provided under the Internal Revenue Code of 1954 (other than the deduction under paragraph (11) of this subsection) shall apply; and

(B) the provisions of subsection (b)(2) of this section shall not apply; and

(C) if the amount of such remuneration from an employer for the taxable year is less than $100, such remuneration from that employer shall not be included in self-employment income.’’

Subsec. (b). Pub. L. 99–514, § 1883(b)(2)(B)(1), inserted at end ‘‘In the case of church employee income, the special rules of subsection (c)(2) of this section shall apply for purposes of paragraph (2).’’


such owner or tenant)" after "material participation by the owner or tenant" wherever appearing.

"$3,200" for "$1,200".

1972—Subsec. (a). Pub. L. 92–603, §§121(a)(1), 124(a), 140(a), struck out provisions of par. (7) relating to citizens of the United States performing the specified services as an employee of an American employer (as defined in section 410(e) of this title) or as a minister in a foreign country who has a congregation composed predominantly of United States citizens, inserted provisions in par. (7) relating to the applicability of sections 911 and 931 of title 26, and added par. (10) and provisions for an optional method for determining self-employment earnings.


Subsec. (c). Pub. L. 90–248, §115(a), substituted in last sentence "unless an exemption under section 1402(e) of the Internal Revenue Code of 1954 is effective with respect to him" for "during the period for which a certificate filed by him under section 1402(e) of the Internal Revenue Code of 1954 is in effect".

Subsec. (c)(1). Pub. L. 90–248, §122(a)(1), included in term "trade or business" functions of a public office of a State or political subdivision thereof with respect to fees received in a position compensated solely on a fee basis and which position is not covered under a State social security coverage agreement.


1965—Subsec. (a). Pub. L. 89–97, §312(a), substituted "$2,400" for "$1,200" in cls. (i) to (iv) and "$1,600" for "$1,200" in cls. (ii) and (iv) of second sentence following par. (8), wherever appearing.

Subsec. (b)(1)(C). Pub. L. 89–97, §320(a)(2)(A), inserted "and prior to 1966" after "1958" and substituted "and" for "or" after the semicolon.

Subsec. (c). Pub. L. 89–97, §§311(a)(1), (2), struck out par. (5) "doctor of medicine or" before, and "; or" after the semicolon.

"coal", if section 117(j) of the Internal Revenue Code of 1944 is applicable".


Subsec. (a)(8). Pub. L. 86–778, §108(g), added par. (8) and inserted a reference to paragraph (8) in cls. (v) and (vi) of last sentence.

Subsec. (b). Pub. L. 86–778, §103(h), provided that individuals who are not citizens of the United States but who are residents of Guam or the Virgin Islands of the United States shall not, for the purposes of this subsection, be considered to be nonresident alien individuals, and struck out provisions which related to individuals who were citizens of Puerto Rico prior to the effective date specified in section 419 of this title.

Subsec. (c)(2). Pub. L. 86–778, §106(a), excluded service described in section 410(a)(11), (12), or (15) of this title performed in the United States by a citizen of the United States.

1956—Subsec. (b)(1). Pub. L. 85–840, §102(b), inserted "and prior to 1959" after "year ending after 1954" in cl. (B), and added cl. (C).


1956—Subsec. (a). Act Aug. 1, 1956, §106(a), amended last two sentences generally, to include those businesses in which the income is computed under an accrual method, and partnerships, to change the method of computation of net earnings for individuals by permitting those whose gross income is not more than $1,800 to deem their net earnings to be 66 2/3% of such gross income, and those whose gross income is more than $1,800 and the net earnings are less than $1,200, to deem the net earnings to be $1,200, and to provide for the computation of net earnings for members of partnerships.

Subsec. (a)(1). Act Aug. 1, 1956, §104(c)(2), struck out from exclusion, income derived by an owner or tenant if such income is derived under an arrangement with another individual for the production by such other individual of agricultural or horticultural commodities if such arrangement provides for material participation by the owner or tenant in the production or the management of the production of such commodities, and there is material participation by the owner or tenant with respect to any such commodity.

Subsec. (a)(7)(B). Act Aug. 1, 1956, §104(h), included citizens of the United States who are ministers in foreign countries and have congregations composed predominantly of citizens of the United States.

Subsec. (c)(2). Act Aug. 1, 1956, §104(c)(3), included within term "trade or business" service described in section 410(a)(2) of this title.

Subsec. (c)(5). Act Aug. 1, 1956, §104(d), struck out exclusion from coverage in the case of lawyers, dentists, osteopaths, veterinarians, chiropractors, naturopaths, and optometrists.

1954—Subsec. (a)(1). Act Sept. 1, 1954, §101(g)(2), made it clear that rentals paid in crop shares would be excluded as being rentals from real estate.

Subsec. (a)(2). Act Sept. 1, 1954, §101(g)(1), redesignated par. (3) as (2), and struck out former par. (2).

Subsec. (a)(3). Act Sept. 1, 1954, §101(g)(3), redesignated par. (4) as (3), and excluded from "net earnings from self-employment" the gain or loss derived from coal royalties under certain conditions. Former par. (3) redesignated (2).

Subsec. (a)(4) to (6). Act Sept. 1, 1954, §101(g)(1), redesignated paras. (5) to (7) as (4) to (6), respectively. Former par. (4) redesignated (3).


Subsec. (a). Act Sept. 1, 1954, §101(g)(1), inserted two sentences at end.

Subsec. (b)(1). Act Sept. 1, 1954, §104(b), excluded from self-employment income, for taxable years after 1954 any amount in excess of $4,200 minus the amount of the wages paid to an individual during the taxable year.

Subsec. (c). Act Sept. 1, 1954, §101(b)(2), inserted two sentences at end making provisions of par. (4) inapplicable to service performed during the period for which a certificate filed under section 1402(e) of title 26 is in effect.

Subsec. (c)(2). Act Sept. 1, 1954, §101(d)(1), inserted "and other than service described in paragraph (4) of this subsection" after "eighteen".

Subsec. (c)(5). Act Sept. 1, 1954, §101(g)(4), struck out exclusion from coverage in case of architects, certified public accountants, accountants registered or licensed as accountants under State or municipal law, full-time
Effective Date of 1977 Amendment
Section 313(c) of Pub. L. 95–216 provided that: "The amendments made by this section [amending this section and section 1402 of Title 26, Internal Revenue Code] shall apply with respect to taxable years beginning after December 31, 1976.

Effective Date of 1974 Amendment
Section 10(c) of Pub. L. 93–368 provided that: "The amendments made by this section [amending this section and section 1402 of Title 26, Internal Revenue Code] shall apply with respect to taxable years beginning after December 31, 1973.

Effective Date of 1973 Amendments
Amendment by Pub. L. 93–233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93–233, set out as a note under section 409 of this title.
Amendment by Pub. L. 93–66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 263(c) of Pub. L. 93–66, set out as a note under section 409 of this title.

Effective Date of 1972 Amendments
Section 121(c) of Pub. L. 92–690 provided that: "The amendments made by this section [amending this section and section 1402 of Title 26, Internal Revenue Code] shall apply only with respect to taxable years beginning after December 31, 1971.
Section 140(c) of Pub. L. 92–693 provided that: "The amendments made by this section [amending this section and section 1402 of Title 26] shall apply with respect to taxable years beginning after December 31, 1972.
Amendment by Pub. L. 92–338 applicable only with respect to taxable years beginning after 1972, see section 203(c) of Pub. L. 92–338, set out as a note under section 409 of this title.

Effective Date of 1971 Amendment
Amendment by Pub. L. 92–5 applicable only with respect to taxable years beginning after 1971, see section 203(c) of Pub. L. 92–5, set out as a note under section 409 of this title.

Effective Date of 1968 Amendment
Amendment by section 108(a)(2) of Pub. L. 90–248 applicable only with respect to taxable years ending after 1967, see section 115(c) of Pub. L. 90–248, set out as a note under section 409 of this title.
Amendment by section 115(a) of Pub. L. 90–248 applicable only with respect to taxable years ending after 1967, see section 115(c) of Pub. L. 90–248, set out as a note under section 1402 of Title 26, Internal Revenue Code.
Amendment by section 118(b) of Pub. L. 90–248 applicable only with respect to taxable years ending on or after Dec. 31, 1967, see section 118(c) of Pub. L. 90–248, set out as a note under section 1402 of Title 26.
Amendment by section 122(a)(1), (2) of Pub. L. 90–248 applicable with respect to fees received after 1967 and with respect to election to exempt fees from coverage as self-employment income, see section 122(c) of Pub. L. 90–248, set out as a note under section 1402 of Title 26.

Effective Date of 1965 Amendment
Amendment by section 311(a)(1), (2) of Pub. L. 89–97 applicable only with respect to taxable years ending on or after Dec. 31, 1965, see section 311(c) of Pub. L. 89–97, set out as a note under section 410 of this title.
Amendment by section 312(c) of Pub. L. 89–97 provided that: "The amendments made by this section [amending this section and section 1402 of Title 26, Internal Revenue Code] shall apply only with respect to taxable years beginning after December 31, 1965.
Amendment by section 319(b) of Pub. L. 89–97 applicable with respect to taxable years beginning after December 31, 1965, see section 319(e) of Pub. L. 89–97, set out as a note under section 1402 of Title 26.
Amendment by section 320(c) of Pub. L. 89–97 applicable with respect to taxable years ending after 1965, see section 320(c) of Pub. L. 89–97, set out as a note under section 3121 of Title 26.

Effective Date of 1964 Amendment
Amendment by Pub. L. 88–272 applicable with respect to amounts received or accrued in taxable years beginning after Dec. 31, 1963, attributable to iron ore mined in such years, see section 227(c) of Pub. L. 88–272, set out as a note under section 272 of Title 26, Internal Revenue Code.

Effective Date of 1960 Amendment
Amendment by section 103(g) of Pub. L. 86–778 applicable only in the case of taxable years beginning after 1960, except that, insofar as involves the nonapplication of section 932 of Title 26, Internal Revenue Code, to the Virgin Islands for purposes of sections 1401 et seq. of Title 26 and this section, such amendment shall be effective in the case of all taxable years with respect to which such sections 1401 et seq. (and corresponding provisions of prior law) and this section are applicable, see section 103(v)(1) of Pub. L. 86–778, set out as a note under section 402 of this title.
Amendment by section 193(b) of Pub. L. 86–778 applicable only in the case of taxable years beginning after 1960, see section 103(v)(1), (3) of Pub. L. 86–778, set out as a note under section 402 of this title.
Amendment by section 103(h)(3) of Pub. L. 86–778 applicable only with respect to taxable years ending on or after December 31, 1960; except that for purposes of section 203 of the Social Security Act [section 403 of this title], the amendment made by subsection (a) [amending this section] shall apply only with respect to taxable years of the individual performing the service involved (beginning after the date of the enactment of this Act [Sept. 13, 1960]).

Effective Date of 1958 Amendment
Section 313(b) of Pub. L. 85–840 provided that: "The amendment made by subsection (a) [amending this section] shall apply—
"(1) with respect to individuals who die after the date of the enactment of this Act [Aug. 28, 1958], and
"(2) with respect to any individual who died after 1955 and on or before the date of the enactment of this Act [Aug. 28, 1958], but only if the requirements of section 603(b)(2) of this Act [section 603(b)(2) of this title] are met."

Effective Date of 1957 Amendment
Amendment by Pub. L. 85–239 applicable, except for purposes of section 403 of this title, only with respect to taxable years ending on or after December 31, 1957, see section 5(c) of Pub. L. 85–239, set out as a note under section 1402 of Title 26, Internal Revenue Code.

Effective Date of 1956 Amendment
Amendment by section 104(c)(3), (d) of act Aug. 1, 1956, applicable with respect to taxable years ending after 1955, see section 104(i) of such act Aug. 1, 1956, set out as a note under section 410 of this title.
Amendment by section 104(c)(3) of act Aug. 1, 1956, applicable with respect to taxable years ending after 1954, see section 104(i) of act Aug. 1, 1956, set out as a note under section 410 of this title.
Amendment by section 104(b) of act Aug. 1, 1956, applicable with respect to the same taxable years with respect to which the amendment to section 312(k)(1) of Title 26, Internal Revenue Code, applies, see section 104(c) of act Aug. 1, 1956, set out as a note under section 410 of this title, and section 201(m)(2) of such act Aug. 1, 1956, set out as a note under section 3121 of Title 26. Section 106(b) of act Aug. 1, 1956, provided that: "The amendment made by subsection (a) [amending this section] shall be effective with respect to taxable years ending on or after December 31, 1956."

**Effective Date of 1964 Amendment**

Amendments by section 101(d), (g)(1), (2), (4) of act Sept. 1, 1964, applicable with respect to taxable years beginning after 1950, and, for purposes of section 405 of this title, the amendments made by paragraphs (1), (2), and (4) of subsection (g) and by subsection (d) [of said section 190] effective with respect to net earnings from self-employment derived after 1954, see section 101(m) of act Sept. 1, 1964, set out as a note under section 405 of this title.

**Effective Date of 1956 Amendment**

Amendment by act Sept. 23, 1956, applicable with respect to taxable years beginning after Dec. 31, 1956, see section 221(k) of act Sept. 23, 1956.

**Plan Amendments Not Required Until January 1, 1989**

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101–1147 and 1171–1177] or title XVIII [§§1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

**Treaty Obligations**

Section 214 of act Sept. 23, 1956, provided that: "No amendment made by this Act [see Tables for classification] shall apply in any case where its application would be contrary to any treaty obligation of the United States."

§ 412. Self-employment income credited to calendar years

(a) Taxable years prior to 1978

For the purposes of determining average indexed monthly earnings, average monthly wage, and quarters of coverage the amount of self-employment income derived during any taxable year which begins before 1978 shall—

1. In the case of a taxable year which is a calendar year, be credited equally to each quarter of such calendar year; and

2. In the case of any other taxable year, be credited equally to the calendar quarter in which such taxable year ends and to each of the next three or fewer preceding quarters any part of which is in such taxable year.

(b) Taxable years after 1977

Except as provided in subsection (c), for the purposes of determining average indexed monthly earnings, average monthly wage, and quarters of coverage the amount of self-employment income derived during any taxable year which begins after 1977 shall—

1. In the case of a taxable year which is a calendar year or which begins with or during a calendar year and ends with or during such year, be credited to such calendar year; and

2. In the case of any other taxable year, be allocated proportionately to the two calendar years, portions of which are included within such taxable year, on the basis of the total of months in each such calendar year which are included completely within the taxable year.

For purposes of clause (2), the calendar month in which a taxable year ends shall be treated as included completely within that taxable year.

**Proportional allocation**

For the purpose of determining average indexed indexed monthly earnings, average monthly wage, and quarters of coverage the amount of self-employment income derived during any taxable year shall be allocated to the two calendar years, portions of which are included within such taxable year, in the same proportion to the total of such deemed self-employment income as the sum of the amounts applicable under section 412(d) of this title for the calendar quarters ending with or within each such calendar year bears to the lower limit for such taxable year specified in section 411(k)(1) of this title.


**Conspicuation**


**Amendments**

2008—Subsec. (b). Pub. L. 110–246, §15352(b)(3)(A), substituted “Except as provided in subsection (c), for the purposes” for “For the purposes” in introductory provisions.


1977—Pub. L. 95–216 designated existing provisions as subsec. (a), substituted provisions relating to crediting of self-employment income to calendar years for provisions relating to crediting of self-employment income to calendar quarters, and added subsec. (b).

**Effective Date of 2008 Amendment**


Amendment by section 15352(b)(3) of Pub. L. 110–246 applicable to taxable years beginning after Dec. 31, 2007, see section 15352(c) of Pub. L. 110–246, set out as a note under section 1402 of Title 26, Internal Revenue Code.
§ 413. Quarter and quarter of coverage
(a) Definitions
For the purposes of this subchapter—
(1) The term “quarter”, and the term “calendar quarter”, mean a period of three calendar months ending on March 31, June 30, September 30, or December 31.
(2) (A) The term “quarter of coverage” means—
(i) for calendar years before 1978, and subject to the provisions of subparagraph (B), a quarter in which an individual has been paid $50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 412 of this title) with $100 or more of self-employment income; and
(ii) for calendar years after 1977, and subject to the provisions of subparagraph (B), each portion of the total of the wages paid and the self-employment income credited (pursuant to section 412 of this title) to an individual in a calendar year which equals the amount required for a quarter of coverage in that calendar year (as determined under subsection (d) of this section), with such quarter of coverage being assigned to a specific calendar quarter in such calendar year only if necessary in the case of any individual who has attained age 62 or died or is under a disability and the requirements for insured status in subsection (a) or (b) of section 414 of this title, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 416(i) of this title would not otherwise be met.

(B) Notwithstanding the provisions of subparagraph (A)—
(i) no quarter after the quarter in which an individual dies shall be a quarter of coverage, and no quarter any part of which is included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;
(ii) if the wages paid to an individual in any calendar year equal $3,000 in the case of a calendar year before 1951, or $3,600 in the case of a calendar year after 1951 and before 1955, or $4,200 in the case of a calendar year after 1954 and before 1959, or $4,800 in the case of a calendar year after 1958 and before 1966, or $6,600 in the case of a calendar year after 1965 and before 1968, or $7,800 in the case of a calendar year after 1967 and before 1972, or $9,000 in the case of a taxable year beginning after 1971 and before 1973, or $10,800 in the case of a calendar year beginning after 1972 and before 1974, or $13,200 in the case of a taxable year beginning after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 430 of this title) which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1974 and before 1978, each quarter any part of which falls in such year shall (subject to clauses (i) and (v)) be a quarter of coverage;
(iii) if an individual is paid wages for agricultural labor in a calendar year after 1954 and before 1978, then, subject to clauses (i) and (v), (I) the last quarter of such year which can be but is not otherwise a quarter of coverage shall be a quarter of coverage if such wages equal or exceed $100 but are less than $200; (II) the last two quarters of such year which will be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed $200 but are less than $300; (III) the last three quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed $300 but are less than $400; and (IV) each quarter of such year which is not otherwise a quarter of coverage shall be a quarter of coverage if such wages are $400 or more;
(v) no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter;
(vi) not more than one quarter of coverage may be credited to a calendar quarter; and
(vii) no more than four quarters of coverage may be credited to any calendar year after 1977.

If in the case of an individual who has attained age 62 or died or is under a disability and who has been paid wages for agricultural labor in a calendar year after 1954 and before 1978, the requirements for insured status in subsection (a) or (b) of section 414 of this title, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 416(i) of this title are not met after assignment of quarters of coverage to quarters in such year as provided in clause (iv) of the preceding sentence, but would be met if such quarters of coverage were assigned to different quarters in such year, then such quarters of coverage shall instead be assigned, for purposes only of determining compliance with such requirements, to such different quarters. If, in the case of an individual who did not die prior to January 1, 1955, and who attained age 62 (if a woman) or age 65 (if a man) or died before July 1, 1957, the requirements for insured status in section 414(a)(3) of
this title are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors, the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned.

(b) Crediting of wages paid in 1937

With respect to wages paid to an individual in the six-month periods commencing either January 1, 1937, or July 1, 1937: (A) if wages of not less than $100 were paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than $100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained.

(c) Alternative method for determining quarters of coverage with respect to wages in period from 1937 to 1950

For purposes of sections 414(a) and 415(d) of this title, an individual shall be deemed to have one quarter of coverage for each $400 of his total wages prior to 1951 (as defined in section 415(d)(1)(C) of this title), except where such individual is not a fully insured individual on the basis of the number of quarters of coverage so derived plus the number of quarters of coverage derived from the wages and self-employment income credited to such individual for periods after 1950.

(d) Amount required for a quarter of coverage

(1) The amount of wages and self-employment income which an individual must have in order to be credited with a quarter of coverage in any year under subsection (a)(2)(A)(i) of this section shall be $250 in the calendar year 1978 and the amount determined under paragraph (2) of this subsection for years after 1978.

(2) The Commissioner of Social Security shall, on or before November 1 of 1978 and of every year thereafter, determine and publish in the Federal Register the amount of wages and self-employment income which an individual must have in order to be credited with a quarter of coverage in the succeeding calendar year. The amount required for a quarter of coverage shall be the larger of—

(A) the amount in effect in the calendar year in which the determination under this subsection is made, or

(B) the product of the amount prescribed in paragraph (1) which is required for a quarter of coverage in 1978 and the ratio of the national average wage index (as defined in section 409(k)(1) of this title) for the calendar year before the year in which the determination under this paragraph is made to the national average wage index (as so defined) for 1976, with such product, if not a multiple of $10, being rounded to the nearest higher multiple of $10 where such amount is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.


AMENDMENTS


Secretary and computed without regard to the limitations specified in section 409(a)(1) of this title reported to the Secretary of the Treasury or his delegate” and “as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a)(1) of this title” for “(as so defined and computed).”


1977—Subsec. (a)(2). Pub. L. 95–216, §§351(c), 352(a), substituted provisions relating to factors respecting definition of “quarters of coverage” for calendar years before 1978, subject to the provisions of subpar. (B) of this par., and for calendar years after 1977, subject to provisions of subpar. (B) of this par., for provisions relating to factors respecting definition of “quarters of coverage” as quarters in which the individual has been paid $50 or more in wages (except wages for agricultural labor paid after 1984) or for which he has been credited (as determined under section 412 of this title) with $100 or more of self-employment income.


Pub. L. 93–66 substituted “$12,600” for “$12,000”, in cls. (ii) and (iii).


1968—Subsec. (a)(2)(ii). Pub. L. 90–248, §108(a)(3)(A), inserted “and no quarter any part of which was included in a period of disability, other than the initial quarter of such period, and which provided that any quarter any part of which was included in a period of disability, other than the first quarter of such period, could not be counted as a quarter of coverage in a calendar year in which wages of $3,000 or more were paid.”

Subsec. (a)(2)(B). Pub. L. 91–239, §10208(d)(2)(A), Act Aug. 1, 1966, substituted “if such wages equal or exceed $100 but are less than $200” for “if such wages are less than $200”.

1964—Subsec. (a)(2)(A). Act Sept. 1, 1964, §106(a)(1), redefined “quarter of coverage,” in the case of quarters occurring before 1961, to exclude any quarter any part of which was included in a period of disability, other than the initial quarter of such period, and which provided that any quarter any part of which was included in a period of disability, other than the first quarter of such period, could not be counted as a quarter of coverage in a calendar year in which wages of $3,000 or more were paid.

Subsec. (a)(2)(B). Act Sept. 1, 1964, §104(c), provided that for calendar years after 1954 an individual shall be credited with a quarter of coverage for each quarter of the year if his wages for the year equal $4,200 and he shall be credited with a quarter of coverage for each quarter of a taxable year ending after 1964 in which the sum of his wages and self-employment income equal $4,200.

Act Sept. 1, 1964, §108(b), provided for crediting quarters of coverage on basis of annual amounts of wages received for agricultural labor.

Subsec. (a)(2)(B). Act Sept. 1, 1964, §106(a)(2), redefined “quarter of coverage”, for quarters occurring after 1960, to exclude any quarter any part of which was included in a period of disability, other than the first and last quarters of such period.


Subsec. (a)(2)(B). Act July 18, 1962, §3(a)(2), inserted “and no quarter any part of which was included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage”.

Subsec. (a)(2)(B)(iii). Act July 18, 1962, §3(a)(3), substituted “shall (subject to clause (i) of this subparagraph) be a quarter of coverage” for “shall be a quarter of coverage”.

Effective Date of 1994 Amendment


Effective Date of 1990 Amendment

Section 5117(c)(3) of Pub. L. 101–508 provided that: “The amendments made by this subsection [amending this section and provisions set out as a note below] shall apply only with respect to individuals who—

(A) make application for benefits under section 202 of the Social Security Act [section 402 of this title] after the 18-month period following the month in which this Act is enacted [November 1990], and

(B) are not entitled to such benefits under section 227 or 228 of such Act [sections 427 or 428 of this title] for the month in which such application is made.”
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 provisions of law involved) before that date, see section 2664(a) of Pub. L. 98-369, set out as a note under section 401 of this title.

Effective Date of 1977 Amendment

Amendment by section 351(c) of Pub. L. 95-216 effective Jan. 1, 1978, see section 351(d) of Pub. L. 95-216, set out as a note under section 409 of this title.

Section 352 of Pub. L. 95-216 provided that: "That the amendments made by this section [amending this section] shall be effective January 1, 1978."

Effective Date of 1973 Amendments

Amendment by Pub. L. 93-233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93-233, set out as a note under section 409 of this title.

Amendment by Pub. L. 93-66 applicable only with respect to remuneration paid after, and taxable years beginning after 1974, see section 108(c) of Pub. L. 90-248, set out as a note under section 409 of this title.

Effective Date of 1972 Amendment

Amendment by section 233(a)(3)(A) of Pub. L. 92-336 applicable only with respect to remuneration paid after December 1971, and amendment by section 233(a)(3)(B) of Pub. L. 92-336 applicable only with respect to taxable years beginning after 1971, see section 233(c) of Pub. L. 92-336, set out as a note under section 409 of this title.

Effective Date of 1971 Amendment

Amendment by section 203(a)(3)(A) of Pub. L. 92-5 applicable only with respect to remuneration paid after December 1970, and amendment by section 203(a)(3)(B) of Pub. L. 92-5 applicable only with respect to taxable years beginning after 1971, see section 203(c) of Pub. L. 92-5, set out as a note under section 409 of this title.

Effective Date of 1968 Amendment

Amendment by section 108(a)(3)(A) of Pub. L. 90-248 applicable only with respect to remuneration paid after December 1967, and amendment by section 108(a)(3)(B) applicable only with respect to taxable years ending after 1967, see section 108(c) of Pub. L. 90-248, set out as a note under section 409 of this title.

Effective Date of 1965 Amendment

Amendment by section 320(a)(3)(A) of Pub. L. 89-97 applicable with respect to remuneration paid after December, 1965, and amendment by section 320(a)(3)(B) of Pub. L. 89-97 applicable with respect to taxable years ending after 1965, see section 320(c) of Pub. L. 89-97, set out as a note under section 321 of Title 26, Internal Revenue Code.

Effective Date of 1961 Amendment

Amendment by Pub. L. 87-64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961, and with respect to lump-sum death payments under the subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

Effective Date of 1960 Amendment

Section 260(b) of Pub. L. 86-778 provided that:

"'(1) Except as provided in paragraph (2), the amendment made by subsection (a) [amending this section] shall apply only in the case of monthly benefits under title II of the Social Security Act [this subchapter], and the lump-sum death payment under section 202 of such Act [section 402 of this title], based on the wages and self-employment income of an individual—

'(A) who becomes entitled to benefits under section 202(a) or 223 of such Act [section 402(a) or 423 of this title] on the basis of an application filed in or after the month in which this Act is enacted [September 1960]; or

'(B) who is (or would, but for the provisions of section 215(f)(6) of the Social Security Act [section 415(f)(6) of this title], be entitled to a recomputation of his primary insurance amount under section 215(f)(2)(A) of such Act on the basis of an application filed in or after the month in which this Act is enacted [September 1960]; or

'(C) who dies without becoming entitled to benefits under section 202(a) or 223 of the Social Security Act [section 402(a) or 423 of this title], and (unless he dies a currently insured individual but not a fully insured individual (as those terms are defined in section 214 of such Act [section 414 of this title])) without leaving any individual entitled (on the basis of his wages and self-employment income) to survivor's benefits or a lump-sum death payment under section 202 of such Act [section 402 of this title] on the basis of an application filed prior to the month in which this Act is enacted [September 1960]; or

'(D) who dies in or after the month in which this Act is enacted [September 1960] and whose survivors are (or would, but for the provisions of section 215(f)(6) of the Social Security Act [section 415(f)(6) of this title], be entitled to a recomputation of primary insurance amount under section 215(f)(4)(A) of such Act; or

'(E) who dies prior to the month in which this Act is enacted [September 1960] and (i) whose survivors are (or would, but for the provisions of section 215(f)(6) of the Social Security Act, be) entitled to a recomputation of his primary insurance amount under section 215(f)(4)(A) of such Act [section 415(f)(4)(A) of this title], and (ii) on the basis of whose wages and self-employment income no individual was entitled to survivor's benefits or a lump-sum death payment under section 202 of such Act [section 402 of this title] on the basis of an application filed prior to the month in which this Act is enacted [September 1960] and whose survivors (or would, but for the fact that such recomputation would not result in a higher primary insurance amount, be) entitled to have his primary insurance amount recomputed under such subparagraph; or

'(G) who dies and whose survivors are (or would, but for the fact that such recomputation would not result in a higher primary insurance amount for such individual, be) entitled, on the basis of an application filed in or after the month in which this Act [September 1960] is enacted, to have his primary insurance amount recomputed under section 102(f)(2)(B) of the Social Security Amendments of 1965 [set out as a note under section 415 of this title] in or after the month in which this Act is enacted [September 1960] and is (or would, but for the fact that such recomputation would not result in a higher primary insurance amount, be) entitled to have his primary insurance amount recomputed under such subparagraph; or

'(H) who dies and whose survivors are (or would, but for the fact that such recomputation would not result in a higher primary insurance amount for such individual, be) entitled, on the basis of an application filed in or after the month in which this Act [September 1960] is enacted, to have his primary insurance amount recomputed under section 102(f)(2)(B) of the Social Security Amendments of 1965 [set out as a note under section 415 of this title].

'(2) The amendment made by subsection (a) [amending this section] shall also be applicable in the case of applications for disability determination under section 216(i) of the Social Security Act [section 416(i) of this title] filed in or after the month in which this Act is enacted [September 1960].

'(3) Notwithstanding any other provisions of this subsection, in the case of any individual who would not..."
be a fully insured individual under section 214(a) of the Social Security Act [section 414(a) of this title], except for the enactment of this section, no benefits shall be payable on the basis of his wages and self-employment income for any month prior to the month in which this Act is enacted [September 1960]."

Section 3 of Pub. L. 86–442 provided in part that: "This amendment [amending this section] shall be applicable in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months after June 1957, and in the case of the lump-sum death payments under such title, with respect to deaths occurring after such month: the requirements for filing applications for such benefits and payments within certain time limits, as prescribed in sections 202(i) and 202(j) of such title [sections 402(i) and 402(j) of this title], shall not apply if an application is filed within the one-year period beginning with the first day of the month after the month in which this Act is enacted [April 1960]."

**Effective Date of 1954 Amendment**

Section 106(h) of act Sept. 1, 1954, provided that: "Notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f) of this title], the amendments made by subsections (a), (b), (c), (d), (e), and (f) of this section [amending this section and sections 414 to 417 of this title and section 228e of Title 45, Railroads] shall apply with respect to monthly benefits under title II of the Social Security Act [subchapter II of this chapter] for months after June 1955, and with respect to lump-sum death payments under such title, in the case of deaths occurring after June 1955; but no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 215(f) of the Social Security Act [section 415(f) of this title]."

**Effective and Termination Date of 1952 Amendment**

Section 3(f) of act July 18, 1952, provided that: "Notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title], the amendments made by subsections (a), (b), (c), (d) and (f) of this section [amending this section and sections 414 to 417 of this title and section 228e of Title 45, Railroads] shall apply with respect to monthly benefits under title II of the Social Security Act [subchapter II of this chapter] for months after June 1953, and with respect to lump-sum death payments under such title, in the case of deaths occurring after June 1955; but no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 215(f) of the Social Security Act [section 415(f) of this title]."

**§ 414. Insured status for purposes of old-age and survivors insurance benefits**

For the purposes of this subchapter—

(a) "Fully insured individual" defined

The term "fully insured individual" means any individual who had not less than—

(1) one quarter of coverage (whenever acquired) for each calendar year elapsing after 1950 (or, if later, the year in which he attained age 21) and before the year in which he died or (if earlier) the year in which he attained age 62, except that in no case shall an individual be a fully insured individual unless he has at least 6 quarters of coverage; or

(2) 40 quarters of coverage; or

(3) in the case of an individual who died before 1951, 6 quarters of coverage; not counting as an elapsed year for purposes of paragraph (1) any year any part of which was included in a period of disability (as defined in section 416(l) of this title), and who satisfies the criterion specified in subsection (c) of this section—

(b) "Currently insured individual" defined

The term "currently insured individual" means any individual who had not less than six quarters of coverage during the thirteen-quarter period ending with (1) the quarter in which he died, (2) the quarter in which he became entitled to old-age insurance benefits, (3) the quarter in which he became entitled to primary insurance benefits under this subchapter as in effect prior to August 28, 1960, or (4) in the case of any individual entitled to disability insurance benefits, the quarter in which he most recently became entitled to disability insurance benefits, not counting as part of such thirteen-quarter period any quarter any part of which was included in a period of disability unless such quarter was a quarter of coverage, and who satisfies the criterion specified in subsection (c) of this section.

(c) Criterion described

For purposes of subsections (a) and (b) of this section, the criterion specified in this subsection is that the individual, if not a United States citizen or national—

(1) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 405(c)(2)(B)(i) of this title; or

(2) at the time any such quarters of coverage are earned—

(A) is described in subparagraph (B) or (D) of section 110(a)(15) of title 8;

(B) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

(C) the business engaged in or service as a crewman performed is within the scope of the terms of such individual’s admission to the United States.


**Codification**

Section 214(a) of Pub. L. 108–203, which directed amendment of section 214, was executed to this section, which is section 214 of the Social Security Act, to reflect the probable intent of Congress. See 2004 Amendment notes below.
AMENDMENTS

2004—Subsec. (a). Pub. L. 108–203, § 211(a)(1), inserted "and who satisfies the criterion specified in subsection (c) of this section" before period at end. See Codification note above.

Subsec. (b). Pub. L. 108–203, § 211(a)(2), inserted "and who satisfies the criterion specified in subsection (c) of this section" before period at end. See Codification note above.


1992—Subsec. (a)(1). Pub. L. 92–605 struck out provisions setting a separate age computation point for women and reduced from age 65 to age 62 the age computation point for men.

1961—Subsec. (a). Pub. L. 87–64 required one quarter of coverage for each calendar year elapsing after 1950 (or after the year in which the individual attained age 21, if that was later than 1950) instead of one quarter of coverage for each three of the quarters elapsing after 1950, and struck out "unless such quarter was a quarter of coverage" after "a period of disability (as defined in section 411(i) of this title)."

1960—Subsec. (a). Pub. L. 86–778 changed provisions which required an individual to have one quarter of coverage for each two quarters to provide that an individual is fully insured if he has not less than one quarter of coverage for each three quarters elapsing after Dec. 31, 1950, or, if later, December 31 of the year in which he attained the age of 21 years, and inserted provisions defining fully insured in the case of an individual who died prior to 1951 as one who had six quarters of coverage.

1958—Subsec. (b). Pub. L. 85–440 included within definition of "currently insured individual" an individual entitled to disability insurance benefits who has not less than six quarters of coverage during the thirteen-quarter period ending with the quarter in which he most recently became entitled to disability insurance benefits.

1956—Subsec. (a)(3). Act Aug. 1, 1956, provided that an individual who had at least six quarters of coverage after 1954 would be fully insured if all but four of the quarters elapsing after 1954 and prior to July 1, 1957, or if later, the quarter in which he attained retirement age or died, whichever first occurred, are quarters of coverage.

1954—Subsec. (a)(2)(B). Act Sept. 1, 1954, § 106(b)(1), excluded from the elapsed period under subsec. (a)(2)(A) any quarter any part of which was included in a period of disability, unless such quarter was a quarter of coverage.

1953—Subsec. (a)(3). Act Sept. 1, 1953, § 108(a), added par. (3) and redesignated former par. (5) as (4).

Subsec. (b). Act Sept. 1, 1954, § 106(b)(2), inserted "not counting as part of such thirteen-quarter period any quarter any part of which was included in a period of disability unless such quarter was a quarter of coverage."

1952—Subsec. (a)(2)(B). Act July 18, 1952, § 3(b)(1), inserted "not counting as an elapsed quarter for purposes of subparagraph (A) any quarter any part of which was included in a period of disability (as defined in section 416(i) of this title unless such quarter was a quarter of coverage)"

Subsec. (b). Act July 18, 1952, § 3(b)(2), inserted "not counting as part of such thirteen-quarter period any quarter any part of which was included in a period of disability unless such quarter was a quarter of coverage" after "August 28, 1950."

EFFECTIVE DATE OF 2004 AMENDMENT
Pub. L. 108–203, title II, § 211(c), Mar. 2, 2004, 118 Stat. 518, provided that: "The amendments made by this section [amending this section and sections 415, 416, 423, and 427 of this title and provisions set out as a note under section 415 of this title] (except the amendment made by subsection (i), and the amendment made by subsection (g) to section 208(i) of the Social Security Act) shall apply only in the case of a man who attains (or would attain) age 62 after December 1974. The amendment made by subsection (i), and the amendment made by subsection (g) to section 209(i) of the Social Security Act [section 409(i) of this title and section 312(a)(9) of Title 26, Internal Revenue Code], shall apply only with respect to payments after 1974."

(2) In the case of a man who attains age 62 prior to 1975, the number of his elapsed years for purposes of section 215(b)(3) of the Social Security Act [section 415(b)(3) of this title] shall be equal to (A) the number determined under such section as in effect on September 1, 1972, or (B) if less, the number determined as though he attained age 65 in 1975, except that monthly benefits under title II of the Social Security Act [this subchapter] for months prior to January 1973 payable on the basis of his wages and self-employment income shall be determined as though this section had not been enacted.

(3) (A) In the case of a man who attains or will attain age 62 in 1973, the figure '65' in sections 214(a)(1), 223(c)(1)(A), and 216(i)(3)(A) of the Social Security Act [subsec. (a)(1) of this section and sections 423(c)(1)(A) and 416(i)(3)(A) of this title] shall be deemed to read '63'.

(B) In the case of a man who attains or will attain age 62 in 1974, the figure '65' in sections 214(a)(1), 223(c)(1)(A), and 216(i)(3)(A) of the Social Security Act [subsec. (a)(1) of this section and sections 423(c)(1)(A) and 416(i)(3)(A) of this title] shall be deemed to read '63'.

EFFECTIVE DATE OF 1961 AMENDMENT
Section 103(b) of Pub. L. 87–64 provided that: 'The amendment made by subsection (a) [amending this section] shall apply—

(1) in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months beginning on or after the effective date of this title [see note set out under section 402 of this title], based on applications filed in or after March 1961."

(2) in the case of lump-sum death payments under such title with respect to deaths on or after the effective date of this title, and

(3) in the case of an application for a disability determination (with respect to a period of disability, as defined in section 216(i) of such Act [section 416(i) of this title]) filed in or after March 1961.'

EFFECTIVE DATE OF 1960 AMENDMENT
Section 204(d)(1) of Pub. L. 86–778 provided that: 'The amendments made by subsections (a) and (b) of this section [amending this section and provisions set out as a note under section 415 of this title] shall be applicable (A) in the case of monthly benefits under title II of the Social Security Act [this subchapter], for months after the month in which this Act is enacted [September 1960], on the basis of applications filed in or after such month, (B) in the case of lump-sum death payments under such title with respect to deaths occurring after such month, and (C) in the case of an application for a disability determination with respect to a period of disability (as defined in section 216(i) of the Social Security Act [section 416(i) of this title]) filed after such month."

EFFECTIVE DATE OF 1958 AMENDMENT
Amendment by section 205(l) of Pub. L. 85–440 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. 85–440, set out as a note under section 416 of this title.
Effective Date of 1954 Amendment

Amendment by section 106(b) of act Sept. 1, 1954, applicable with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recompensation of benefits by reason of such amendments shall be regarded as a re-computation for purposes of section 415(f) of this title, see section 106(h) of act Sept. 1, 1954, set out as a note under section 415 of this title.

Effective and Termination Date of 1952 Amendment

For effective and termination dates of amendment by act July 18, 1952, see section 3(1), (g) of act July 18, 1952, set out as a note under section 413 of this title.

Employees of Nonprofit Organizations as Fully Insured Individuals


"(1) If any individual—

"(A) on January 1, 1984, is age 55 or over, and is an employee of an organization described in section 219(a)(8)(B) of the Social Security Act [42 U.S.C. 419(a)(8)(B)] (A) which does not have in effect on that date a waiver certificate under section 3121(k) of the Internal Revenue Code of 1986 [former] L.R.C. 1954) [26 U.S.C. 3121(k)] and (B) to the employees of which social security coverage is extended on January 1, 1984, solely by reason of the enactment of this section (amending section 410 of this title and section 3121 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under section 3121 of Title 26), and

"(B) after December 31, 1983, acquires the number of quarters of coverage (within the meaning of section 213 of the Social Security Act [section 413 of this title]) which is required for purposes of this subparagraph under paragraph (2),

then such individual shall be deemed to be a fully insured individual (as defined in section 214 of the Social Security Act (this section)) for all of the purposes of title II of such Act (this subchapter),

"(2) The number of quarters of coverage which is required for purposes of subparagraph (B) of paragraph (1) shall be determined as follows:

"In the case of an individual who on January 1, 1984, of coverage so required is— shall be—

age 60 or over ....................................... 6
age 59 or over but less than age 60 .......... 8
age 58 or over but less than age 59 ....... 12
age 57 or over but less than age 58 ....... 16
age 56 or over but less than age 57 ....... 20"

Determination of Entitlement to Monthly Benefits for Sept. 1960 and Prior Months and Individual’s Closing Date Prior to 1960

Section 204(d)(2) of Pub. L. 86–778 provided that the provisions of subsec. (a) of this section in effect prior to Sept. 13, 1960, and the provisions of section 109 of act Sept. 1, 1954, ch. 1206, 68 Stat. 1084, set out as a note under section 415 of this title, as in effect prior to such date were to apply for purposes of determining entitlement to monthly benefits under this subchapter for Sept. 1960 and prior months with respect to wages and self-employment income of an individual and for purposes of determining an individual’s closing date prior to 1960 under section 415(b)(3)(B) of this title.

§ 415. Computation of primary insurance amount

For the purposes of this subchapter—

(a) Primary insurance amount

(1)(A) The primary insurance amount of an individual shall (except as otherwise provided in this section) be equal to the sum of—

(i) 90 percent of the individual’s average indexed monthly earnings (determined under subsection (b) of this section) to the extent that such earnings do not exceed the amount established for purposes of this clause by subparagraph (B),

(ii) 32 percent of the individual’s average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (i) but do not exceed the amount established for purposes of this clause by subparagraph (B), and

(iii) 15 percent of the individual’s average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (ii),

rounded, if not a multiple of $0.10, to the next lower multiple of $0.10, and thereafter increased as provided in subsection (i) of this section.

(B)(i) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits), in the calendar year 1979, the amount established for purposes of clauses (i) and (ii) of subparagraph (A) shall be $180 and $1,085, respectively.

(ii) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits), in any calendar year after 1979, each of the amounts so established shall equal the product of the corresponding amount established with respect to the calendar year 1979 under clause (i) of this subparagraph and the quotient obtained by dividing—

(I) the national average wage index (as defined in section 409(k)(1) of this title) for the second calendar year preceding the calendar year for which the determination is made, by

(II) the national average wage index (as so defined) for 1977.

(iii) Each amount established under clause (ii) for any calendar year shall be rounded to the nearest $1, except that any amount so established which is a multiple of $0.50 but not of $1 shall be rounded to the next higher $1.

(C)(i) No primary insurance amount computed under subparagraph (A) may be less than an amount equal to $11.50 multiplied by the individual’s years of coverage in excess of 10, or the increased amount determined for purposes of this clause under subsection (i) of this section.

(ii) For purposes of clause (i), the term “years of coverage” with respect to any individual means the number (not exceeding 30) equal to the sum of (I) the number (not exceeding 14 and disregarding any fraction) determined by dividing (a) the total of the wages credited to such individual (including wages deemed to be paid prior to 1951 to such individual under section 417 of this title, compensation under the Railroad Retirement Act of 1937 [45 U.S.C. 228a et seq.] prior to 1951 which is creditable to such individual pursuant to this subchapter, and wages deemed to be paid prior to 1951 to such individual under section 431 of this title) for years after
1936 and before 1951 by (b) $900, plus (II) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b)(2)(B)(ii) of this section) and in each of which he is credited with wages (including wages deemed to be paid to such individual under section 417 of this title) and self-employment income of not less than 25 percent (in the case of a year after 1950 and before 1978) of the maximum amount which (pursuant to subsection (e) of this section) may be counted for such year, or 25 percent (in the case of a year after 1977 and before 1991) or 15 percent (in the case of a year after 1990) of the maximum amount which (pursuant to subsection (e) of this section) could be counted for such year if section 430 of this title as in effect immediately prior to December 20, 1977, had remained in effect without change (except that, for purposes of subsection (b) of such section 430 of this title as so in effect, the reference to the contribution and benefit base in paragraph (1) of such subsection (b) shall be deemed a reference to an amount equal to $45,000, each reference in paragraph (2) of such subsection (b) to the average of the wages of all employees as reported to the Secretary of the Treasury shall be deemed a reference to the national average wage index (as defined in section 409(k)(1) of this title), the reference to a preceding calendar year in paragraph (2)(A) of such subsection (b) shall be deemed a reference to the calendar year before the calendar year in which the determination under subsection (a) of such section 430 of this title is made, and the reference to a calendar year in paragraph (2)(B) of such subsection (b) shall be deemed a reference to 1992.

(D) In each calendar year the Commissioner of Social Security shall publish in the Federal Register, on or before November 1, the formula for computing benefits under this paragraph and for adjusting wages and self-employment income under subsection (b)(3) of this section in the case of an individual who becomes eligible for an old-age insurance benefit, or (if earlier) becomes eligible for a disability insurance benefit or dies, in the following year, and the national average wage index (as defined in section 409(k)(1) of this title) on which that formula is based.

(2)(A) A year shall not be counted as the year of an individual's death or eligibility for purposes of this subsection or subsection (i) of this section in any case where such individual was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month of such death or eligibility (but there shall be counted instead the year of the individual's eligibility for the disability insurance benefit or benefits to which he was entitled during such 12 months).

(B) In the case of an individual who was entitled to a disability insurance benefit for any of the 12 months before the month in which he became entitled to an old-age insurance benefit, became reentitled to a disability insurance benefit, or died, the primary insurance amount for determining any benefit attributable to that entitlement, reentitlement, or death is the greater of—

(i) the primary insurance amount upon which such disability insurance benefit was based, increased by the amount of each general benefit increase (as defined in subsection (i)(3) of this section), and each increase provided under subsection (i)(2) of this section, that would have applied to such primary insurance amount had the individual remained entitled to such disability insurance benefit until the month in which he became so entitled or reentitled or died, or

(ii) the amount computed under paragraph (1)(C).

(C) In the case of an individual who was entitled to a disability insurance benefit for any month, and with respect to whom a primary insurance amount is required to be computed at any time after the close of the period of the individual's disability (whether because of such individual's subsequent entitlement to old-age insurance benefits or to a disability insurance benefit based upon a subsequent period of disability, or because of such individual's death), the primary insurance amount so computed may in no case be less than the primary insurance amount with respect to which such former disability insurance benefit was most recently determined.

(3)(A) Paragraph (1) applies only to an individual who was not eligible for an old-age insurance benefit prior to January 1979 and who in that or any succeeding month—

(i) becomes eligible for such a benefit,

(ii) becomes eligible for a disability insurance benefit, or

(iii) dies,

and (except for subparagraph (C)(i) thereof) it applies to every such individual except to the extent otherwise provided by paragraph (4).

(B) For purposes of this subchapter, an individual is deemed to be eligible—

(i) for old-age insurance benefits, for months beginning with the month in which he attains age 62, or

(ii) for disability insurance benefits, for months beginning with the month in which his period of disability began as provided under section 416(i)(2)(C) of this title, except as provided in paragraph (2)(A) in cases where fewer than 12 months have elapsed since the termination of a prior period of disability.

(4) Paragraph (1) (except for subparagraph (C)(i) thereof) does not apply to the computation or recomputation of a primary insurance amount for—

(A) an individual who was eligible for a disability insurance benefit for a month prior to January 1979 unless, prior to the month in which occurs the event described in clause (i), (ii), or (iii) of paragraph (3)(A), there occurs a period of at least 12 consecutive months for which he was not entitled to a disability insurance benefit, or

(B) an individual who had wages or self-employment income credited for one or more years prior to 1979, and who was not eligible for an old-age or disability insurance benefit,
and did not die, prior to January 1979, if in the year for which the computation or recomputation would be made the individual's primary insurance amount would be greater if computed or recomputed—

(i) under this subsection as in effect in December 1978, for purposes of old-age insurance benefits in the case of an individual who becomes eligible for such benefits prior to 1984, or

(ii) as provided by subsection (d) of this section, in the case of an individual to whom such section applies.

In determining whether an individual’s primary insurance amount would be greater if computed or recomputed as provided in subparagraph (B), (i) the table of benefits in effect in December 1978, as modified by paragraph (b), shall be applied without regard to any increases in that table which may become effective (in accordance with subsection (i)(4) of this section) for years after 1978 (subject to clause (ii) of subsection (i)(2)(A) of this section) and (II) such individual’s average monthly wage shall be computed as provided by subsection (b)(4) of this section.

(5)(A) Subject to subparagraphs (B), (C), (D) and (E), for purposes of computing the primary insurance amount (after December 1978) of an individual to whom paragraph (1) does not apply (other than an individual described in paragraph (4)(B)), this section as in effect in December 1978 shall remain in effect, except that, effective for January 1979, the dollar amount specified in paragraph (3) of this subsection shall be increased to $11.50.

(B)(i) Subject to clauses (ii), (iii), and (iv), and notwithstanding any other provision of law, the primary insurance amount of any individual described in subparagraph (C) shall be, in lieu of the primary insurance amount as computed pursuant to any of the provisions referred to in subparagraph (D), the primary insurance amount computed under subsection (a) of this section as in effect in December 1978, without regard to subsections (b)(4) and (c) of this section as so in effect.

(ii) The computation of a primary insurance amount under this subparagraph shall be subject to section 104(j)(2) of the Social Security Amendments of 1972 (relating to the number of elapsed years under subsection (b) of this section).

(iii) In computing a primary insurance amount under this subparagraph, the dollar amount specified in paragraph (3) of subsection (a) of this section (as in effect in December 1978) shall be increased to $11.50.

(iv) In the case of an individual to whom subsection (d) of this section applies, the primary insurance amount of such individual shall be the greater of—

(I) the primary insurance amount computed under the preceding clauses of this subparagraph, or

(II) the primary insurance amount computed under subsection (d) of this section.

(C) An individual is described in this subparagraph if—

(i) paragraph (1) does not apply to such individual by reason of such individual’s eligibility for an old-age or disability insurance benefit, or the individual’s death, prior to 1979, and

(ii) such individual’s primary insurance amount computed under this section as in effect immediately before November 5, 1990, would have been computed under the provisions described in subparagraph (D).

(D) The provisions described in this subparagraph are—

(i) the provisions of this subsection as in effect prior to July 30, 1985, if such provisions would preclude the use of wages prior to 1951 in the computation of the primary insurance amount,

(ii) the provisions of section 409 of this title as in effect prior to August 28, 1960, and

(iii) the provisions of subsection (d) of this section as in effect prior to December 20, 1977.

(E) For purposes of this paragraph, the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) of this section for each year after 1978.

(6)(A) In applying the table of benefits in effect in December 1978 under this section for purposes of the last sentence of paragraph (4), such table, revised as provided by subsection (i) of this section, as applicable, shall be extended for average monthly wages of less than $76.00 and primary insurance benefits (as determined under subsection (d) of this section) of less than $16.20.

(B) The Commissioner of Social Security shall determine and promulgate in regulations the methodology for extending the table under subparagraph (A).

(7)(A) In the case of an individual whose primary insurance amount would be computed under paragraph (1) of this subsection, who—

(i) attains age 62 after 1985 (except where he or she became entitled to a disability insurance benefit before 1986 and remained so entitled in any of the 12 months immediately preceding his or her attainment of age 62), or

(ii) would attain age 62 after 1985 and becomes eligible for a disability insurance benefit after 1985, and who first becomes eligible after 1985 for a monthly periodic payment (including a payment determined under subparagraph (C), but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937 [45 U.S.C. 231 et seq., 228a et seq.], (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 433 of this title, and (III) a payment based wholly on service as a member of a uniformed service (as defined in section 410(m) of this title)) which is based in whole or in part upon his or her earnings for service which did not constitute “employment” as defined in section 410 of this title for purposes of this subchapter (hereafter in this paragraph and in subsection (d)(3) of this section referred to as “noncovered service”), the primary insurance amount of such individual during his or her concurrent entitlement to such monthly periodic payment and to old-age or disability insurance benefits shall be computed or recomputed under subparagraph (B).
(B)(i) If paragraph (1) of this subsection would apply to such an individual (except for subparagraph (A) of this paragraph), there shall first be computed an amount equal to the individual's primary insurance amount under paragraph (1) of this subsection, except that for purposes of such computation the percentage of the individual's average indexed monthly earnings established by subparagraph (A)(i) of paragraph (1) shall be the percent specified in clause (ii). There shall then be computed (without regard to this paragraph) a second amount, which shall be equal to the individual's primary insurance amount under paragraph (1) of this subsection, except that such second amount shall be reduced by an amount equal to one-half of the portion of the monthly periodic payment which is attributable to noncovered service performed after 1956 (with such attribution being based on the proportionate number of years of such noncovered service) and to which the individual is entitled (or is deemed to be entitled) for the initial month of his or her concurrent entitlement to such monthly periodic payment and old-age or disability insurance benefits. The individual's primary insurance amount shall be the larger of the two amounts computed under this subparagraph (before the application of subsection (i) of this section) and shall be deemed to be computed under paragraph (1) of this subsection for the purpose of applying other provisions of this subchapter.

(ii) For purposes of clause (i), the percent specified in this clause is—

(I) 80.0 percent with respect to individuals who become eligible (as defined in paragraph (3)(B)(i)) for old-age insurance benefits before attaining age 62 in 1986;

(II) 70.0 percent with respect to individuals who so become eligible in 1987;

(III) 60.0 percent with respect to individuals who so become eligible in 1988;

(IV) 50.0 percent with respect to individuals who so become eligible in 1989; and

(V) 40.0 percent with respect to individuals who so become eligible in 1990 or thereafter.

(C)(i) Any periodic payment which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly payment (as determined by the Commissioner of Social Security), and such equivalent monthly payment shall constitute a monthly periodic payment for purposes of this paragraph.

(ii) In the case of an individual who has elected to receive a periodic payment that has been reduced so as to provide a survivor's benefit to any other individual, the payment shall be deemed to be increased (for purposes of any computation under this paragraph or subsection (d)(3) of this section) by the amount of such reduction.

(iii) For purposes of this paragraph, the term "periodic payment" includes a payment payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(D) This paragraph shall not apply in the case of an individual who has 30 years or more of coverage. In the case of an individual who has more than 20 years of coverage but less than 30 years of coverage (as so defined), the percent specified in the applicable subdivision of subparagraph (B)(ii) shall (if such percent is smaller than the applicable percent specified in the following table) be deemed to be the applicable percent specified in the following table:

<table>
<thead>
<tr>
<th>Years of Coverage</th>
<th>Applicable Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>21</td>
<td>45 percent</td>
</tr>
<tr>
<td>22</td>
<td>50 percent</td>
</tr>
<tr>
<td>23</td>
<td>55 percent</td>
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<td>60 percent</td>
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<td>25</td>
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<td>26</td>
<td>70 percent</td>
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<td>27</td>
<td>75 percent</td>
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<td>28</td>
<td>80 percent</td>
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<tr>
<td>29</td>
<td>85 percent</td>
</tr>
<tr>
<td>30</td>
<td>90 percent</td>
</tr>
</tbody>
</table>

For purposes of this paragraph, the term "year of coverage" shall have the meaning provided in paragraph (1)(C)(ii), except that the reference to "15 percent" therein shall be deemed to be a reference to "25 percent".

(E) This paragraph shall not apply in the case of an individual whose eligibility for old-age or disability insurance benefits is based on an agreement concluded pursuant to section 433 of this title or an individual who on January 1, 1984—

(i) is an employee performing service to which social security coverage is extended on that date solely by reason of the amendments made by section 101 of the Social Security Amendments of 1983; or

(ii) is an employee of a nonprofit organization which (on December 31, 1983) did not have in effect a waiver certificate under section 3121(k) of the Internal Revenue Code of 1954 and to the employees of which social security coverage is extended on that date solely by reason of the amendments made by section 102 of that Act, unless social security coverage had previously extended to service performed by such individual as an employee of that organization under a waiver certificate which was subsequently (prior to December 31, 1983) terminated.

(b) Average indexed monthly earnings; average monthly wage

(1) An individual's average indexed monthly earnings shall be equal to the quotient obtained by dividing—

(A) the total (after adjustment under paragraph (3)) of his wages paid in and self-employment income credited to his benefit computation years (determined under paragraph (2)), by

(B) the number of months in those years.

(2)(A) The number of an individual's benefit computation years equals the number of elapsed years reduced—

(i) in the case of an individual who is entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph), or who has died, by 5 years, and

(ii) in the case of an individual who is entitled to disability insurance benefits, by the number of years equal to one-fifth of such in-
individual’s elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years.

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual’s primary insurance amount for purposes of any subsequent eligibility for disability or old-age insurance benefits unless prior to the month in which such eligibility begins there occurs a period of at least 12 consecutive months for which he was not entitled to a disability or an old-age insurance benefit. If an individual described in clause (ii) is living with a child (of such individual or his or her spouse) under the age of 3 in any calendar year which is included in such individual’s computation base years, but which is not disregarded pursuant to clause (ii) or to subparagraph (B) (in determining such individual’s benefit computation years) by reason of the reduction in the number of such individual’s elapsed years under clause (ii), the number by which such elapsed years are reduced under this subparagraph pursuant to clause (ii) shall be increased by one (up to a combined total not exceeding 3) for each such calendar year; except that (I) no calendar year shall be disregarded by reason of this sentence (in determining such individual’s benefit computation years) unless the individual was living with such child substantially throughout the period in which the child was alive and under the age of 3 in such year and the individual had no earnings as described in section 403(f)(5) of this title in such year, (II) the national average wage index (as defined) for the computation base year for which the determination is made.

Clause (ii), once applicable with respect to any individual’s benefit computation years as determined under this subparagraph shall in no case less than 2.

(B) For purposes of this subsection with respect to any individual—

(i) the term “benefit computation years” means those computation base years, equal in number to the number determined under subparagraph (A), for which the total of such individual’s wages and self-employment income, after adjustment under paragraph (3), is the largest;

(ii) the term “computation base years” means the calendar years after 1950 and before—

(I) in the case of an individual entitled to old-age insurance benefits, the year in which occurred (whether by reason of section 402(j)(1) of this title or otherwise) the first month of that entitlement; or

(II) in the case of an individual who has died (without having become entitled to old-age insurance benefits), the year succeeding the year of his death;

except that such term excludes any calendar year entirely included in a period of disability; and

(iii) the term “number of elapsed years” means (except as otherwise provided by section 104(j)(2) of the Social Security Amendments of 1972) the number of calendar years after 1950 (or, if later, the year in which the individual attained age 21) and before the year in which the individual died, or, if it occurred earlier (but after 1960), the year in which he attained age 62; except that such term excludes any calendar year any part of which is included in a period of disability.

(3)(A) Except as provided by subparagraph (B), the wages paid in and self-employment income credited to each of an individual’s computation base years for purposes of the selection therefrom of benefit computation years under paragraph (2) shall be deemed to be equal to the product of—

(i) the wages and self-employment income paid in or credited to such year (as determined without regard to this subparagraph), and

(ii) the quotient obtained by dividing—

(I) the national average wage index (as defined in section 409(k)(1) of this title) for the second calendar year preceding the earliest of the year of the individual’s death, eligibility for an old-age insurance benefit, or eligibility for a disability insurance benefit (except that the year in which the individual dies, or becomes eligible, shall not be considered as such year if the individual was entitled to disability insurance benefits for any month in the 12-month period immediately preceding such death or eligibility, but there shall be counted instead the year of the individual’s eligibility for the disability insurance benefit to which he was entitled in such 12-month period), by

(II) the national average wage index (as so defined) for the computation base year for which the determination is made.

(B) Wages paid in or self-employment income credited to an individual’s computation base year which—

(i) occurs after the second calendar year specified in subparagraph (A)(i)(I), or

(ii) is a year treated under subsection (f)(2)(C) of this section as though it were the last year of the period specified in paragraph (2)(B)(ii),

shall be available for use in determining an individual’s benefit computation years, but without applying subparagraph (A) of this paragraph.

(4) For purposes of determining the average monthly wage of an individual whose primary insurance amount is computed (after 1978) under subsection (a) or (d) of this section as in effect (except with respect to the table contained therein) in December 1978, by reason of subsection (a)(4)(B) of this section, this subsection as in effect in December 1978 shall remain in effect, except that paragraph (2)(C) (as then in effect) shall be deemed to provide that “computation base years” include only calendar years in the period after 1950 (or 1936, if applicable) and prior to the year in which the individual was eligible (as defined in subsection (a)(3)(B) of this section as in effect in January 1979) for an old-age or disability insurance benefit, or, if earlier, the year
in which he died. Any calendar year all of which is included in a period of disability shall not be included as a computation base year for such purposes.

(c) Application of prior provisions in certain cases

Subject to the amendments made by section 5117 of the Omnibus Budget Reconciliation Act of 1978, this subsection as in effect in December 1978 shall remain in effect with respect to an individual to whom subsection (a)(1) of this section does not apply by reason of the individual’s eligibility for an old-age or disability insurance benefit, or the individual’s death, prior to 1979.

(d) Primary insurance amount under 1959 Act

(1) For purposes of column I of the table appearing in subsection (a) of this section, as that subsection was in effect in December 1977, an individual’s primary insurance benefit shall be computed as follows:

(A) The individual’s average monthly wage shall be determined as provided in subsection (b) of this section, as in effect in December 1977 (but without regard to paragraph (4) thereof and subject to section 104(j)(2) of the Social Security Amendments of 1972), except that for purposes of paragraphs (2)(C) and (3) of that subsection (as so in effect) 1936 shall be used instead of 1950.

(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) of this section (as so in effect)—

(i) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual—

(II) shall, in the case of an individual who attained age 21 prior to 1950, be divided by the number of years (hereinafter in this subparagraph referred to as the “divisor”) elapsing after the year in which the individual attained age 20, or 1936 if later, and prior to the earlier of the year of death or 1951, except that such divisor shall not include any calendar year entirely included in a period of disability, and in no case shall the divisor be less than one, and

(ii) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who either attained age 21 after 1950 and before attaining age 21, be divided by the number of years (hereinafter in this subparagraph referred to as the “divisor”) elapsing after the second year prior to the year of death, or 1936 if later, and prior to the year of death, and in no case shall the divisor be less than one; and

(ii) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who either attained age 21 after 1949 or died after 1949 before attaining age 21, shall be divided by the number of years (hereinafter in this subparagraph referred to as the “divisor”) elapsing after 1949 and prior to 1951.

The quotient so obtained shall be deemed to be the individual’s wages credited to each of the years which were used in computing the amount of the divisor, except that—

(iii) if the quotient exceeds $3,000, only $3,000 shall be deemed to be the individual’s wages for each of the years which were used in computing the amount of the divisor, and the remainder of the individual’s total wages prior to 1951 (I) if less than $3,000, shall be deemed credited to the computation base year (as defined in subsection (b)(2) of this section as in effect in December 1977) immediately preceding the earliest year used in computing the amount of the divisor, or (II) if $3,000 or more, shall be deemed credited, in $3,000 increments, to the computation base year (as so defined) immediately preceding the earliest year to which a full $3,000 increment was credited; and

(iv) no more than $42,000 may be taken into account, for purposes of this subparagraph, as total wages after 1936 and prior to 1951.

(C) For the purposes of subparagraph (B), “total wages prior to 1951” with respect to an individual means the sum of (i) remuneration credited to such individual prior to 1951 on the records of the Commissioner of Social Security, (ii) wages deemed paid prior to 1951 to such individual under section 415 of this title, (iii) compensation under the Railroad Retirement Act of 1937 [45 U.S.C. 228a et seq.] prior to 1951 creditable to him pursuant to this subchapter, and (iv) wages deemed paid prior to 1951 to such individual under section 431 of this title.

(D) The individual’s primary insurance benefit shall be 40 percent of the first $50 of his average monthly wage as computed under this subsection, plus 10 percent of the next $200 of his average monthly wage, increased by 1 percent for each increment year. The number of increment years is the number, not more than 14 nor less than 4, that is equal to the individual’s total wages prior to 1951 divided by $1,650 (disregarding any fraction).

(2) The provisions of this subsection shall be applicable only in the case of an individual—

(A) with respect to whom at least one of the quarters elapsing prior to 1951 is a quarter of coverage;

(B) who attained age 22 after 1950 and with respect to whom less than six of the quarters elapsing after 1950 are quarters of coverage, or who attained such age before 1951; and

(C) who becomes entitled to benefits under section 402(a) or 423 of this title or who dies, or

(ii) whose primary insurance amount is required to be recomputed under paragraph (2), (6), or (7) of subsection (f) of this section or under section 431 of this title.

(3) In the case of an individual whose primary insurance amount is not computed under paragraph (1) of subsection (a) of this section by reason of paragraph (4)(B)(ii) of that subsection, who—

(A) attains age 62 after 1985 (except where he or she became entitled to a disability insur-
ance benefit before 1986, and remained so entitled in any of the 12 months immediately preceding his or her attainment of age 62), or

(B) would attain age 62 after 1985 and becomes eligible for a disability insurance benefit after 1985,

and who first becomes eligible after 1985 for a monthly periodic payment (including a payment determined under subsection (a)(7)(C) of this section, but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937 [45 U.S.C. 231 et seq., 228a et seq.], (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 433 of this title, and (III) a payment based wholly on service as a member of a uniformed service (as defined in section 410(m) of this title)) which is based (in whole or in part) upon his or her earnings in noncovered service, the primary insurance amount of such individual during his or her concurrent entitlement to such monthly periodic payment and to old-age or disability insurance benefits shall be the primary insurance amount computed or recomputed under subsection this subsection (without regard to this paragraph and before the application of subsection (i) of this section) reduced by an amount equal to the smaller of—

1. one-half of the primary insurance amount (computed without regard to this paragraph and before the application of subsection (i) of this section), or

2. one-half of the portion of the monthly periodic payment (or payment determined under subsection (a)(7)(C) of this section) which is attributable to noncovered service performed after 1956 (with such attribution being based on the proportionate number of years of such noncovered service) and to which that individual is entitled (or is deemed to be entitled) for the initial month of such concurrent entitlement.

This paragraph shall not apply in the case of any individual to whom subsection (a)(7) of this section would not apply by reason of subparagraph (E) or the first sentence of subparagraph (D) thereof.

(e) Certain wages and self-employment income not to be counted

For the purposes of subsections (b) and (d) of this section—

1. in computing an individual’s average indexed monthly earnings or, in the case of an individual whose primary insurance amount is computed under subsection (a)(4)(B) of this section, the excess over $9,000 in the case of any calendar year after 1972 and before 1974, the excess over $13,200 in the case of any calendar year after 1973 and before 1975, and the excess over an amount equal to the contribution and benefit base (as determined under section 430 of this title) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective, (before the application, in the case of average indexed monthly earnings, of subsection (b)(3)(A) of this section) of (A) the wages paid to him in such year, plus (B) the self-employment income credited to such year (as determined under section 412 of this title); and

2. if an individual’s average indexed monthly earnings or, in the case of an individual whose primary insurance amount is computed under subsection (a) of this section as in effect prior to January 1979, average monthly wage, computed under subsection (b) of this section or for the purposes of subsection (d) of this section is not a multiple of $1, it shall be reduced to the next lower multiple of $1.

(f) Recomputation of benefits

1. After an individual’s primary insurance amount has been determined under this section, there shall be no recomputation of such individual’s primary insurance amount except as provided in this subsection or, in the case of a World War II veteran who died prior to July 27, 1954, as provided in section 417(b) of this title.

2. (A) If an individual has wages or self-employment income for a year after 1978 for any part of which he is entitled to old-age or disability insurance benefits, the Commissioner of Social Security shall, at such time or times and within such period as the Commissioner may by regulation prescribe, recompute the individual’s primary insurance amount for that year.

(B) For the purpose of applying subparagraph (A) of subsection (a)(1) of this section to the average indexed monthly earnings of an individual to whom that subsection applies and who receives a recomputation under this paragraph, there shall be used, in lieu of the amounts established by subsection (a)(1)(B) of this section for purposes of clauses (i) and (ii) of subsection (a)(1)(A) of this section, the amounts so established that were (or, in the case of an individual described in subsection (a)(4)(B) of this section, would have been) used in the computation of such individual’s primary insurance amount prior to the application of this subsection.

(C) A recomputation of any individual’s primary insurance amount under this paragraph shall be made as provided in subsection (a)(1) of this section as though the year with respect to which it is made is the last year of the period specified in subsection (b)(2)(B)(ii) of this section; and subsection (b)(3)(A) of this section shall apply with respect to any such recomputation as it is applied in the computation of such individual’s primary insurance amount prior to the application of this subsection.

(D) A recomputation under this paragraph with respect to any year shall be effective—

1. in the case of an individual who did not die in that year, for monthly benefits beginning with benefits for January of the following year; or
(i) in the case of an individual who died in that year, for monthly benefits beginning with benefits for the month in which he died.


(4) A recomputation shall be effective under this subsection only if it increases the primary insurance amount by at least $1.

(5) In the case of a man who became entitled to old-age insurance benefits and died before the month in which he attained retirement age (as defined in section 416(i) of this title), the Commissioner of Social Security shall recompute his primary insurance amount as provided in subsection (a) of this section as though he became entitled to old-age insurance benefits in the month in which he died; except that (i) his computation base years referred to in subsection (b)(2) of this section shall include the year in which he died, and (ii) his elapsed years referred to in subsection (b)(3) of this section shall not include the year in which he died or any year thereafter. Such recomputation of such primary insurance amount shall be effective for and after the month in which he died.

(6) Upon the death after 1977 of an individual entitled to benefits under section 402(a) or section 423 of this title, if any person is entitled to monthly benefits or a lump-sum death payment, on the wages and self-employment income of such individual, the Commissioner of Social Security shall recompute the decedent’s primary insurance amount, but only if the decedent during his lifetime was paid compensation which was treated under section 405(o) of this title as remuneration for employment.

(7) This subsection as in effect in December 1978 shall continue to apply to the recomputation of a primary insurance amount computed under subsection (a) or (d) of this section as in effect (without regard to the table in subsection (a) of this section) in that month, and, where appropriate, under subsection (d) as in effect in December 1977, including a primary insurance amount computed under any such subsection whose operation is modified as a result of the amendments made by section 5117 of the Omnibus Budget Reconciliation Act of 1990. For purposes of recomputing a primary insurance amount determined under subsection (a) or (d) of this section (as so in effect) in the case of an individual to whom those subsections apply by reason of subsection (a)(4)(B) of this section as in effect after December 1978, no remuneration shall be taken into account for the year in which the individual initially became eligible for an old-age or disability insurance benefit or died, or for any year thereafter, and (effective January 1982) the recomputation shall be modified by the application of subsection (a)(6) of this section where applicable.

(8) The Commissioner of Social Security shall recompute the primary insurance amounts applicable to beneficiaries whose benefits are based on a primary insurance amount which was computed under subsection (a)(3) of this section effective prior to January 1979, or would have been so computed if the dollar amount specified therein were $11.50. Such recomputation shall be effective January 1979, and shall include the effect of the increase in the dollar amount provided by subsection (a)(1)(C)(i) of this section. Such primary insurance amount shall be deemed to be provided under such section for purposes of subsection (1) of this section.

(9)(A) In the case of an individual who becomes entitled to a periodic payment determined under subsection (a)(7)(A) of this section (including a payment determined under subsection (a)(7)(C) of this section) in a month subsequent to the first month in which he or she becomes entitled to an old-age or disability insurance benefit, and whose primary insurance amount has been computed without regard to either such subsection or subsection (d)(3) of this section, such individual’s primary insurance amount shall be recomputed (notwithstanding paragraph (4) of this subsection), in accordance with either such subsection or subsection (d)(3) of this section, as may be applicable, effective with the first month of his or her concurrent entitlement to such benefit and such periodic payment.

(B) If an individual’s primary insurance amount has been computed under subsection (a)(7) or (d)(3) of this section, and it becomes necessary to recomputed that primary insurance amount under this subsection—

(i) so as to increase the monthly benefit amount payable with respect to such primary insurance amount (except in the case of the individual’s death), such increase shall be determined as though the recomputed primary insurance amount were being computed under subsection (a)(7) or (d)(3) of this section, or

(ii) by reason of the individual’s death, such primary insurance amount shall be recomputed without regard to (and as though it had never been computed with regard to) subsection (a)(7) or (d)(3) of this section.

(g) Rounding of benefits

The amount of any monthly benefit computed under section 402 or 423 of this title which (after any reduction under sections 403(a) and 424a of this title and any deduction under section 403(b) of this title, and after any deduction under section 1396s(a)(1) of this title) is not a multiple of $1 shall be rounded to the next lower multiple of $1.

(h) Service of certain Public Health Service Officers

(1) Notwithstanding the provisions of subchapter III of chapter 83 of title 5, remuneration paid for service to which the provisions of section 410(i)(1) of this title are applicable and which is performed by an individual as a commissioned officer of the Reserve Corps of the Public Health Service prior to July 1, 1960, shall not be included in computing entitlement to or the amount of any monthly benefit under this subchapter, on the basis of his wages and self-employment income, for any month after June 1960 and prior to the first month with respect to which the Director of the Office of Personnel Management certifies to the Commissioner of Social Security that, by reason of a waiver filed as provided in paragraph (2), no further annuity will be paid to him, his wife, and his children, or, if he has died, to his widow and children, under subchapter III of chapter 83 of title 5 on the basis of such service.

(2) In the case of a monthly benefit for a month prior to that in which the individual, on
whose wages and self-employment income such benefit is based, dies, the waiver must be filed by such individual; and such waiver shall be irrevocable and shall constitute a waiver on behalf of himself, his wife, and his children. If such individual did not file a waiver before he died, then in the case of a benefit for the month in which he died or any month thereafter, such waiver must be filed by his widow, if any, and by or on behalf of all his children, if any; and such waivers shall be irrevocable. Such a waiver by a child shall be filed by his legal guardian or guardians, or, in the absence thereof, by the person (or persons) who has the child in his care.

(i) Cost-of-living increases in benefits

(1) For purposes of this subsection—

(A) the term “base quarter” means (i) the calendar quarter ending on September 30 in each year after 1982, or (ii) any other calendar quarter in which occurs the effective month of a general benefit increase under this subchapter;

(B) the term “cost-of-living computation quarter” means a base quarter, as defined in subparagraph (A)(i), with respect to which the applicable increase percentage is greater than zero; except that there shall be no cost-of-living computation quarter in any calendar year if in the year prior to such year a law has been enacted providing a general benefit increase under this subchapter or if in such prior year such a general benefit increase becomes effective;

(C) the term “applicable increase percentage” means—

(i) with respect to a base quarter or cost-of-living computation quarter in any calendar year before 1984, or in any calendar year after 1983 and before 1989 for which the OASDI fund ratio is 15.0 percent or more, or in any calendar year after 1988 for which the OASDI fund ratio is 20.0 percent or more, the CPI increase percentage; and

(ii) with respect to a base quarter or cost-of-living computation quarter in any calendar year after 1983 and before 1989 for which the OASDI fund ratio is less than 15.0 percent, or in any calendar year after 1988 for which the OASDI fund ratio is less than 20.0 percent, the CPI increase percentage or the wage increase percentage, whichever (with respect to that quarter) is the lower;

(D) the term “CPI increase percentage”, with respect to a base quarter or cost-of-living computation quarter in any calendar year, means the percentage (rounded to the nearest one-tenth of 1 percent) by which the Consumer Price Index for a base quarter (as defined in paragraph (1)(B)) in such year is a cost-of-living computation quarter, the Commissioner shall, effective with the month of December of that year as provided in subparagraph (B), determine each year beginning with 1975 (subject to the limitation in paragraph (1)(B)) whether the base quarter (as defined in paragraph (1)(A)(i)) in such year is a cost-of-living computation quarter.

(ii) If the Commissioner of Social Security determines that the base quarter in any year is a cost-of-living computation quarter, the Commissioner shall, effective with the month of December of that year as provided in subparagraph (B), increase—

(I) the benefit amount to which individuals are entitled for that month under section 427 or 428 of this title,

(II) the primary insurance amount of each other individual on which benefit entitlement is based under this subchapter, and

(III) the amount of total monthly benefits based on any primary insurance amount which is permitted under section 403 of this title (and such total shall be increased, unless otherwise so increased under another provision of this subchapter, at the same time as such primary insurance amount) or, in the case of a primary insurance amount computed under subsection (a) of this section as in effect (without regard
to the table contained therein) prior to January 1979, the amount to which the beneficiaries may be entitled under section 403 of this title as in effect in December 1978, except as provided by section 403(a)(7) and (8) of this title as in effect after December 1978.

The increase shall be derived by multiplying each of the amounts described in subdivisions (I), (II), and (III) (including each of those amounts as previously increased under this subparagraph) by the applicable increase percentage; and any amount so increased that is not a multiple of $0.10 shall be decreased to the next lower multiple of $0.10. Any increase under this subsection in a primary insurance amount determined under subparagraph (C)(i) of this section shall be applied after the initial determination of such primary insurance amount under that subparagraph (with the amount of such increase, in the case of an individual who becomes eligible for old-age or disability insurance benefits or dies in a calendar year after 1979, being determined from the range of possible primary insurance amounts published by the Commissioner of Social Security under the last sentence of paragraph (D)); (ii) in the case of an individual who becomes eligible for an old-age or disability insurance benefit, or who dies prior to becoming so eligible, in a year in which there occurs an increase provided under clause (ii), the individual’s primary insurance amount (without regard to the time of entitlement to that benefit) shall be increased (unless otherwise so increased under another provision of this subchapter and, with respect to a primary insurance amount determined under subsection (a)(1)(C)(i) of this section in the case of an individual to whom that subsection (as in effect in December 1981) applied, subject to the provisions of subsection (a)(1)(C)(i) of this section and clauses (iv) and (v) of this subparagraph (as then in effect)) by the amount of that increase and subsequent applicable increases, but only with respect to benefits payable for months after November of that year. (B) The increase provided by subparagraph (A) with respect to a particular cost-of-living computation quarter shall apply in the case of monthly benefits under this subchapter for months after November of the calendar year in which occurred such cost-of-living computation quarter, and in the case of lump-sum death payments with respect to deaths occurring after November of such calendar year.

(C)(i) Whenever the Commissioner of Social Security determines that a base quarter in a calendar year is also a cost-of-living computation quarter, the Commissioner shall publish in the Federal Register within 45 days after the close of such quarter a determination that a benefit increase is rationally required and the percentage thereof. The Commissioner shall also publish in the Federal Register at that time (i) a revision of the range of the primary insurance amounts which are possible after the application of this subsection based on the dollar amount specified in subparagraph (C)(i) of section 403(a) of this section, (ii) a revision of the range of primary insurance amounts (with such maximum benefits being effective notwithstanding section 403(a) of this title except for paragraph (3)(B) thereof (or paragraph (2) thereof as in effect prior to 1979)), (iii) a revision of maximum family benefits which correspond to such primary insurance amounts (with such maximum benefits being effective notwithstanding section 403(a) of this title as added by section 101(a)(3) of the Social Security Disability Amendments of 1980).

(3) As used in this subsection, the term “general benefit increase under this subchapter” means an increase (other than an increase under this subsection) in all primary insurance amounts on which monthly insurance benefits under this subchapter are based.

(D) This subsection as in effect in December 1978, as amended by sections 112(b)(2), 111(b)(6), and 112 of the Social Security Amendments of 1983 and by section 9001 of the Omnibus Budget Reconciliation Act of 1986, shall continue to apply to subsections (a) and (d) of this section, as then in effect and as amended by section 5117 of the Omnibus Budget Reconciliation Act of 1990, for purposes of computing the primary insurance amount of an individual to whom subsection (a) of this section, as in effect after December 1978, does not apply (including an individual to whom subsection (a) of this section does not apply in any year by reason of paragraph (4)(D) of that subsection (but the application of this subsection in such cases shall be modified by the application of subdivision (I) in the last sentence of paragraph (4) of that subsection)), except that for this purpose, in applying paragraphs (2)(A)(ii), (2)(D)(iv), and (2)(D)(v)
of this subsection as in effect in December 1978, the phrase "increased to the next higher multiple of $0.10" shall be deemed to read "decreased to the next lower multiple of $0.10". For purposes of computing primary insurance amounts and maximum family benefits (other than primary insurance amounts and maximum family benefits for individuals to whom such paragraph (4)(B) applies), the Commissioner of Social Security shall revise the table of benefits contained in subsection (a) of this section, as in effect in December 1978, in accordance with the requirements of paragraph (2)(D) of this subsection as then in effect, except that the requiring in such paragraph (2)(D) that the Commissioner of Social Security publish such revision of the table of benefits in the Federal Register shall not apply.

(5)(A) If—

(i) with respect to any calendar year the "applicable increase percentage" was determined under clause (ii) of paragraph (1)(C) rather than under clause (i) of such paragraph, and the increase becoming effective under paragraph (2) in such year was accordingly determined on the basis of the wage increase percentage rather than the CPI increase percentage (or there was no such increase becoming effective under paragraph (2) in that year because there was no wage increase percentage greater than zero), and

(ii) for any subsequent calendar year in which an increase under paragraph (2) becomes effective the OASDI fund ratio is greater than 32.0 percent, then each of the amounts described in subdivisions (I), (II), and (III) of paragraph (2)(A)(ii), as increased under paragraph (2) effective with the month of December in such subsequent calendar year, shall be further increased (effective with such month) by an additional percentage, which shall be determined under subparagraph (B) and shall apply as provided in subparagraph (C). Any amount so increased that is not a multiple of $0.10 shall be decreased to the next lower multiple of $0.10.

(B) The applicable additional percentage by which the amounts described in subdivisions (I), (II), and (III) of paragraph (2)(A)(ii) are to be further increased under paragraph (A) in the subsequent calendar year involved shall be the amount derived by—

(i) subtracting (I) the compounded percentage benefit increases that were actually paid under paragraph (2) and this paragraph from (II) the compounded percentage benefit increases that would have been paid if all increases under paragraph (2) had been made on the basis of the CPI increase percentage,

(ii) dividing the difference by the sum of the compounded percentage in clause (i)(I) and 100 percent, and

(iii) multiplying such quotient by 100 so as to yield such applicable additional percentage (which shall be rounded to the nearest tenth of 1 percent),

with the compounded increases referred to in clause (i) being measured—

(iv) in the case of amounts described in subdivision (I) of paragraph (2)(A)(ii), over the period beginning with the calendar year in which monthly benefits described in such subdivision were first increased on the basis of the wage increase percentage and ending with the year before such subsequent calendar year, and

(v) in the case of amounts described in sub-divisions (II) and (III) of paragraph (2)(A)(ii), over the period beginning with the calendar year in which the individual whose primary insurance amount is increased under such subdivision (II) became eligible (as defined in subsection (a)(3)(B) of this section) for the old-age or disability insurance benefit that is being increased under this subsection, or died before becoming so eligible, and ending with the year before such subsequent calendar year;

except that if the Commissioner of Social Security determines in any case that the application (in accordance with subparagraph (C)) of the additional percentage as computed under the preceding provisions of this subparagraph would cause the OASDI fund ratio to fall below 32.0 percent in the calendar year immediately following such subsequent year, the Commissioner shall reduce such applicable additional percentage to the extent necessary to ensure that the OASDI fund ratio will remain at or above 32.0 percent through the end of such following year.

(C) Any applicable additional percentage increase in an amount described in subdivision (I), (II), or (III) of paragraph (2)(A)(ii), made under this paragraph in any calendar year, shall thereafter be treated for all the purposes of this chapter as a part of the increase made in such amount under paragraph (2) for that year.

railroad retirement act of 1935 (approved aug. 29, 1935, ch. 812, 49 stat. 967). section 201 of the 1937 act provided that the 1937 act had completely amended and revised the railroad retirement act of 1974. previously, thus amended and revised, the 1937 act was redesignated the railroad retirement act of 1974. the railroad retirement acts of 1935 and 1937 may be cited as the railroad retirement act of 1935; and that the 1935 act, as amended by publication in the federal register act aug. 10, 1939, ch. 666, 53 stat. 1360, known as the social security act amendments of 1939, which enacted sections 901a, 1966 and 1968, 53 stat. 1360, section 302, 303, 306, 301 to 409, 502, 503, 602, 603, 606, 701, 702, 703, 711, 712, 713, 714, 721, 801, 1011, 1202, 1203, 1206, 1301, of this title, section 642 of title 7, agriculture, section 1464 of title 12, banks and banking, section 1601 of former title 26, internal revenue code of 1939, section 45b of title 29, labor, and enacted provisions set out as notes under title 1, subsections (a)(3) of the social security disability amendments of 1980, referred to in subsections (a), (b)(1)(B), (b)(2)(A)(i), (b)(2)(B), (b)(3), (b)(4), and (b)(5)(B), of this act. 


the railroad retirement act of 1974, referred to in subsections (a)(1)(c)(ii), (7)(a), and (d)(1)(c)(3), is act aug. 29, 1935, ch. 812, as amended generally by pub. l. 98–455, title i, §101, oct. 17, 1984, 98 stat. 1863, which is classified generally to subchapter iv (§231 et seq.) of chapter 9 of title 45, railroads. pub. l. 93–445 completely amended and revised the railroad retirement act of 1974. previously, the 1937 act had completely amended and revised the railroad retirement act of 1935 (approved aug. 29, 1935, ch. 812, 49 stat. 967). section 201 of the 1937 act provided that the 1935 act, as in force prior to amendment by the 1937 act, may be cited as the railroad retirement act of 1935, and that the 1956 act, as amended by the 1937 act may be cited as the railroad retirement act of 1937. the railroad retirement acts of 1935 and 1937 were classified to subchapter ii (§215 et seq.) respectively, of chapter 9 of title 45. for further details and complete classification of these acts to the code, see codification note set out preceding section 231 of title 45, section 231 of title 45, and tables.

subsection (a)(1)(c)(ii). pub. l. 103–296, §321(e)(2)(b), in subcl. (i) substituted "national average wage index" for "deemed average total wages" and in subcl. (ii) substituted "national average wage index (as defined for 1997)" for the average of the total wages (as defined in regulations of the secretariat and computed without regard to the limitations specified in section 409(a)(1) of this title) reported to the secretary of the treasury or his delegate for the calendar year 1997.

subsection (a)(1)(c)(ii). pub. l. 103–296, §321(e)(3)(c), substituted "except that, for purposes of subsection (b) of such section 430 of this title as so in effect, the reference to the contribution and benefit base in paragraph (1) of such subsection (b) shall be deemed a reference to an amount equal to $45,000, each reference in paragraph (2) of such subsection (b) to the average of the wages of all employees as reported to the secretary of the treasury shall be deemed a reference to the national average wage index (as defined in section 409(a)(1) of this title), the reference to a preceding calendar year in paragraph (2)(a) of such subsection (b) shall be deemed a reference to the calendar year before the calendar year in which the determination under subsection (a) of such section 430 of this title is made, and the reference to a calendar year in paragraph (2)(b) of such subsection (b) shall be deemed a reference to 1992." for "except that, for purposes of subsection (b) of such section 430 of this title as so in effect, the reference to the average of the wages of all employees as reported to the secretary of the treasury for any calendar year shall be deemed a reference to the national average wage index (within the meaning of section 409(a)(1) of this title) for such calendar year)."

pub. l. 103–296, §321(e)(2)(c), substituted "national average wage index" for "deemed average total wages" before "(within the meaning of section 409(a)(1) of this title)."

subsection (a)(1)(d). pub. l. 103–296, §321(e)(2)(d), substituted "in each calendar year" for "in each calendar year after 1978" and "the national average wage index (as defined in section 409(a)(1) of this title) for the average of the total wages (as described in subparagraph (b)(1) of this title) and struck out at end "with the initial publication required by this subparagraph, the secretary shall also publish in the federal register the average of the total wages (as so described) for each calendar year after 1960."
Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary”.

Subsec. (a)(5)(B)(i). Pub. L. 105–246, §321(a)(16), substituted “subsections” for “subsection” before “(b)(4) and (c)”.


Subsec. (a)(7)(A). Pub. L. 103–296, §308(b), in closing provisions struck out “and” before “(II)” and inserted “(II) a payment based wholly on service as a member of a uniformed service (as defined in section 410(m) of this title)” after “section 433 of this title”.

Pub. L. 103–296, §307(a)(2), in introductory provisions inserted “whose eligibility for old-age or disability insurance benefits is based on an agreement concluded between the United States and such foreign country pursuant to section 433 of this title” for “but excluding a payment under the Railroad Retirement Act of 1974 or 1937”.


Subsec. (a)(7)(E). Pub. L. 103–296, §308(b), in introductory provisions inserted “the term ‘SSA average wage index’” for “SSA average wage and wage index”.


Subsec. (d)(3). Pub. L. 103–296, §308(b), in closing provisions struck out “and” before “(II)” and inserted “(I) and (II) a payment based wholly on service as a member of a uniformed service (as defined in section 410(m) of this title)” after “section 433 of this title”.

Pub. L. 103–296, §307(a)(2), in introductory provisions inserted “The Commissioner” for “Secretary” wherever appearing and “the Commissioner shall” for “he shall” in closing provisions of subpar. (v)(A).


Subsec. (a)(9)(B). Pub. L. 101–508, §5117(a)(1), designated existing provision as subpar. (A), substituted “‘Subject to the amendments made by section 5117 of the Omnibus Budget Reconciliation Act of 1990, this’” for “‘This’”.


Subsec. (d)(1)(B)(ii), (ii). Pub. L. 101–508, §5117(a)(2)(A)(ii), redesignated subpars. (A) to (D), (E) and (F) as (ii), (ii) and (ii), respectively, and struck out former subpars. (A) to (D), redesignated subpars. (A) to (D) as (i) to (iv), respectively, and struck out former subpar. (D).

Subsec. (d)(2)(C)(i). Pub. L. 101–508, §5122(b), struck out “(as defined in paragraph (1)(C)(ii))” before “before the end of the calendar year following the calendar year in which the individual attained age 65”.

Subsec. (d)(2)(C)(ii). Pub. L. 101–508, §5122(b), struck out “(as defined in paragraph (1)(C)(ii))” before “before the end of the calendar year following the calendar year in which the individual attained age 65”.

Subsec. (d)(2)(C)(iii). Pub. L. 101–508, §5122(b), struck out “(as defined in paragraph (1)(C)(ii))” before “before the beginning of the 12th month following the calendar year in which the individual attained age 65”.

Subsec. (d)(2)(C)(iv). Pub. L. 101–508, §5122(b), struck out “(as defined in paragraph (1)(C)(ii))” before “before the beginning of the 12th month following the calendar year in which the individual attained age 65”.


Subsec. (g)(2)(D). Pub. L. 101–508, §5121(b)(3), struck out “the term ‘20 percent’” after “in any notification made under”.


Subsec. (n). Pub. L. 101–508, §5117(a)(3)(C)(xix), substituted “‘60 percent’” for “‘55 percent’”.


Subsec. (s). Pub. L. 101–508, §5117(a)(3)(C)(xxiv), substituted “‘85 percent’” for “‘80 percent’”.


attained age 21 after 1949 shall be divided by the number of years (hereinafter in this subparagraph referred to as the ‘divisor’) elapsed after 1949 and prior to 1951."

Subsec. (d)(1)(C)(i), Pub. L. 101–508, § 3117(a)(2)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "if the quotient exceeds $3,000, only $3,000 shall be deemed to be the individual’s wages for each of the years which were used in computing the amount of the divisor, and the remainder of the individual’s total wages prior to 1951 (I) if less than $3,000, shall be deemed credited to the year immediately preceding the earliest year used in computing the amount of the divisor and to each year consecutively preceding that year, with any remainder less than $3,000 being credited to the year immediately preceding the earliest year to which a full $3,000 increment was credited; and"

Subsec. (d)(2)(B), Pub. L. 101–508, § 3117(a)(2)(C)(i), struck out "except as provided in paragraph (3)," after "(ii)."

Subsec. (d)(2)(C), Pub. L. 101–508, § 3117(a)(2)(C)(ii), added subpar. (C) and struck out former subpar. (C) which read as follows: "(ii) who becomes entitled to benefits under section 402(a) or 423 of this title, and computed without regard to the limitations specified in section 409(a)(1) of this title) reported to the Secretary of the Treasury or his delegate as determined for purposes of subsection (b)(3)(A)(ii)."

1986—Subsec. (a)(7)(A), Pub. L. 100–647, § 8011(a)(1), struck out "with respect to the initial month in which the individual becomes eligible for such benefits" before period at end.

Subsec. (a)(7)(B)(i), Pub. L. 100–647, § 8011(a)(2), substituted "‘concurrent entitlement to such monthly periodic payment and old-age or disability insurance benefits’ for ‘eligibility for old-age or disability insurance benefits’".

Subsec. (a)(7)(C)(i), (iv), Pub. L. 100–647, § 8011(a)(3), redesignated cl. (iv) as (iii) and struck out former cl. (iii) which read as follows: "If an individual to whom subparagraph (A) applies is entitled (subject to clauses (i), (ii), and (iv)(ii) of this subsection) to receive old-age insurance benefits, the amount of that payment (for purposes of subparagraph (B)) shall be deemed to be the amount to which he or she is, or is deemed to be, entitled (subject to clauses (i), (ii), and (iv) of this subsection) in such subsequent month.

Subsec. (a)(7)(D), Pub. L. 100–647, § 8003(a), in introductory provisions, substituted "20 years" for "25 years" and "shall (if such percent is smaller than the applicable percent specified in the following table) be..." for "shall be deemed to be—", and substituted table for former cls. (i) to (iv) which read as follows:

(i) 80 percent, in the case of an individual who has 29 of such years of coverage;

(ii) 70 percent, in the case of an individual who has 28 of such years;

(iii) 60 percent, in the case of an individual who has 27 of such years; and

(iv) 50 percent, in the case of a person who has 26 of such years.

Subsec. (d)(5)(ii), Pub. L. 100–647, § 8011(b), substituted "such concurrent entitlement for ‘his or her eligibility for old-age or disability insurance benefits’."

1984—Subsec. (a)(1)(B)(ii), Pub. L. 99–509, § 9001(b)(2)(A), amended subpar. (B), as in effect in December 1978, and as applied in certain cases under the provisions of this chapter as in effect after December 1978, by striking out "as provided for purposes of section 409(k)(1) of this title for such calendar year" for "as so defined and computed".

Subsec. (a)(1)(C)(ii), Pub. L. 101–239, § 31208(b)(4), substituted "change (except that, for purposes of subsection (b)(2)(A) of section 409 of such title as so in effect, the reference therein to the average of the wages of all employees as reported to the Secretary of the Treasury for any calendar year shall be deemed a reference to the deemed average total wages (within the meaning of section 409(k)(1) of such title) for such calendar year)" for "change (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a)(1) of such title) reported to the Secretary of the Treasury or his delegate)."


Pub. L. 101–239, § 31208(d)(2)(A)(i), substituted "the deemed average total wages (as defined in section 409(a)(1) of such title) for such calendar year)" for "(as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a)(1) of such title) reported to the Secretary of the Treasury or his delegate)."

Subsec. (i)(1)(G), Pub. L. 101–239, § 31208(b)(3), substituted "the amount determined for such calendar year under subsection (b)(3)(A)(i)(I)" for "the average of the total wages reported to the Secretary of the Treasury or his delegate as determined for purposes of subsection (b)(3)(A)(ii)."

1988—Subsec. (a)(7)(A), Pub. L. 100–647, § 8011(a)(1), struck out "with respect to the initial month in which the individual becomes eligible for such benefits" before period at end.

Subsec. (a)(7)(B)(i), Pub. L. 100–647, § 8011(a)(2), substituted "‘concurrent entitlement to such monthly periodic payment and old-age or disability insurance benefits’ for ‘eligibility for old-age or disability insurance benefits’".

Subsec. (a)(7)(C)(i), (iv), Pub. L. 100–647, § 8011(a)(3), redesignated cl. (iv) as (iii) and struck out former cl. (iii) which read as follows: "If an individual to whom subparagraph (A) applies is entitled (subject to clauses (i), (ii), and (iv) of this subsection) to receive old-age insurance benefits, the amount of that payment (for purposes of subparagraph (B)) shall be deemed to be the amount to which he or she is, or is deemed to be, entitled (subject to clauses (i), (ii), and (iv) of this subsection) in such subsequent month.

Subsec. (a)(7)(D), Pub. L. 100–647, § 8003(a), in introductory provisions, substituted "20 years" for "25 years" and "shall (if such percent is smaller than the applicable percent specified in the following table) be deemed to be the applicable percent specified in the following table) for ‘shall (if such percent is smaller than the percent specified in whichever of the following clauses applies) be deemed to be—’, and substituted table for former cls. (i) to (iv) which read as follows:

(i) 80 percent, in the case of an individual who has 29 of such years of coverage;

(ii) 70 percent, in the case of an individual who has 28 of such years;

(iii) 60 percent, in the case of an individual who has 27 of such years; and

(iv) 50 percent, in the case of a person who has 26 of such years.

Subsec. (d)(5)(ii), Pub. L. 100–647, § 8011(b), substituted "such concurrent entitlement for ‘his or her eligibility for old-age or disability insurance benefits’".

1984—Subsec. (a)(1)(B)(ii), Pub. L. 99–509, § 9001(b)(2)(A), amended subpar. (B), as in effect in December 1978, and as applied in certain cases under the provisions of this chapter as in effect after December 1978, by striking out "as provided for purposes of section 409(k)(1) of this title for such calendar year" for "as so defined and computed".

Subsec. (a)(1)(C)(ii), Pub. L. 101–239, § 31208(b)(4), substituted "change (except that, for purposes of subsection (b)(2)(A) of section 409 of such title as so in effect, the reference therein to the average of the wages of all employees as reported to the Secretary of the Treasury for any calendar year shall be deemed a reference to the deemed average total wages (within the meaning of section 409(k)(1) of such title) for such calendar year)" for "change (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a)(1) of such title) reported to the Secretary of the Treasury or his delegate)."


Pub. L. 101–239, § 31208(d)(2)(A)(i), substituted "the deemed average total wages (as defined in section 409(a)(1) of such title) for such calendar year)" for "(as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a)(1) of such title) reported to the Secretary of the Treasury or his delegate)."

Subsec. (i)(1)(G), Pub. L. 101–239, § 31208(b)(3), substituted "the amount determined for such calendar year under subsection (b)(3)(A)(i)(I)" for "the average of the total wages reported to the Secretary of the Treasury or his delegate as determined for purposes of subsection (b)(3)(A)(ii)."
sumer Price Index as published for any month exceeds by 2.5 percent or more the level of such index for the most recent base quarter (as defined in subsection (a)(7) or (d)(5))" for "as though such primary insurance amount were being computed under subsection (a)(7) or (d)(5)".


Subsec. (i)(5)(A). Pub. L. 98–369, §2661(k)(4), inserted provision that any amount so increased that is not a multiple of $0.10 shall be decreased to the next lower multiple of $0.10.

Subsec. (i)(5)(B)(iii). Pub. L. 98–369, §2661(k)(5)(A), substituted "so as to yield such applicable additional percentage (which shall be rounded to the nearest one-tenth of 1 percent)" for "and rounding to the nearest one-tenth of 1 percent".

Subsec. (i)(5)(B)(iv). Pub. L. 98–369, §2661(k)(5)(B), (C), substituted "ending with the year before such subsequent calendar year" for "ending with such subsequent calendar year" in cls. (iv) and (v) and became (as defined in subsection (a)(5)(B) of this section) for the old-age or disability insurance benefit that is being increased under this subsection" for "initially became eligible for an old-age or disability insurance benefit" in cls. (v).


Subsec. (f)(9). Pub. L. 98–21, §201(c)(1)(C), substituted "retirement age (as defined in section 416(l) of this title)" for "age 65".

Subsec. (i)(1). Pub. L. 98–21, §111(c), added par. (9).


Subsec. (i)(3)(B), redesignated subpar. (C) as (B) as in effect in December 1978, and as applied in certain cases under the provisions of this chapter as in effect in December 1978, by substituting in subpar. (B) "November" for "March 31" and "1974" for "1962".

Subsec. (i)(1)(B). Pub. L. 98–21, §112(a)(1), substituted "with respect to which the applicable increase percentage is 3 percent or more" for "in which the Consumer Price Index prepared by the Department of Labor exceeds, by not less than 3 per centum, such Index in the later of (i) the last prior cost-of-living computation quarter which was established under this subparagraph, or (ii) the most recent calendar quarter in which occurred the effective month of a general benefit increase under this subsection".

Subsec. (i)(1)(C) to (H). Pub. L. 98–21, §112(a)(3), (4), added subpars. (C) to (G) and redesignated former subpar. (C) as (H).

Subsec. (i)(2)(A)(ii). Pub. L. 98–21, §112(b), in provisions immediately following subcl. (ii), substituted "by the applicable increase percentage" for "by the same percentage (rounded to the nearest one-tenth of 1 percent)" as the percentage by which the Consumer Price Index for that cost-of-living computation quarter exceeds such index for the most recent prior calendar quarter which was a base quarter under paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter under paragraph (1)(B)".


Pub. L. 98–21, §111(a)(6), amended par. (2), as in effect in December 1978, and as applied in certain cases under the provisions of this chapter as in effect after December 1978, by substituting in the provisions preceding subpar. (A)(i) "December" for "June".

Pub. L. 98–21, §111(a)(2), substituted "November" for "May".


Pub. L. 98–21, §111(a)(6), amended par. (2), as in effect in December 1978, and as applied in certain cases under the provisions of this chapter as in effect after December 1978, by substituting in subpar. (B) "November" for "May" in two places.


Subsec. (i)(2)(A)(ii). Pub. L. 97–35, § 2201(b)(5), (6), in subcl. (II) struck out "(including a primary insurance amount determined under subsection (a)(1)(C)(i) of this section, but subject to the provisions of such subsection (a)(1)(C)(i) of this section and clauses (iv) and (v) of this subparagraph)" after "under this subparagraph" and in provision following subcl. (III) substituted "subparagraph (C)(i)" for "subparagraph (C)(i)(II)".

Pub. L. 97–35, § 2201(b)(6), substituted in provision following subcl. (III) "decreased to the next lower" for "increased to the next higher".

Subsec. (i)(2)(A)(iii). Pub. L. 97–123, § 2(c), inserted "and, with respect to a primary insurance amount determined under subsection (a)(1)(C)(i) of this section in the case of an individual to whom that subsection (as in effect in December 1981) applied, subject to the provisions of subsection (a)(1)(C)(i) of this section and clauses (iv) and (v) of this subparagraph (as then in effect)" after "provision of this subparagraph".

Pub. L. 97–35, § 2201(b)(7), struck out "and, with respect to a primary insurance amount determined under subsection (a)(1)(C)(i) of this section, but subject to the provisions of subsection (a)(1)(C)(i) of this section and clauses (iv) and (v) of this subparagraph (as then in effect)" after "provisions of this clause.".

Pub. L. 97–35, § 2201(c)(5), inserted "modified by the application of subsection (a)(6) of this section, as applicable.".

Pub. L. 97–35, § 2206(b)(7), inserted "except that for this purpose, in applying paragraphs (2)(A)(ii), (2)(D)(iv), and (2)(D)(v) of this subsection as in effect in December 1978, the phrase 'increased to the next higher multiple of $0.10' shall be deemed to read 'decreased to the next lower multiple of $0.10.'".


Subsec. (b)(2)(A). Pub. L. 96–265, § 102(a), designated existing provisions as cl. (i), inserted provision limiting its applicability to individuals who are entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph) or who have died, and added cl. (ii) and provisions following cl. (i).

Subsec. (i)(2)(A)(I)(III). Pub. L. 96–265, § 101(b)(3), substituted "section 403(a)(7) and (8)" for "section 403(a)(6) and (7)".

Subsec. (i)(2)(D). Pub. L. 96–265, § 101(b)(4), inserted sentence providing that revision of maximum family benefits shall be subject to paragraph (6) of section 403(a) of this title (as added by section 101(a)(3) of the Social Security Disability Amendments of 1980).

1977—Subsec. (a). Pub. L. 95–216, § 201(c), inserted "primary insurance amounts and maximum family benefits."

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Pub. L. 98–21, § 111(c), inserted reference to amendments made by section 111(a)(6) and 111(b)(2) of the Social Security Amendments of 1983.


1981—Subsec. (a)(1)(A). Pub. L. 97–35, § 2206(b)(5), substituted in provision following cl. (iii) "rounded, if not a multiple of $0.10, to the next lower multiple of $0.10, for "rounded in accordance with subsection (g) of this section".

Subsec. (a)(1)(C)(i). Pub. L. 97–35, § 2201(a), struck out provisions that primary insurance amount computed under subparagraph (C)(i) not be less than the dollar amount set forth on first line of column IV in table of benefits contained, or deemed to be contained in, this subsection as in effect in December 1978, rounded, if not a multiple of $1, to next higher multiple of $1 and that no increase under subsection (i) of this section, except as provided in subsection (i)(2)(A) of this section, apply to dollar amounts so specified.

Substituted "subparagraph (C)(i)" for "subparagraph (C)(i)(II)", "subparagraph (C)(i)" for "subparagraph (C)(i)(II)" and in provision preceding subpar. (A) "subparagraph (C)(i)(II)" and in provision following subpar. (B) "subparagraph (C)(i)(II)" and struck out "but without regard to clauses (iv) and (v) thereof" after "subsection (i)(2)(A) of this section".

Substituted "December 1978, modified by the application of subsec. (a)(6) of this section, shall be revised" for "December 1978, the phrase 'increased to the next higher multiple of $0.10' shall be deemed to read 'decreased to the next lower multiple of $0.10.'".

Substituted "subparagraph (C)(i)" for "subparagraph (C)(i)(II)" and in provision preceding subpar. (A) "subparagraph (C)(i)(II)" and in provision following subpar. (B) "subparagraph (C)(i)(II)" and struck out "but without regard to clauses (iv) and (v) thereof" after "subsection (i)(2)(A) of this section".

Subsec. (a)(5). Pub. L. 97–123, § 2(a)(1), struck out "and, with respect to a primary insurance amount determined under subsection (a)(1)(C)(i) of this section, except as provided in the second sentence of this subparagraph)" after "provision of this subchapter".

Subsec. (i)(2)(A)(iv). Pub. L. 97–35, § 2201(b)(8), struck out cl. (iv) which related to increases in the primary insurance amount for individuals entitled to old-age insurance benefits, individuals entitled to insurance benefits under section 402(e) and (f) of this title, increases that would otherwise apply except for provisions of this clause, and increases occurring in a later year not applicable to the primary insurance amount on account of provisions of this clause.

Subsec. (v). Pub. L. 97–35, § 2201(b)(8), struck out cl. (v) which provided, that notwithstanding cl. (iv), no primary insurance amount be less than that provided under subsection (a)(1) of this section without regard to subpar. (C)(i) thereof, as subsequently increased by applicable increases under this subparagraph (as then in effect) after "provision of this subparagraph".

Subsec. (i)(2)(A)(v). Pub. L. 97–35, § 2201(b)(8), struck out cl. (v) which provided, that notwithstanding cl. (iv), no primary insurance amount be less than that provided under subsection (a)(1) of this section without regard to subpar. (C)(i) thereof, as subsequently increased by applicable increases under this subparagraph (as then in effect) after "provision of this subparagraph".

Subsec. (a)(3)(B). Pub. L. 97–35, § 2201(c)(3), inserted "the primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be modified as specified in paragraph (6)" and substituted "December 1978 shall be revised" for "December 1978, modified by the application of paragraph (6), shall be revised".

Substituted "subparagraph (C)(i)" for "subparagraph (C)(i)(II)" and in provision preceding subpar. (B) "subparagraph (C)(i)(II)" and struck out "but without regard to clauses (iv) and (v) thereof" after "subsection (i)(2)(A) of this section".

Substituted "subparagraph (C)(i)" for "subparagraph (C)(i)(II)" and in provision preceding subpar. (A) "subparagraph (C)(i)(II)" and in provision following subpar. (B) "subparagraph (C)(i)(II)" and struck out "but without regard to clauses (iv) and (v) thereof" after "subsection (i)(2)(A) of this section".

Substituted "subparagraph (C)(i)" for "subparagraph (C)(i)(II)" and in provision preceding subpar. (A) "subparagraph (C)(i)(II)" and in provision following subpar. (B) "subparagraph (C)(i)(II)" and struck out "but without regard to clauses (iv) and (v) thereof" after "subsection (i)(2)(A) of this section".

Substituted "subparagraph (C)(i)" for "subparagraph (C)(i)(II)" and in provision preceding subpar. (A) "subparagraph (C)(i)(II)" and in provision following subpar. (B) "subparagraph (C)(i)(II)" and struck out "but without regard to clauses (iv) and (v) thereof" after "subsection (i)(2)(A) of this section".

Substituted "December 1981" for "December 1978".

Substituted "December 1978, the phrase 'increased to the next higher multiple of $0.10' shall be deemed to read 'decreased to the next lower multiple of $0.10.'".

1980—Subsec. (a)(4). Pub. L. 96–265, § 102(a), designated existing provisions as cl. (i), inserted provision limiting its applicability to individuals who are entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph) or who have died, and added cl. (ii) and provisions following cl. (i).

1977—Subsec. (a). Pub. L. 95–216, § 201(a), amended provisions under which primary insurance amount of an individual is determined by substituting provisions which employ a formula using percentages of different portions of the individual’s average indexed monthly earnings for provisions under which the primary insurance amount of an insured individual was determined through references to a five-column table covering primary insurance amounts and maximum family benefits.
Subsec. (b). Pub. L. 95–216, §201(b), substituted provisions setting up a formula for determining an individual’s average indexed monthly earnings using benefit computation years, computation base years, and elapsed years as factors in the determination, for provisions that had set a formula for determining an individual’s average monthly wage. 

Subsec. (c). Pub. L. 95–216, §201(c), substituted provisions that this subsection as in effect in Dec. 1978, will remain in effect with respect to an individual to whom subsec. (a)(1) of this section does not apply by reason of the individual’s eligibility for an old-age or disability insurance benefit, or the individual’s death, prior to 1979, for provisions under which, for the purposes of column II of the latest table that had appeared in (or was deemed to have appeared in) subsec. (a) of this section, an individual’s primary insurance amount was to be computed on the basis of the law in effect prior to the month in which the latest such table had become effective, but with a limitation that this subsection was to be applicable only in the case of an individual who had become entitled to benefits under section 402(a) or section 423 of this title, or who had died, before such effective month. 

Subsec. (d)(1)(A). Pub. L. 95–216, §201(d)(1), inserted provisions in subsec. (d)(1)(A) and preceding introductory provision directing that existing references to subsecs. (a) and (b) of this section be deemed reference to such subsecs. (a) and (b) as they were in effect in Dec. 1977. 

Subsec. (d)(1)(B). Pub. L. 95–216, §201(d)(1), made a parenthetical insertion which limited the existing references to subpars. (B) and (C) of subsec. (b)(2) of this section to those provisions as they had been in effect in Dec. 1977, and introduced a simplified method, using the concept of a divisor and a quotient, for computing the primary insurance amounts of workers age 21 after 1936 and prior to 1951, the individual’s total wages prior to 1951 divided by $1,650 (disregarding any fraction). 

Subsec. (d)(3). Pub. L. 95–216, §201(d)(3), struck out requirement that when wages prior to 1951 are included in computing the average monthly wages of an individual who attains age 21 after 1936 and prior to 1951, the present law computation provisions in effect before the Social Security Amendments of 1967 must be used. 


Subsec. (e)(1). Pub. L. 95–216, §201(e), substituted “average indexed monthly earnings” and “before the application, in the case of average indexed monthly earnings, of subsection (b)(3)(A) of this section” for “(A) the wages paid to him in such year” for “of (A) the wages paid to him in such year”. 

Subsec. (e)(2). Pub. L. 95–216, §201(e), substituted “average indexed monthly earnings or, in the case of an individual whose primary insurance amount is computed under subsection (a) of this section as in effect prior to January 1979, average monthly wage” for “average indexed monthly earnings or, in the case of an individual whose primary insurance amount is computed under subsection (a) of this section as in effect prior to January 1979, average monthly wage”. 

Subsec. (f)(2). Pub. L. 95–216, §201(f)(1), generally expanded provisions for recomputing primary insurance amounts for individuals with wages or self-employment income for years after 1978 for any part of which the individuals are entitled to old-age or disability insurance benefits. 

Subsec. (f)(3). Pub. L. 95–216, §201(f)(2), struck out par. (3) which had provided for the recomputation of primary insurance amounts for workers who had self-employment income in 1952 and who had applied for benefits or died prior to 1961. 

Subsec. (f)(4). Pub. L. 95–216, §201(f)(3), substituted “A recomputation shall be effective under this subsection only if it increases the primary insurance amount by at least $1” for “Any recomputation under this subsection shall be effective only if such recomputation results in a higher primary insurance amount”. 


Subsec. (i)(2)(A)(ii). Pub. L. 95–216, §201(g)(1), specified that an automatic benefit increase effective for June of a year in which the Secretary determines that a cost-of-living computing quarter, which triggers such an increase, has occurred will apply to benefits of those entitled to special payments under sections 427 and 428 of this title, to the primary insurance amounts on which beneficiaries are entitled including the frozen minimum primary insurance amounts and special minimum primary insurance amounts, and to the maximum family benefits at the same time as the primary insurance amounts on which they are based, where a primary insurance amount was computed under the law in effect in December 1978 will be increased at the same time as the primary insurance amounts, except as provided in section 408(a)(7) and (7) of this title. 


Subsec. (i)(2)(D). Pub. L. 95–216, §201(g)(3), substituted provisions directing publication in the Federal Register of revisions of the range of primary insurance amounts and of the range of maximum family benefits that had directed publication of the revision of the table of benefits formerly set out in subsec. (a) and had set out the method of determining the revision of the table. 

Subsec. (i)(2)(D)(v). Pub. L. 95–216, §108(d), substituted in cl. (v) “is equal to, or exceeds by less than $5, one-tenth of the new contribution and benefit base” for “is equal to one-twelfth of the new contribution and benefit base” and “plus 20 percent of the excess of the second figure in the last line of column III as extended under the preceding sentence over such second figure for the calendar year in which the table of benefits is revised” for “plus 20 percent of one-twelfth of the excess of the new contribution and benefit base for the calendar year following the calendar year in which such table of benefits is revised (as determined under section 430 of this title) over such base for the calendar year in which the table of benefits is revised” in third sentence. 


Subsec. (i)(5). Pub. L. 93–233, §2(a), in revising benefits table in column II, set up a formula for determining primary insurance amounts on which they are based, where a primary insurance amount was computed under the law in effect in December 1978 will be increased at the same time as the primary insurance amounts, except as provided in section 408(a)(7) and (7) of this title. 

Subsec. (i)(6). Pub. L. 93–233, §3(a), substituted “Primary insurance amount effective for September 1972” for “Primary insurance amount under 1971 Act” and increased benefit amounts to $84.50–$404.50; and in column V, increased benefit amounts to $93.80–$469.00 from $94.50–$489.50; and in column V, increased benefit amounts to $140.90–$280.80 from $126.80–$280.70. 

Subsec. (a)(3). Pub. L. 93–233, §1(h)(1), substituted “$9.00” for “$8.50”. 


Subsec. (e)(4). Pub. L. 93–233, §5(a)(5), substituted “$12,600” for “$12,000”. 

Subsec. (e)(1)(A)(ii). Pub. L. 93–233, §5(a), substituted “‘calendar quarter ending on March 31 in each year after 1974’” for “‘calendar quarter ending on June 30 in each year after 1974’”. 

Subsec. (i)(1)(B)(ii). Pub. L. 93–233, §3(b), substituted in exception provision “if in the year prior to such year a law has been enacted providing a general benefit increase under this subchapter or if in such prior year such a general benefit increase becomes effective” for “in which a law has been enacted providing a general benefit increase under this subchapter or in which such a benefit increase becomes effective”. 

Subsec. (i)(2)(A)(ii). Pub. L. 93–233, §3(c), substituted “‘1975’ for ‘1974’” and struck out “and to subparagraph (E) of this paragraph after paragraph (1)(B)”.
Subsec. (1)(2)(A)(ii). Pub. L. 93–233, § 3(d)(1)–(3), substituted “the base quarter in any year” and “June of such year” for “such base quarter” and “and January of the next calendar year” and struck out “subject to sub-paragraph (B)” before “as provided in subparagraph (B),” respectively.

Subsec. (1)(2)(B). Pub. L. 93–233, § 3(e), substituted “December” in two places and struck out “subject to subparagraph (E)” after “shall apply.”

Subsec. (1)(2)(C)(ii). Pub. L. 93–233, § 3(f), substituted “within 30 days after the close of such quarter” for “on or before August 15 of such calendar year”.

Subsec. (1)(2)(D). Pub. L. 93–233, § 3(g), substituted “within 45 days after the close of such quarter” for “on or before November 1 of such calendar year”.

Subsec. (1)(2)(E). Pub. L. 93–233, § 3(h), struck out subpar. (E) providing that “Notwithstanding a determination by the Secretary under subparagraph (A) that a base quarter in any calendar year is a cost-of-living computation quarter and notwithstanding any notification or publication thereof under subparagraph (C) or (D), no increase in benefits shall take effect pursuant thereto, and such quarter shall be deemed not to be a cost-of-living computation quarter, if during the calendar year in which such determination is made a law providing a general benefit increase under this subchapter is enacted or becomes effective”.

1972—Subsec. (a). Pub. L. 92–336, § 202(a)(3)(A), inserted “or, if larger, the amount in column IV of the latest table deemed to be such table under subsection (i)(2)(A) after the following table” in par. (1), and substituted “before March 17, 1971, or who died before such month” in subpar. (1). Pub. L. 92–336, § 201(e), substituted “September 1972” for “March 17, 1971” in two places, and “month” for “date”.


Subsec. (d)(2). Pub. L. 92–603, §§ 134(b), 142(c), inserted references to subsec. (f)(6) of this section and section 431 of this title.

Subsec. (e)(1). Pub. L. 92–336, § 203(a)(4), substituted provisions eliminating from the computation of an individual’s primary insurance amount based on the law in effect prior to the month in which the latest table appearing in (or is deemed to be appearing in) subsec. (a) of this section becomes effective, for provisions relating to the computation of an individual’s primary insurance amount based on the law in effect prior to September 1972 in subpar. (1), and substituted “, or who died, before such effective month” for “before September 1972, or who died before such month” in subpar. (2).

Subsec. (f). Pub. L. 92–336, § 201(e), substituted “September 1972” for “March 17, 1971” in two places, and “month” for “date”.


Subsec. (d)(2). Pub. L. 92–603, §§ 134(b), 142(c), inserted references to subsec. (f)(6) of this section and section 431 of this title.


1968—Subsec. (a). Pub. L. 90–248, § 101(a), revised benefit provisions generally. Prior to amendment, paragraphs (4) and (5) of section 409(f) of this title as in effect prior to the enactment of the 1965 amendments of computing average monthly wage for people who become entitled to benefits or a recomputation of benefits after 1965 by excluding, in the case of any calendar year after 1967, for “and the case of any calendar year after 1965 and before 1968, and the excess over $7,800 in subsection (b)(5) of this section (as in effect after September 30, 1969)” for “and the case of any calendar year after 1965”.

Subsec. (b)(2). Pub. L. 90–248, § 154(a)(4), (5), struck out subpars. (A) to (D) and text preceding (A) by substituting provisions that if an individual has wages or self-employment income for a year after 1965 for any part of which he is entitled to old-age insurance benefits, the Secretary is to recomputed benefits or the preceding year or as provided in subsec. (a)(1) in any other case, and that in all cases such recomputation was to be made as though the year with respect to which such recomputation is made is the last year of the period specified in subsec. (b)(2)(C); and redesignated subpars. (E) and (F) as (A) and (B).


Subsec. (b)(4). Pub. L. 90–248, § 403(b), substituted “subchapter III of chapter 83 of title 5” for “the Civil Service Retirement Act” in two places.

1965—Subsec. (a). Pub. L. 89–97, § 301(a), revised the benefits table to increase: the primary insurance amount limits to $44–$168 for people whose average monthly wage is $67 or less for the minimum and $400 for the maximum (representing an increase of 7 percent for average monthly wages of $400 or less with minimum increase of $4); the primary insurance amount limits to $44–$168 for people whose average monthly wage is $67 or less for the minimum and $550 for the maximum from $40–$127 for people whose average monthly wage is $67 or less for the minimum and $400 for the maximum (representing an increase of 7 percent for average monthly wages of $400 or less with minimum increase of $4); the primary insurance amount limits to $66–$368 (determined on basis of new formula and representing minimum increase of $5).

Subsec. (a)(4). Pub. L. 89–97, § 306(k), substituted “the primary insurance amount upon which such disability insurance benefit is based” for “such disability insurance benefit”.

Pub. L. 89–97, § 303(e), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: “In the case of—

(A) a woman who was entitled to a disability insurance benefit for the month in which she died or became entitled to old-age insurance benefits, or

(B) a man who was entitled to a disability insurance benefit for the month in which he died or attained age 65.”.

Subsec. (b)(2)(C). Pub. L. 89–97, § 302(a)(1), excluded from an insured individual’s computation base years the year in which he became entitled to benefits and included in his computation base years (for purposes of survivors’ benefits) the year in which he died to make an individual’s computation base years the calendar years occurring after 1950 and up to the year in which his first month of entitlement to a benefit occurred or the year after the year in which he died.

Subsec. (b)(3)(A) to (C). Pub. L. 89–97, § 302(a)(2), substituted in: cl. (A) “if it occurred earlier but after 1960, in the year in which she attained age 62,” for “if (earlier) the first year after 1960 in which she both was fully insured and had attained age 62;”;

cl. (B) “if it occurred earlier but after 1960, in the year in which he attained age 65,” for “(if earlier) the first year after 1960 in which he both was fully insured and had attained age 65;”;

and cl. (C) “the year occurring after 1960 in which he attained (or would attain) age 65,” for “the first year after 1960 in which he attained (or would attain) age 65 or (if later) the first year in which he was fully insured”.

Subsec. (b)(4). (5). Pub. L. 89–97, § 302(a)(3), amended pars. (4) and (5) generally. Prior to amendment, pars. (4) and (5) read as follows:

(A) the excess over $6,600 in the case of any calendar year after 1965;”.

Subsec. (c). Pub. L. 90–248, § 101(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “For purposes of column I of the table appearing in subsection (a) of this section. An individual’s primary insurance benefit shall be computed as provided in this subchapter as in effect prior to August 28, 1950, except that—

(A) in the computation of such benefit, such individual’s average monthly wage shall be determined as provided in section 409(t) of this title as in effect prior to August 28, 1950; and

(B) the provisions of subsection (a)(4) of section 409(e)(2) of this title as in effect prior to August 28, 1950 shall be applicable only with respect to calendar years prior to 1951, except that any wages paid in any year prior to such year all of which was included in a period of disability shall not be counted.

The provisions of subsection (a) of this section shall be applicable to such computation.”

Subsec. (d)(1). Pub. L. 90–248, § 155(a)(1), amended par. (1) generally. Prior to amendment, par. (3) read as follows: “The provisions of this subsection as in effect prior to September 13, 1965 shall be applicable in the case of any individual who meets the requirements of section 1959(c)(3) of the Internal Revenue Code of 1954.”

“(4) The provisions of this subsection shall be applicable only in the case of an individual with respect to whom not less than six of the quarters elapsing after 1960 but before 1966 are quarters of coverage and—

“(A) who becomes entitled to benefits after December 1960 under section [section 402(a) or section 423 of this title]; or

“(B) who dies after December 1960 without being entitled to benefits under section [section 402(a) or section 423 of this title]; or

“(C) who files an application for a recomputation under subsection (f)(2)(A) of this section after December 1960 and is (or would, but for the provisions of subsection [(f)(2)(A) of this section, be) entitled to have his primary insurance amount recomputed under subsection [f(2)(A) of this section]; or

“(D) who dies after December 1960 and whose survivors are (or would, but for the provisions of subsection [(f)(6) of this section, be) entitled to a recomputation of his primary insurance amount under subsection [f(4) of this section.

“(5) In the case of any individual—

“(A) to whom the provisions of this subsection are not made applicable by paragraph (4), but

“(B)(i) prior to 1961, met the requirements of this paragraph (including subparagraph (E) thereof) as in effect prior to the enactment of the Social Security Amendments of 1960, or (ii) after 1960, meets the conditions of subparagraph (E) of this paragraph as in effect prior to such enactment, then the provisions of this subsection as in effect prior to such enactment shall apply to such individual for the purposes of column III of the table appearing in subsection (a) of this section.

“Subsec. (c). Pub. L. 89–97, § 301(b), substituted in par. (1)(A) “prior to the enactment of the Social Security Amendments of 1965” and executed in the Code “prior to July 30, 1965” for “prior to the enactment of the Social Security Amendments of 1958” and executed in the Code “prior to August 28, 1958”; in par. (1)(B) “Social Security Amendments of 1960” for “Social Security Amendments of 1954”; in par. (2), formerly designated (2)(A), “before July 30, 1965 or who died before such date” for “or died prior to January 1959” and deleted par. (2)(B) making the provisions of the subsection applicable only in the case of an individual “to whom the provisions of neither paragraph (4) nor paragraph (5) of subsection (b) of this section are applicable.”


“Subsec. (d)(3). Pub. L. 89–97, § 302(b)(2), substituted “December 1960” in two places and struck out at the end “but without regard to whether such individual has six quarters of coverage after 1950”.


“Subsec. (e)(3). Pub. L. 89–97, § 302(c), struck out par. (3) which provided that for the purposes of subsecs. (b) and (d) of this section, if an individual had self-employment income in a taxable year which began prior to the calendar year in which he became entitled to old-age insurance benefits and ended after the last day of the month preceding the month in which he became entitled to such benefits, the self-employment income in such taxable year should not be counted in determining his benefit computation years, except as provided in subsection [f(3)(C) of this section.

“Subsec. (f)(2). Pub. L. 89–97, § 302(d)(1), substituted provisions for annual automatic recomputation of benefits, taking into account any earnings the person had in or after the year in which he became entitled to benefits, effective in the case of a living beneficiary with January of the year following the year in which the earnings were received and in death cases for survivors’ benefits beginning with the month of death for former provisions which required an application for the recomputation to include earnings in a year after entitlement that the person has six quarters of coverage after 1950 to qualify for the recomputation and was not available unless the person had earnings of more than $1,200 for the year.

“Subsec. (f)(3). Pub. L. 89–97, § 302(d)(2), redesignated par. (5) as (3) and repealed former par. (3) which provided for a recomputation of benefits to include earnings in the year of entitlement to benefits or in the year in which an individual’s benefits were recomputed on account of additional earnings and is now covered by the annual automatic recomputation of benefits provision of subsec. (f)(2) of this section.

“Subsec. (f)(4). Pub. L. 89–97, § 302(d)(2), redesignated par. (6) as (4) and repealed former par. (4) which provided for a recomputation of benefits for the purpose of paying benefits to survivors of an individual who died after 1960 and who had been entitled to old-age insurance benefits and is now covered by the annual automatic recomputation of benefits provision of subsec. (f)(2) of this section.

“Subsec. (f)(5), (6). Pub. L. 89–97, § 302(d)(2), redesignated pars. (5) and (6) as (3) and (4), respectively.

“Subsec. (f)(7). Pub. L. 89–97, § 302(d)(2), repealed par. (7) which provided for recomputation at age 65 of the benefits of an individual who became entitled to benefits before that age and is now covered by the annual automatic recomputation of benefits provision of subsec. (f)(2) of this section.

“1961—Subsec. (a). Pub. L. 87–64, §§101(a), 102(d)(1), increased minimum primary insurance amount from $33 to $40, and minimum family benefit from $53 to $60, and in the case of a man, limited provisions which permit the primary insurance amount to be equal to the disability insurance benefit for the month before the month in which the man became entitled to old-age insurance benefits only if the man first became entitled to old-age insurance benefits at age 65.

“Subsec. (b)(3). Pub. L. 87–64, § 102(d)(2), substituted “For purposes of paragraph (2), the number of an individual’s elapsed years is the number of calendar years after 1950 (or, if later, the year in which he attained age 21) and before—

“(A) in the case of a woman, the year in which she died or (if earlier) the first year after 1960 in which she both was fully insured and had attained age 62,

“(B) in the case of a man who has died, the year in which he died or (if earlier) the first year after 1960 in which he both was fully insured and had attained age 65, or

“(C) in the case of a man who has not died, the first year after 1960 in which he attained (or would attain) age 65 or (if later) the first year in which he was fully insured”

“for the following provisions: “For the purposes of paragraph (2), an individual’s elapsed years shall be the number of calendar years—

“(A) after (i) December 31, 1950, or (ii) if later, December 31 of the year in which he attained the age of twenty-one, and

“(B) prior to (i) the year in which he died, or (ii) if earlier, the first year after December 31, 1960, in which he both was fully insured and had attained retirement age.”


“1960—Subsec. (b)(1). Pub. L. 86–778, § 303(a), substituted provisions defining “average monthly wage” as the quotient obtained by dividing (A) the total of an individual’s wages paid in and self-employment income credited to his benefit computation years, by (B) the number of months in such years, for provisions which defined the term as the quotient obtained by dividing the total of his wages and self-employment income after his starting date and prior to his closing date by the number of months elapsed after such starting date and prior to such closing date, excluding the months in any year prior to the year in which the individual attained the age of 22 if less than two quarters of such
prior years were quarters of coverage and the months in any year any part of which was included in a period of disability except the months in the year in which such period of disability began if their inclusion will result in a higher primary insurance amount.

Subsec. (b)(2). Pub. L. 86–778, § 303(a), substituted provisions relating to benefit computation years and to computation of base years for provisions which defined an individual’s starting date as December 31, 1950, or if later, the last day of the year in which he attains the age of 21, whichever results in the higher primary insurance amount.

Subsec. (b)(3). Pub. L. 86–778, § 303(a), substituted provisions defining an individual’s elapsed years for provisions which defined an individual’s closing date as the first day of the year in which he died or became entitled to old-age insurance benefits, whichever first occurred, or the first day of the first year in which he both was fully insured and had attained retirement age, whichever results in the higher primary insurance amount.

Subsec. (b)(4). Pub. L. 86–778, § 303(a), substituted provisions prescribing the applicability of subsec. (f) for provisions which required the Secretary to determine the five or fewer calendar years after an individual’s starting date and prior to his closing date which, if the monthly wages paid in the year in which the period of disability began, if their inclusion will result in a higher primary insurance amount.

Subsec. (b)(5). Pub. L. 86–778, § 303(a), substituted provisions making subsec. (f) applicable in the case of an individual to whom the provisions of subsec. (f) are not made applicable by par. (4) but prior to 1961, met the requirements of this paragraph as in effect prior to Sept. 13, 1960, or, after 1960, meets the conditions of subpar. (E) of this paragraph as in effect prior to Sept. 13, 1960, for provisions which prescribed the applicability of subsec. (f) of this section. Former provisions of par. (5) were covered by par. (4) of this section.

Subsec. (c)(2)(B). Pub. L. 86–778, § 303(b), substituted “to whom the provisions of neither paragraph (4) nor paragraph (5) of subsection (b) of this section are applicable” for “to whom the provisions of paragraph (5) of subsection (b) of this section are not applicable”.

Subsec. (d)(1)(A). Pub. L. 86–778, § 303(c)(1), substituted “be determined as provided in subsection (b) of this section (but without regard to paragraphs (4) and (5) thereof), except that for the purposes of paragraphs (2) and (3) of this subsection, December 31, 1950, shall be used instead of December 31, 1956, as determined before such amendment.”

Subsec. (d)(1)(C). Pub. L. 86–778, § 303(c)(2), substituted “all of which was included” for “any part of which was included”, and struck out provisions which required the wages paid in the year in which the period of disability began to be counted if the counting of such wages would result in a higher primary insurance amount.

Subsec. (d)(2)(B). Pub. L. 86–778, § 303(c)(3), substituted “paragraph (4) of subsection (b) of this section” for “paragraph (5) of subsection (b) of this section”.


Subsec. (e)(3). Pub. L. 86–778, § 303(d)(1), substituted “if an individual has self-employment income in a taxable year which begins prior to the calendar year in which he becomes entitled to old-age insurance benefits and in which he filed his application for the last period preceding the month in which he becomes so entitled, his self-employment income in such taxable year shall not be counted in determining his benefit computation years for such period of disability and his self-employment income in such taxable year which begins prior to such closing date and ends after the last day of the month preceding the month in which he becomes entitled to old-age insurance benefits, there shall not be counted, in determining his average monthly wage, his self-employment income in such taxable year”.

Subsec. (e)(4). Pub. L. 86–778, § 303(d)(2), struck out par. (4) which prohibited, in computing an individual’s average monthly wage, the counting of any wages paid such individual in any year any part of which was included in a period of disability, or any self-employment income of such individual credited pursuant to section 412 of this title to any year any part of which was included in a period of disability, unless the months of such year are included as elapsed months pursuant to subsec. (b)(1)(B) of this section.

Subsec. (f)(2)(A). Pub. L. 86–778, § 303(e)(1), substituted “1960” for “1954” in opening provisions, and “filed such application after such calendar year” for “filed such application no earlier than six months after such calendar year” in cl. (iii).

Subsec. (f)(2)(B). Pub. L. 86–778, § 303(e)(2), substituted provisions requiring a recomputation pursuant to subpar. (A) to be made only as provided in subsec. (a)(1) of this section, if the provisions of subsec. (b), (c), or (d) of this section, as amended by Pub. L. 86–778, were applicable to the last previous computation of the individual’s primary insurance amount, as or provided in subsec. (a)(1) and (3) of this section in all other cases for provisions which required a recomputation to be made only as provided in subsec. (a) of this section, inserted provisions requiring the computation base years, if cl. (i) of this subparagraph is applicable to such recomputation, to include only calendar years occurring prior to the year in which he filed his application for such recomputation, and struck out provisions which prescribed the method of making the recomputation if subsec. (b)(4) of this section were applicable to the previous computation.

Subsec. (f)(3)(A). Pub. L. 86–778, § 303(e)(3), substituted “December 1960” for “August 1954” in two places, struck out provisions which related to applications by individuals whose primary insurance amount was recomputed under section 102(e)(5) or 102(f)(2)(B) of the Social Security Amendments of 1964, and substituted “except that such individual’s computation base years referred to in subsection (b)(2) of this section shall include the calendar year referred to in the preceding sentence for “except that his closing date for purposes of subsection (b) of this section shall be the first day of the year following the year in which he became entitled to old-age insurance benefits or in which he filed his application for the last recomputation (to which he was entitled to old-age insurance benefits under any provision of law referred to in clause (ii) or (iii) of the preceding sentence, whichever is later”.

Subsec. (f)(3)(B). Pub. L. 86–778, § 303(e)(3), substituted “December 1960” for “August 1954” in three places, struck out provisions which related to individuals whose primary insurance amount was recomputed under section 102(e)(5) or section 102(f)(2) of the Social Security Amendments of 1964, and individuals with respect to whom the last previous computation or recomputation of their primary insurance amount was based upon a closing date determined under subpar. (A) or (B) of subsec. (b) of this section, and substituted “except that such individual’s computation base years referred to in subsection (b)(2) of this section shall include the calendar year in which he died in the case of an individual who was not entitled to old-age insurance benefits at the time of death or whose primary insurance amount was recomputed under paragraph (4) of this subsection, or in all other cases, the calendar year in which he died after the last day of the month in which he attains the age of 65, or, after 1960, his sixtieth birthday, whichever is later” for “except that his closing date for purposes of subsection (b) of this section shall be the day following the year of death in case he died without becoming entitled to old-age insurance benefits, or in case he was entitled to old-age insurance benefits, the day following the year in which he attained the age of 65, or, after 1960, his sixtieth birthday, whichever is later.”
in which was filed the application for the last previous computation of his primary insurance amount and in which was filed the application for the last previous computation of his primary insurance amount as determined under this clause to be five in the case of any individual who has not less than 20 quarters of coverage.


Subsection (a)(4) of Pub. L. 98–369 provided that:

"The amendments made by subsection (a) [amending this section] shall be applicable to benefits based on an application filed after the month in which this Act is enacted [November 1980]."

Subsection (a)(5) of Pub. L. 98–369 provided that:

''(1) Except as provided in paragraph (2) and (3), the amendments made by this section [amending this section and section 1395f of this title] shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act [subsec. (i) of this section] as currently in effect, and as in effect in December 1978 and applied in certain cases under the provisions of such Act [this chapter] in effect after December 1978 in 1986 and subsequent years.

''(2) The amendments made by paragraphs (1)(A) and (B) of subsection (b) [amending this section] shall apply with respect to monthly premiums (under section 1839 of the Social Security Act [section 1395r of this title]) for months after December 1990, see section 5117(a)(4) of Pub. L. 101–508, set out as a note under section 403 of this title.

Amendment by section 10208(b)(1), (2)(A), (B), (3)(4) of Pub. L. 101–239 applicable with respect to computation of average total weekly amounts (under section 1395f provisions) for calendar years after 1990, see section 10208(c) of Pub. L. 101–239, set out as a note under section 430 of this title.

Effective Date of 1988 Amendment

Section 8003(b) of Pub. L. 100–647 provided that: "The amendments made by subsection (a) [amending this section] shall apply to benefits payable for months after October 1988."
increases determined under subsec. (i) of this section for years after 1982, see section 111(a)(8) of Pub. L. 98–21, set out as a note under section 402 of this title.

Section 111(b)(8) of Pub. L. 98–21 provided that: "The amendments made by this subsection [amending this section] shall apply with respect to costs of living increases determined under section 215(i) of the Social Security Act [subsec. (i) of this section] for years after 1983."

Section 112(e) of Pub. L. 98–21 provided that: "The amendments made by the preceding provisions of this section [amending this section] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1983."

**Effective Date of 1961 Amendments**

Section 2(j)(2)–(4) of Pub. L. 97–123, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2065, provided: "(2) Except as provided in paragraphs (3) and (4), the amendments made by section 2201 of the Omnibus Budget Reconciliation Act of 1981 [enacting section 1382k of this title, amending this section and sections 402, 403, 417, and 433 of this title] (other than subsection (f) thereof [amending section 402 of this title]), together with the amendments made by the preceding subsections of this section [amending this section and sections 402, 403, and 417 of this title and repealing section 1382k of this title and a provision set out as a note under section 1382k of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1981.

(3) Such amendments shall not apply—

"(A) in the case of an old-age insurance benefit, if the individual who is entitled to such benefit first became eligible (as defined in section 215(a)(8)(B) of the Social Security Act [subsec. (a)(8)(B) of this section]) for such benefit before January 1982.

"(B) in the case of a disability insurance benefit, if the individual who is entitled to such benefit first became eligible (as so defined) for such benefit before January 1982, or attained age sixty-two before January 1982.

"(C) in the case of a wife's or husband's insurance benefit, or a child's insurance benefit based on the wages and self-employment income of a living individual, if the individual on whose wages and self-employment income such benefit is based is entitled to an old-age or disability insurance benefit with respect to which such amendments do not apply, or

"(D) in the case of a survivors insurance benefit, if the individual on whose wages and self-employment income such benefit is based died before January 1982, or dies in or after January 1982 and at the time of his death is eligible (as so defined) for an old-age or disability insurance benefit with respect to which such amendments do not apply.

(4) In the case of an individual who is a member of a religious order (within the meaning of section 3121(r)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) [section 3121(r)(2) of Title 26, Internal Revenue Code], or an autonomous subdivision of such order, whose members are required to take a vow of poverty, and which order or subdivision elected coverage under title II of the Social Security Act [this subchapter] before the date of the enactment of this Act [Dec. 29, 1981], or who would be such a member except that such individual is considered retired because of old age or total disability, paragraphs (2) and (3) shall apply, except that each reference therein to 'December 1981' or 'January 1982' shall be considered a reference to 'December 1981' or 'January 1982.'

Section 2206(a), (b)(5)–(7) of Pub. L. 97–35 applicable only with respect to initial calculations and adjustments of primary insurance amounts and benefit amounts which are attributable to periods after August 1981, see section 2206(c) of Pub. L. 97–35, set out as a note under section 402 of this title.

**Effective Date of 1980 Amendment**

Section 102(c) of Pub. L. 96–265 provided that: "The amendments made by this section [amending this section and section 423 of this title] shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes entitled to disability insurance benefits on or after July 1, 1980; except that the third sentence of section 216(b)(2)(A) of the Social Security Act [subsec. (b)(2)(A) of this section] (as added by such amendments) shall apply only with respect to monthly benefits payable for months beginning on or after July 1, 1981."

For effective date of amendment by section 101(b)(3), (4) of Pub. L. 96–265, see section 101(c) of Pub. L. 96–265, set out as a note under section 403 of this title.

**Effective Date of 1977 Amendment**

Section 103(d) of Pub. L. 95–216 applicable with respect to remuneration paid or received, and taxable years beginning after 1977, see section 92 of Pub. L. 95–216, set out as a note under section 1401 of Title 26, Internal Revenue Code.

Amendment by section 201 of Pub. L. 95–216 effective only with respect to monthly benefits under this subchapter payable for months after December 1978 and with respect to lump-sum death payments with respect to deaths occurring after December 1978, except that amendment by section 201(d) of Pub. L. 95–216 effective with respect to monthly benefits of an individual who becomes eligible for an old-age or disability insurance benefit, or dies after December 1977, see section 206 of Pub. L. 95–216, set out as a note under section 402 of this title.

**Effective Date of 1973 Amendments**

Section 1(b)(2) of Pub. L. 93–233 provided that: "The amendment made by paragraph (1) [amending this section] shall be effective with respect to benefits payable for months after February 1974.

Section 2(c) of Pub. L. 93–233 provided that: "The amendment made by subsections (a) and (b) [amending this section and sections 427 and 428 of this title] shall be effective in like manner as if such amendment had been effective in like manner as if such amendment had been

Amendment by section 5(a)(4) of Pub. L. 93–233 applicable with respect to calendar years after 1973, see section 5(e) of Pub. L. 93–233, set out as a note under section 409 of this title.

Amendment by Pub. L. 93–66 applicable with respect to calendar years after 1973, see section 203(e) of Pub. L. 93–66, set out as a note under section 409 of this title.

**Effective Date of 1972 Amendments**

Section 101(g) of Pub. L. 92–603 provided that: "The amendments made by this section [amending this section and section 403 of this title] shall apply with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] for months after December 1972 (without regard to when the insured individual became entitled to such benefits or when he died) and with respect to lump-sum death payments under such title in the case of deaths occurring after such month."

Amendment by section 104(b) of Pub. L. 92–603 applicable only in the case of a man who attains (or would attain) age 62 after Dec. 1974, with provision for the determination of the number of elapsed years for purposes of subsec. (b)(3) of this section in the case of a man who attains age 62 prior to 1975, see section 104(j) of Pub. L. 92–603, set out as a note under section 411 of this title.

Amendment by section 144(a)(1) of Pub. L. 92–603 effective in like manner as if such amendment had been
Included in title II of Pub. L. 92–336, see section 144(b) of Pub. L. 92–603, set out as a note under section 403 of this title.

Section 201(1) of Pub. L. 92–336 provided that: "The amendments made by this section [amending this section and section 403 of this title] (other than the amendments made by subsections (g) and (h)) shall apply with respect to monthly benefits under title II of the Social Security Act [this chapter] for months after August 1972 and with respect to lump-sum death payments under such title in the case of deaths occurring after such month. The amendments made by subsection (g) [amending sections 427 and 428 of this title] shall apply with respect to monthly benefits under title II of such Act for months after August 1972. The amendments made by subsection (h)(1) (amending section 403 of this title) shall apply with respect to monthly benefits under title II of such Act for months after December 1971.''

Amendment by section 203(a)(4) of Pub. L. 92–336 applicable only with respect to calendar years after 1972, see section 203(c) of Pub. L. 92–336, set out as a note under section 409 of this title.

Effective Date of 1971 Amendment
Section 201(e) of Pub. L. 92–5 provided that: "The amendments made by this section [amending this section and section 403 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1970 and with respect to lump-sum death payments under such title in the case of deaths occurring in and after the month in which this Act is enacted [March 1971].''

Amendment by section 203(a)(4) of Pub. L. 92–5 applicable only with respect to calendar years after 1971, see section 203(c) of Pub. L. 92–5, set out as a note under section 409 of this title.

Effective Date of 1969 Amendment
Section 1002(e) of Pub. L. 91–172 provided that: "The amendments made by this section [amending this section and section 403 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1969 and with respect to lump-sum death payments under such title in the case of deaths occurring after December 1969.''

Effective Date of 1968 Amendment
Section 101(e) of Pub. L. 90–248 provided that: "The amendments made by this section [amending this section and section 403 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after January 1968 and with respect to lump-sum death payments under such title in the case of deaths occurring after January 1968.''

Amendment by section 108(a)(4) of Pub. L. 90–248 applicable only with respect to calendar years after 1967, see section 108(c) of Pub. L. 90–248, set out as a note under section 409 of this title.

Section 155(a)(7), (9) of Pub. L. 90–248 provided that: "(7) A. The amendments made by paragraphs (4) and (5) [amending this section] shall apply with respect to recomputations made under section 215(f)(2) of the Social Security Act [subsec. (f)(2) of this section] after the date of the enactment of this Act [Jan. 2, 1968].''

"(8) The amendments made by paragraph (6) [amending this section] shall apply with respect to individuals who die after the date of enactment of this Act [Jan. 2, 1968].''

"(9) The amendment made by paragraphs (1) and (2) [amending this section] shall not apply with respect to monthly benefits for any month prior to January 1967.''

Effective Date of 1965 Amendment
Section 301(d) of Pub. L. 89–97 provided that: "The amendments made by subsections (a), (b), and (c) of this section [amending this section and section 403 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1964 and with respect to lump-sum death payments under such title in the case of deaths occurring in or after the month in which this Act is enacted (July 1965).''

Section 302(d)(2) of Pub. L. 89–97 provided that the amendment made by that section is effective Jan. 2, 1966.

Section 302(f)(1)–(5) of Pub. L. 89–97 provided as follows:

"(1) The amendments made by subsection (c) [amending this section] shall apply only to individuals who become entitled to old-age insurance benefits under section 202(a) of the Social Security Act [section 402(a) of this title] after 1965.

"(2) Any individual who would, upon filing an application prior to January 2, 1966, be entitled to a recomputation of his monthly benefit amount for purposes of title II of the Social Security Act (this subchapter) shall be deemed to have filed such application on the earliest date on which such application could have been filed, or on the day on which this Act is enacted [July 30, 1965], whichever is later.

"(3) In the case of an individual who died after 1960 and prior to 1966 and who was entitled to old-age insurance benefits under section 202(a) of the Social Security Act [section 402(a) of this title] at the time of his death, the provisions of sections 215(f)(3)(B) and 215(f)(4) of such Act [subsecs. (f)(3)(B) and (f)(4) of this section] as in effect before the enactment of this Act [July 30, 1965] shall apply.

"(4) In the case of a man who attains age 65 prior to 1966, or dies before such year, the provisions of section 215(f)(7) of the Social Security Act as in effect before the enactment of this Act [July 30, 1965] shall apply.

"(5) The amendments made by subsection (e) [amending this section [amending section 423 of this title] shall apply in the case of individuals who become entitled to disability insurance benefits under section 223 of the Social Security Act [section 423 of this title] after December 1965.''

Section 303(f)(2) of Pub. L. 89–97 provided that: "The amendment made by subsection (e) [amending this section] shall apply in the case of the primary insurance amounts of individuals who attain age 65 after the date of enactment of this Act [July 30, 1965].''

Amendment by section 304(k) of Pub. L. 89–97 applicable with respect to monthly insurance benefits under this subchapter for and after the second month following July 1965 but only on the basis of applications filed in or after July 1965, see section 304(e) of Pub. L. 89–97, set out as a note under section 402 of this title.

Amendment by section 320(a)(4) of Pub. L. 89–97 applicable with respect to calendar years after 1965, see section 320(c) of Pub. L. 89–97, set out as a note under section 3121 of Title 26, Internal Revenue Code.

Effective Date of 1961 Amendment
Section 101(b) of Pub. L. 87–64 provided that: "The amendments made by subsection (a) [amending this section] shall apply only in the case of monthly insurance benefits under title II of the Social Security Act [this subchapter] for months beginning on or after the effective date of this title [see note set out under section 402 of this title], and in the case of lump-sum death payments under such title with respect to deaths on or after such effective date..."
see sections 102(f)(6), (7) and 109 of Pub. L. 87–64, set out as notes under section 402 of this title.

**Effective Date of 1960 Amendment**

Amendment by section 103(j)(2)(C) of Pub. L. 86–778 effective on Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86–778, set out as a note under section 402 of this title. Amendment by section 211(a) of Pub. L. 86–778 effective in the manner provided in section 211(p) and (q) of Pub. L. 86–778, see section 211(s) of Pub. L. 86–778, set out as a note under section 403 of this title.

Section 303(d)(1) of Pub. L. 86–778 provided that the amendment made by that section is effective with respect to individuals who become entitled to benefits under section 402(a) of this title after September 13, 1960.

Section 303(e)(1) of Pub. L. 86–778 provided that the amendment made by that section is effective with respect to applications for recomputation under subsection (f)(2) of this section filed after 1960.

Section 303(e)(4)(B) of Pub. L. 86–778 provided that the amendment made by that section is effective in the case of deaths occurring on or after Sept. 13, 1960.

**Effective Date of 1958 Amendment**

Section 101(g) of Pub. L. 85–840 provided that: "The amendments made by this section (amending this section and sections 402 and 403 of this title) shall be applicable in the case of monthly benefits under title II of the Social Security Act [this subchapter], for months after December 1958, and in the case of the lump-sum death payments under such title, with respect to deaths occurring after such month."

Amendment by section 205(m) of Pub. L. 85–840 applicable with respect to monthly benefits under this subchapter for August 1958 and succeeding months, see section 205(n) of Pub. L. 85–840, set out as a note under section 416 of this title.

**Effective Date of 1956 Amendment**

Section 109(b) of act Aug. 1, 1956, provided that: "The amendment made by subsection (a) [amending this section] shall apply in the case of monthly benefits under section 202 of the Social Security Act [section 402 of this title], and the lump-sum death payments under such section, based on the wages and self-employment income of an individual—

(1) who becomes entitled to benefits under subsection (a) of such section on the basis of an application filed on or after the date of enactment of this Act [Aug. 1, 1956]; or

(2) who is (but for the provisions of subsection (f)(6) of such section 215 of the Social Security Act [subsec. (f)(6) of this section]) entitled to a recomputation of his primary insurance amount under subsection (f)(2)(A) of such section 215 based on an application filed on or after the date of enactment of this Act [Aug. 1, 1956]; or

(3) who dies without becoming entitled to benefits under subsection (a) of such section 202 of such Act and the lump-sum death payment under such section, based on the wages and self-employment income of such individual—

(A) whose survivors are (but for the provisions of subsection (f)(6) of such section 215 of the Social Security Act [subsec. (f)(6) of this section]) entitled to a recomputation of his primary insurance amount under subsection (f)(4)(A) of such section 215; or

(B) whose survivors are (but for the provisions of subsection (f)(6) of such section 215 of the Social Security Act [subsec. (f)(6) of this section]) entitled to a recomputation of his primary insurance amount under subsection (f)(4)(A) of such section 215, and (B) on the basis of whose wages and self-employment income no individual was entitled to survivor's benefits under such section, and the lump-sum death payment was payable under such section, on the basis of an application filed prior to such date of enactment and no individual was entitled to a benefit, without the filing of an application for the period in which this Act is enacted [August 1956] or any month prior thereto."

Section 115(d) of act Aug. 1, 1956, provided that: "The amendments made by this section [amending this section] shall apply in the case of an individual (1) who becomes entitled (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) to benefits under section 202(a) of such Act [section 402(a) of this title] after the date of enactment of this Act [Aug. 1, 1956], or (2) who dies without becoming entitled to benefits under such section 202(a) and on the basis of whose wages and self-employment income an application for benefits or a lump-sum death payment under section 202 of such Act is filed after the date of enactment of this Act, or (3) who becomes entitled to benefits under section 223 of such Act [section 423 of this title], or (4) who files, after the date of enactment of this Act, an application for a disability determination which is accepted as an application for purposes of section 216(i) of such Act [section 416(i) of this title]."

**Effective Date of 1954 Amendment**


"(1) The amendments made by the preceding subsections [amending this section and section 403 of this title], other than subsection (b) and paragraphs (1), (2), (3), and (4) of subsection (e), shall (subject to the provisions of paragraph (2) and notwithstanding the provisions of section 215(f)(1) of the Social Security Act [subsec. (f)(1) of this section]) apply in the case of lump-sum death payments under section 202 of such Act [section 402 of this title] with respect to deaths occurring after, and in the case of monthly benefits under such section for months after, August 1954."

"(2)(A) The amendment made by subsection (b)(2) [amending this section] shall be applicable only in the case of monthly benefits for months after August 1954, and the lump-sum death payment in the case of death after August 1954, based on the wages and self-employment income of an individual (i) who does not become eligible for benefits under section 202(a) of the Social Security Act [section 402(a) of this title] until after August 1954, or (ii) who dies after August 1954, and without becoming eligible for benefits under such section 202(a), or (iii) who is or has been entitled to have his primary insurance amount recomputed under section 215(f)(2) of the Social Security Act, as amended by subsection (e)(2) of this section, or under subsection (e)(5)(B) of this section [set out as a note under this section], or (iv) with respect to whom not less than six of the quarters elapsed after June 1953 are quarters of coverage (as defined in such Act), or (v) who files an application for a disability determination which is accepted as an application for purposes of section 216(i) of such Act [section 416(i) of this title], or (vi) who dies after August 1954, and whose survivors are (or would, but for the provisions of section 215(f)(6) of such Act, be) entitled to a recomputation of his primary insurance amount under section 215(f)(4)(A) of such Act, as amended by this Act. For purposes of the preceding sentence an individual shall be deemed eligible for benefits under section 202(a) of the Social Security Act for any month if he was, or would upon filing an application therefor in such month have been, entitled to such benefits for such month."

“(3) The amendments made by subsections (b)(1), (e)(1), and (e)(3)(B) [amending this section] shall be applicable only in the case of monthly benefits based on the wages and self-employment income of an individual who does not become entitled to old-age insurance benefits under section 202(a) of the Social Security Act [section 402(a) of this title] until after August 1954, or who dies after August 1954 without becoming entitled to such benefits, or who files an application after August 1954 and is entitled to a recomputation under paragraph (2) or (4) of section 215(f) of the Social Security Act, as amended by this Act [subsec. (f)(2) or (4) of this section], or who is entitled to a recomputation under paragraph (5) of subsection (e) [set out as a note under this section]."

“(4) The amendments made by subsection (e)(2) [amending this section] shall be applicable only in the case of applications for recomputation filed after 1954. The amendment to subsec. (f)(4) made by subsection (e)(4) shall be applicable only in the case of deaths after 1954.

“(5) The amendments made by subparagraph (A) of subsection (e)(3) [amending this section] shall be applicable only in the case of applications for recomputation filed after 1954. The amendment to subsec. (f)(4) made by subsection (e)(4) shall be applicable only in the case of deaths after 1954.

“(6) No increase in any benefit by reason of the amendments made by this section (other than subsection (e)) or by reason of subparagraph (B) of paragraph (2) of this subsection shall be regarded as a recomputation for purposes of section 215(f) of the Social Security Act [subsec. (f) of this section]."

Amendment by section 106(c) of act Sept. 1, 1954, applicable with respect to monthly benefits under this subchapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments should be regarded as a recomputation for purposes of subsection (f) of this section, see section 106(h) of act Sept. 1, 1954, set out as a note under section 413 of this title.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENTS

For effective and termination dates of amendment by act July 18, 1952, see section 3(1), (g) of act July 18, 1952, set out as a note under section 413 of this title:

Section 2(c)(1), (3) of act July 18, 1952, provided that:

“(1) The amendments made by subsection (a) [amending this section] shall, subject to the provisions of paragraph (2) of this subsection and notwithstanding the provisions of section 215(f)(1) of the Social Security Act [subsec. (f)(1) of this section], apply in the case of lump-sum death payments under section 202 of such Act [section 402 of this title] with respect to deaths occurring after, and in the case of monthly benefits under such section for any month after, August 1952.

“(2) The amendments made by subsection (b) [amending this section and section 403 of this title] shall (notwithstanding the provisions of section 215(f)(1) of the Social Security Act [subsec. (f)(1) of this section]) apply in the case of lump-sum death payments under section 202 of such Act [section 402 of this title] with respect to deaths occurring after August 1952, and in the case of monthly benefits under such section for months after August 1952.”

SAVINGS PROVISION

1960—Section 303(i) of Pub. L. 86-778 provided that in the case of an application for recomputation under such subsec. (f)(2) of this section, the provisions of subsec. (f)(2) as in effect prior to Sept. 13, 1960, were to apply where the application was filed after 1954 and before 1961, and that in the case of an individual who died after 1964 and before 1963 and who was entitled to an old-age insurance benefit under section 202 of such Act [section 402 of this title], the provisions of subsec. (f)(4) as in effect prior to Sept. 13, 1960 were to apply.

1958—Section 101(i) of Pub. L. 85-840 provided that: “In the case of any individual to whom the provisions of subsection (b)(5) of section 215 of the Social Security Act [subsec. (b)(5) of this title], as amended by this Act, are applicable and on the basis of whose wages and self-employment income benefits are payable for months prior to January 1959, his primary insurance amount for purposes of benefits for such prior months shall, if based on an application for such benefits or for a recomputation of such amount, as the case may be, filed after December 1958, be determined under such section 215 [this section], as in effect prior to the enactment of this Act [Aug. 26, 1958], and, if such individual’s primary insurance amount as so determined is larger than the primary insurance amount determined for him under section 215 as amended by this Act, such larger primary insurance amount (increased to the next higher dollar if it is not a multiple of a dollar) shall, for months after December 1958, be his primary insurance amount for purposes of section 215 (and of the other provisions) of the Social Security Act as amended by this Act in lieu of the amount determined without regard to this subsection.

1952—Subsec. (d) of section 2 of act July 18, 1952, provided that:

“(1) Where—

(A) an individual was entitled (without the application of section 203(a) of the Social Security Act, as amended by this section or by reason of paragraph (2) of this subsection) to an old-age insurance benefit under title II of such Act [this subchapter] for August 1952,

(B) two or more other persons were entitled (without the application of such section 203(a) of the Social Security Act, as amended by this Act [section 403(a) of this title]), or

(C) the total of the benefits to which all persons are entitled under such title [this subchapter] on the basis of such individual’s wages and self-employment income for any subsequent month for which he is entitled to an old-age insurance benefit under such title, would (but for the provisions of this paragraph) be reduced by reason of the application of section 203(a) of the Social Security Act, as amended by this Act [section 403(a) of this title],

then the total of benefits, referred to in clause (C), for such subsequent month shall be reduced to whichever of the following is the larger:

(D) the amount determined pursuant to section 203(a) of the Social Security Act, as amended by this Act [section 403(a) of this title]; or

(E) the amount determined pursuant to such section, as in effect prior to the enactment of this Act [July 18, 1952], for August 1952 plus the excess of (i) the amount of his old-age insurance benefit for August 1952 computed as if the amendments made by the preceding subsections of this section had been applicable in the case of such benefit for August 1952, over (ii) the amount of his old-age insurance benefit for August 1952.

“(2) No increase in any benefit by reason of the amendments made by this section or by reason of paragraph (2) of subsection (c) of this section shall be regarded as a recomputation for purposes of section 215(f) of the Social Security Act [subsec. (f) of this section]."

TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, 31 F.R. 8835, 80 Stat. 1610, effective June 23, 1966, set out in the Appendix to Title 5, Government Organization and Employees. Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 508(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.
Commission on the Social Security “Notch” Issue

Cost-of-Living Increases; Cost-of-Living Computation Quarter Determinations
Pub. L. 98–404, § 1, Oct. 30, 1984, 98 Stat. 1361, provided: “That (a) in determining whether the base quarter ending on September 30, 1984, is a cost-of-living computation quarter for the purposes of the cost-of-living increases under sections 215(i) and 1617 of the Social Security Act [subsec. (i) of this section and section 1383f of this title], the phrase ‘is 3 percent or more’ appearing in section 215(i)(1)(B) of such Act shall be deemed to read ‘is greater than zero’ (and the phrase ‘exceeds, by not less than 3 per centum, such Index’ appearing in section 215(i)(1)(B) of such Act as in effect in December 1978 shall be deemed to read ‘exceeds such Index’). 

(b) For purposes of section 215(i) of such Act, the provisions of subsection (a) shall not constitute a ‘general benefit increase.’”

“Base Quarter” in Calendar Year 1983
Section 111(d) of Pub. L. 98–21 provided that: “Notwithstanding any provision to the contrary in section 215(i) of the Social Security Act [subsec. (i) of this section], the ‘base quarter’ (as defined in paragraph (1)(A)(i) of such section) in the calendar year 1983 shall be a ‘cost-of-living computation quarter’ within the meaning of paragraph (1)(B) of such section (and shall be deemed to have been determined by the Secretary of Health and Human Services to be a ‘cost-of-living computation quarter’ under paragraph (2)(A) of such section) for all of the purposes of such Act (this chapter) as amended by this section and by other provisions of this Act, without regard to the extent by which the Consumer Price Index has increased since the last prior cost-of-living computation quarter which was established under such paragraph (1)(B).”

Combined Balance in Trust Funds Used in Determining OASDI Fund Ratio With Respect to Calendar Year 1984
Section 112(f) of Pub. L. 98–21, as amended by Pub. L. 98–369, div. B, title VI, § 2362(b), July 18, 1984, 98 Stat. 1159, provided that: “Notwithstanding anything to the contrary in section 215(i)(1)(F) of the Social Security Act [subsec. (1)(F) of this section] (as added by subsection (a)(4) of this section), the combined balance in the Trust Funds which is to be used in determining the ‘OASDI fund ratio’ with respect to the calendar year 1984 under such section shall be the estimated combined balance in such Funds as of the close of that year (rather than as of its beginning), including the taxes transferred under section 201(a) of such Act [section 401(a) of this title] on the first day of the year following that year.”

Recalculation of Primary Insurance Amounts Applicable to Certain Beneficiaries
Section 230(i) of Pub. L. 98–369, div. B, title VI, § 2362(b), July 18, 1984, 98 Stat. 1159, provided that: “Notwithstanding anything to the contrary in section 215(i)(1)(B) of the Social Security Act [subsec. (1)(B) of this section] as follows the semicolon, and section 230(a) of the Social Security Act [section 430(a) of this title], the increase in benefits provided by section 2 of this Act (amending this section and sections 427 and 428 of this title) shall be considered an increase under section 215(i) of the Social Security Act.”

Increase of Old-Age or Disability Insurance Benefits Following Increase in Primary Insurance Amount or Entitlement to Benefits on a Higher Amount
Section 101(f) of Pub. L. 92–603 provided that: “Whenever an insured individual is entitled to benefits for a month which are based on a primary insurance amount under paragraph (1) or paragraph (3) of section 215(a) of the Social Security Act [subsec. (a)(1) or (3) of this section] and for the following month such primary insurance amount is increased or such individual becomes entitled to benefits on a higher primary insurance amount under a different paragraph of such section 215(a), such individual’s old-age or disability insurance benefit (beginning with the effective month of the increased primary insurance amount) shall be increased by an amount equal to the difference between such amount and such individual’s primary insurance amount and the primary insurance amount on which such benefit was based for the month prior to such effective month, after the application of section 202(q) of such Act [section 402(q) of this title] where applicable, to such difference.”

Table Modification and Extension; Effective Date; Publication in Federal Register
Section 230(f) of Pub. L. 93–66 provided that effective June 1, 1974, the Secretary of Health, Education, and Welfare would prescribe and publish in the Federal Register all necessary modifications and extensions in the table formerly contained in subsec. (a) of this section.

Conversion of Disability Insurance Benefits to Old-Age Insurance Benefits
Section 201(f) of Pub. L. 92–5 provided that: “If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act [section 423 of this title] for December 1970, then, for purposes of section 215(a)(4) of the Social Security Act [subsec. (a)(4) of this section] if applicable, the amount in column IV of the table appearing in such section 215(c) (probably means section 215(a) which is subsec. (a) of this section) for such individual shall be the amount in such column on the line on which in column II appears such individual’s primary insurance amount (as determined under section 215(c) of such Act [section 402(a) of this title] for January 1971, then, for purposes of section 215(a)(4) of the Social Security Act [subsec. (a)(4) of this section] if applicable, the amount in column IV of the table appearing in such section 215(c) (probably means section 215(a) which is subsec. (a) of this section) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based.”

Section 1002(f) of Pub. L. 91–172 provided that: “If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act [section 423 of this title] for December 1969 and became entitled to old-age insurance benefits under section 202(a) of such Act [section 402(a) of this title] for January 1970, or died in such month, then, for purposes of section 215(a)(4) of the Social Security Act [subsec. (a)(4) of this section] if applicable, the amount in column IV of the table appearing in such section 215(c) (probably means section 215(a) which is subsec. (a) of this section) for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under section 215(c) of such Act [section 402(a) of this title]) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based.”
of this title] for the month of January 1968 and became entitled to old-age insurance benefits under section 202(a) of such Act [section 402(a) of this title for the month of February 1968, or who died in such month, then, for purposes of section 215(a)(4) of the Social Security Act [subsection (d) of this section] (if applicable) the amount in column IV of the table appearing in such section 215(a) for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under section 215(c) of such Act) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based."

Section 301(c) of Pub. L. 89–97 provided that: "If an individual is entitled to a disability insurance benefit under section 223 of the Social Security Act [section 423 of this title] for December 1964 on the basis of an application filed after enactment of this Act [July 30, 1965] and is entitled to old-age insurance benefits under section 202(a) of such Act [section 402(a) of this title] for January 1965, then, for purposes of section 215(a)(4) of the Social Security Act [subsection (d) of this section] (if applicable) the amount in column IV of the table appearing in such section 215(a) for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under section 215(c) of such Act) instead of the amount in column IV equal to his disability insurance benefit."

Section 101(h) of Pub. L. 85–840 provided that: "If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act [section 423 of this title] for December 1958, and became entitled to old-age insurance benefits under section 202(a) of such Act [section 402(a) of this title], or died, in January 1959, then, for purposes of paragraph (4) of section 215(a) of the Social Security Act [subsection (d) of this section], as amended by this Act, the amount in column IV of the table appearing in such section 215(a) for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under subsection (c) of such section 215) instead of the amount in column IV equal to his disability insurance benefit."

**COMPUTATION OF PRIMARY INSURANCE AMOUNT FOR PERSONS ENTITLED TO BENEFITS AFTER JANUARY 2 AND BEFORE FEBRUARY 1968**

Section 155(a)(8) of Pub. L. 90–248 provided that: "In any case in which—

(A) any person became entitled to a monthly benefit under section 202 or 223 of the Social Security Act [sections 402 or 423 of this title] after the date of enactment of this Act [Jan. 2, 1968] and before February 1968, and

(B) the primary insurance amount on which the amount of such benefit is based was determined by applying section 215(d) of the Social Security Act [subsection (d) of this section] as amended by this Act, such primary insurance amount shall, for purposes of section 215(c) of the Social Security Act [subsection (c) of this section], as amended by this Act, be deemed to have been computed on the basis of the Social Security Act [this chapter] in effect prior to the enactment of this Act [Jan. 2, 1968]."

**COMPUTATION OF PRIMARY INSURANCE AMOUNT FOR CERTAIN INDIVIDUALS WHO WERE FULLY INSURED AND HAD ATTAINED RETIREMENT AGE PRIOR TO 1961**

Section 303(g)(1) of Pub. L. 86–778, as amended by Pub. L. 87–64, title I, § 103(d), June 30, 1961, 75 Stat. 138; Pub. L. 89–97, title III, § 301(e), July 30, 1965, 79 Stat. 366; Pub. L. 92–223, § 5, Dec. 28, 1971, 85 Stat. 810; Pub. L. 92–603, title III, § 304, Oct. 30, 1972, 86 Stat. 1484, eff. Oct. 30, 1972, provided a minimum aid requirement in addition to the requirements imposed by law as conditions of approval of State plans for aid to individuals under subchapters I, X, XIV, or XVI of this chapter, in the case of any individual found eligible for aid for any month after Mar. 1970 and before Dec. 1972, an amount which the State is required or permitted to amount on the basis of such individual's average monthly wage determined under the provisions of section 215 of the Social Security Act [this section] in effect prior to the enactment of this Act with a closing date determined under section 215(b)(3)(B) of such Act as then in effect, but only if such closing date would have been applicable to such computation had this section not been enacted. If the primary insurance amount resulting from the use of such an average monthly wage is higher than the primary insurance amount resulting from the use of an average monthly wage determined pursuant to the provisions of section 215 of the Social Security Act, as amended by the Social Security Amendments of 1960 [Pub. L. 86–778], or (if such individual becomes entitled to old-age insurance benefits after the date of enactment of the Social Security Amendments of 1972 [Oct. 30, 1972], or dies after such date without becoming so entitled) as amended by the Social Security Amendments of 1972 [Pub. L. 92–603], such higher primary insurance amount shall be the individual's primary insurance amount for purposes of such section. If an individual was entitled to Social Security benefits under a State plan approved under title I, X, XIV, or XVI of this chapter, and in the case of such an individual who also received a monthly annuity or pension under the Railroad Retirement Acts of 1937 or 1938, set out in sections 215 et seq. and 228a et seq., respectively, of Title 45, Railroads.

**DISREGARDING OF INCOME OF OASDI RECIPIENTS AND RAILROAD RETIREMENT RECIPIENTS IN DETERMINING NEED FOR PUBLIC ASSISTANCE**

Section 1007 of Pub. L. 91–172, as amended by Pub. L. 91–306, § 2(a)(1), July 6, 1970, 84 Stat. 408; Pub. L. 91–669, Jan. 11, 1971, 84 Stat. 2038; Pub. L. 92–223, § 5, Dec. 28, 1971, 85 Stat. 810; Pub. L. 92–603, title III, § 304, Oct. 30, 1972, 86 Stat. 1484, eff. Oct. 30, 1972, provided a minimum aid requirement in addition to the requirements imposed by law as conditions of approval of State plans for aid to individuals under subchapters I, X, XIV, or XVI of this chapter, in the case of any individual found eligible for aid for any month after Mar. 1970 and before Dec. 1972, an amount which the State is required or permitted to amount on the basis of such individual's average monthly wage determined under the provisions of subchapter II of the Social Security Act [this chapter] in effect prior to the enactment of this Act with a closing date determined under section 215(b)(3)(B) of such Act as then in effect, but only if such closing date would have been applicable to such computation had this section not been enacted. If the primary insurance amount resulting from the use of such an average monthly wage is higher than the primary insurance amount resulting from the use of an average monthly wage determined pursuant to the provisions of section 215 of the Social Security Act, as amended by the Social Security Amendments of 1960 [Pub. L. 86–778], or (if such individual becomes entitled to old-age insurance benefits after the date of enactment of the Social Security Amendments of 1972 [Oct. 30, 1972], or dies after such date without becoming so entitled) as amended by the Social Security Amendments of 1972 [Pub. L. 92–603], such higher primary insurance amount shall be the individual's primary insurance amount for purposes of such section. If an individual was entitled to Social Security benefits under a State plan approved under title I, X, XIV, or XVI of this chapter, and in the case of such an individual who also received a monthly annuity or pension under the Railroad Retirement Acts of 1937 or 1938, set out in sections 215 et seq. and 228a et seq., respectively, of Title 45, Railroads.

**DISREGARDING OF RETROACTIVE PAYMENT OF OASDI BENEFIT INCREASE AND OF RAILROAD RETIREMENT BENEFIT INCREASE**

Section 201(g) of Pub. L. 92–25 provided that: "Notwithstanding the provisions of sections 2(a)(10), 402(a)(7), 1002(a)(8), 1402(a)(8), and 1602(a)(13) and (14) of the Social Security Act (sections 402(a)(10), 402(a)(7), 1202(a)(8), 1302(a)(8), and 1303(a)(13) and (14) of this title) each State, in determining need for aid or assistance under a State plan approved under title I, X, XIV, or XVI of this chapter, may disregard (and the plan may be deemed to require the State to disregard), in addition to any other amounts which the State is required or permitted to disregard in determining such need, any amount paid to an individual under title II of such Act [subchapter II of this chapter] or under the Railroad Retirement Act of 1937 [section 226a of Title 45], by reason of the first proviso in section 3(e) thereof (section 226c(e) of Title 45), in any month after the
month in which this Act is enacted [March 1971], to the extent that (1) such payment is attributable to the increase in monthly benefits under the old-age, survivors, and disability insurance system under title II of such Act, by reason of the amendments made by section 326(a) of Pub. L. 89–97 to sections 228a(q) and 1321(a)(13) and (14) of the Social Security Act [sections 302(a)(10), 602(a)(7), 1321(a)(8), and 1322(a)(13) and (14) of this title], such State, in determining need for aid or assistance under a State plan approved under title I, X, XIV, or XVI [subchapters I, X, XIV, or XVI of this chapter], or part A of title IV, of such Act [part A of subchapter IV of this chapter], shall disregard (and the plan shall be deemed to require the State to disregard), in addition to any other amounts which the State is required or permitted to disregard in determining such need, any amount paid to any individual (1) under title II of such Act [this subchapter] (or under the Railroad Retirement Act of 1937 [section 213 et seq. of Title 45, Railroads] by reason of the first proviso in section 3(e) thereof [section 223(c) of Title 45]), in any month after December 1969, to the extent that (a) such payment is attributable to the increase in monthly benefits under the old-age, survivors, and disability insurance system for January or February 1970 resulting from the enactment of this title, and (b) the amount of such increase is paid separately from the rest of the monthly benefit of such individual for January, February, March, or April 1971 resulting from the enactment of this title, and (2) the amount of such increase is paid separately from the rest of the monthly benefit of such individual for January, February, March, or April 1971 resulting from the enactment of this Act [this subchapter] in effect prior to the enactment of such title.

Disregarding OASDI Benefit Increases and Child’s Insurance Benefit Payments Beyond Age 18 to the Extent Attributable to Retroactive Effective Date of 1965 Amendments

Section 606 of Pub. L. 89–97 authorized a State to disregard, in determining the need for aid or assistance under State plans approved under subchapter I, IV, X, XIV, or XVI of this chapter, any amount paid to an individual under subchapter II of this chapter or the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935 [section 215 et seq. of Title 45] brought about by reason of the enactment (after May 30, 1970 and prior to December 31, 1970) of any Act which increases, retroactively, the amount of such annuities or pensions.

Computation of Average Monthly Wage for Certain Individuals Entitled to Disability Insurance Benefits Prior to 1961

Section 303(g)(2) of Pub. L. 86–778 provided that: “Notwithstanding the amendments made by the preceding subsections of this section (amending this section and section 422 of this title), in the case of any individual who was entitled (without regard to the provisions of section 223(b) of the Social Security Act [section 423(b) of this title]) to a disability insurance benefit under such section 223 for the month before the month in which he became entitled to an old-age insurance benefit under section 202(a) of such Act [section 402(a) of this title], or in which he died, and such disability insurance benefit was based on an amount determined under the provisions of section 215 of the Social Security Act [this section] in effect prior to the enactment of this Act, the Secretary shall, in applying the provisions of such section 215(a) (except paragraph (4) thereof), for purposes of determining benefits payable under sections 228a(q) and 1321(a)(13) and (14) of the Social Security Act [sections 302(a)(10), 602(a)(7), 1321(a)(8), and 1322(a)(13) and (14) of this title], such State, in determining need for aid or assistance under a State plan approved under title I, X, XIV, or XVI [subchapters I, X, XIV, or XVI of this chapter], or part A of title IV, of such Act [part A of subchapter IV of this chapter], shall disregard (and the plan shall be deemed to require the State to disregard), in addition to any other amounts which the State is required or permitted to disregard in determining such need, any amount paid to any individual (1) under title II of such Act [this subchapter] (or under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935 [section 215 et seq. of Title 45]), in any month after December 1969, to the extent that (a) such payment is attributable to the increase in monthly benefits under the old-age, survivors, and disability insurance system for January or February 1970 resulting from the enactment of this title, and (b) the amount of such increase is paid separately from the rest of the monthly benefit of such individual for January, February, March, or April 1971 resulting from the enactment of this title, and (2) the amount of such increase is paid separately from the rest of the monthly benefit of such individual for January, February, March, or April 1971 resulting from the enactment of this Act [this subchapter] in effect prior to the enactment of such title.

Average Monthly Wage for Certain Individuals Entitled to Monthly Benefits or to Recomputation of Primary Insurance Amount for Months Prior to January 1961

Section 303(j) of Pub. L. 86–778 provided that: “In the case of an individual whose average monthly wage is computed under the provisions of section 215(b) of the Social Security Act [section 402(b) of this section] or (1) who is entitled, by reason of the provisions of section 202(j)(1) or section 223(b) of the Social Security Act [section 402(j)(1) or 423(b) of this title], to a monthly benefit for any month prior to January 1961, (2) who is (or would, but for the fact that such recomputation would not result in a higher primary insurance amount for such individual, be) entitled, by reason of section 215(j) of the Social Security Act [section 402(f) of this section], to have his primary insurance amount recomputed effective for a month prior to January 1961, his average monthly wage as determined under the provisions of such section 215(b) [subsection (b) of this section] shall be his average monthly wage for the purposes of determining his primary insurance amount for such prior month.”

Retrocomputation Preserved for Certain Individuals Eligible or Dead Prior to September 1954

Section 102(e)(5) of act Sept. 1, 1954, as amended by Pub. L. 86–778, title III, § 304(c), Sept. 13, 1960, 74 Stat. 966, provided that: “In the case of any individual who became (without the application of section 202(j)(1) [section 402(j)(1) of this title] to determine his primary insurance benefits or died prior to September 1954, the provisions of section 215(f)(3) [subsection (f)(3) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] shall be applicable as though this Act had not been enacted but only if such individual files the application referred to in subparagraph (A) of such section prior to January 1961 or (if he dies without filing such application) his death occurred prior to January 1961.”

Right to Retrocomputation Under Law Prior to Enactment of Act September 1, 1954

Section 102(e)(5) of act Sept. 1, 1954, as amended by Pub. L. 86–778, title III, § 304(b), Sept. 13, 1960, 74 Stat. 966, provided that: “(A) In the case of any individual who, upon filing application therefor before September 1954, would (but for the provisions of section 215(f)(3) of the Social Security Act [subsection (f)(3) of this section]) have been entitled to old-age insurance benefits or died prior to September 1954, the provisions of section 215(f)(3) [subsection (f)(3) of this section] shall be applicable as though this Act had not been enacted but only if such individual files the application referred to in subparagraph (A) of such section prior to January 1961 or (if he dies without filing such application) his death occurred prior to January 1961.”
provided in subsection (a)(2) of section 215 of the Social Security Act, as amended by this Act, through the use of a primary insurance amount determined under subsection (b) of such section, and in the same manner as for an individual to whom subsection (a)(1) of such section, as in effect prior to the enactment of this Act [Sept. 1, 1964], is applicable, and such recomputation shall take into account only such wages and self-employment income as would be taken into account under section 215(b) of the Social Security Act if the month in which the application for recomputation is filed, or if the individual died without filing the application for recomputation, the month in which he died, were deemed to be the month in which he became entitled to old-age insurance benefits. In the case of monthly benefits, such recomputation shall be effective for and after the month in which such application for recomputation is filed or, if the individual has died without filing the application, for and after the month in which the person filing the application for monthly survivors benefits becomes entitled to such benefits.

"(B) In the case of—

"(i) any individual who is entitled to a recomputation under subparagraph (A) of section 215(f)(2) of the Social Security Act [subsec. (f)(2)(A) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of an application filed after August 1954, or who died after such month leaving any survivors entitled to a recomputation under section 215(f)(2) of the Social Security Act as in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of such application, or who died after August 1954 leaving any survivors entitled to a recomputation under section 215(f)(3) of the Social Security Act [subsec. (f)(2)(B) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of such application and whose sixth quarter of coverage after 1950 was acquired after August 1954 or with respect to whom the twelfth month referred to in such subparagraph (A) occurred after such month, and

"(ii) any individual who is entitled to a recomputation under section 215(f)(2)(B) of the Social Security Act [subsec. (f)(2)(B) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of an application filed after August 1954, or who died after such month leaving any survivors entitled to a recomputation under section 215(f)(4) of the Social Security Act as in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of such application and whose sixth quarter of coverage after 1950 was acquired after August 1954 or who did not attain the age of seventy-five prior to September 1964, the recomputation of his primary insurance amount shall be made in the manner provided in section 215 of the Social Security Act [this section], as amended by this Act, for computation of such amount, except that his closing date for such purposes of subsection (b) of such section 215, shall be determined as though he became entitled to old-age insurance benefits in the month in which he filed such application for or, if he has died, in the month in which he died. In the case of monthly benefits, such recomputation shall be effective for and after the month in which such application for recomputation is filed or, if the individual has died without filing the application, for and after the month in which the person filing the application for monthly survivors benefits becomes entitled to such benefits.

"(C) An individual or, in case of his death, his survivors entitled to a lump-sum death payment or to monthly benefits under section 202 of the Social Security Act on the basis of his wages and self-employment income shall be entitled to a recomputation of his primary insurance amount under section 215(f)(2) or section 215(f)(4) of the Social Security Act [subsec. (f)(2) or (4) of this section] as in effect prior to the date of enactment of this Act [Sept. 1, 1964] only if (i) he had not less than six quarters of coverage in the period after 1950 and prior to January 1, 1965, and (ii) either the twelfth month referred to in subparagraph (A) of such section 215(f)(2) occurred prior to January 1, 1956, or he attained the age of 70 prior to 1955, and (iii) he meets the other conditions of entitlement to such a recomputation. No individual shall be entitled to a computation under subparagraph (A) or (B) of this paragraph if his primary insurance amount has previously been recomputed under either of such subparagraphs.

"(D) Notwithstanding the provisions of subparagraphs (A), (B), and (C), the primary insurance amount of an individual shall not be recomputed under such provisions unless such individual files the application referred to in subparagraph (A) prior to January 1961 or, if he dies without filing such application, his death occurred prior to January 1961.

**RECOMPUTATION OF PRIMARY INSURANCE AMOUNT IN CERTAIN CASES WHERE APPLICATION FOR RECOMPUTATION IS FILED ON OR AFTER SEPTEMBER 13, 1960**

Section 303(h) of Pub. L. 86–778 provided that: "In any case where application for recomputation under section 215(f)(3) of the Social Security Act [subsec. (f)(3) of this section] is filed on or after the date of the enactment of this Act [Sept. 13, 1960] with respect to an individual for whom the last previous computation of his primary insurance amount was based on an application filed prior to 1961, or who died before 1961, the provisions of section 215 of such Act [this section] as in effect prior to the enactment of this Act shall apply except that—

"(1) such recomputation shall be made as provided in section 215(a) of the Social Security Act [subsec. (a) of this section] (as in effect prior to the enactment of this Act and as though such individual first became entitled to old-age insurance benefits in the month in which he filed his application for such recomputation or died without filing such an application, and his closing date for such purposes shall be as specified in such section 215(a); and

"(2) the provisions of section 215(b)(4) of the Social Security Act [subsec. (b)(4) of this section] (as in effect prior to the enactment of this Act) shall apply only if they were applicable to the last previous computation of such individual's primary insurance amount, or would have been applicable to such computation if there had been taken into account—

"(A) his wages and self-employment income in the year in which he became entitled to old-age insurance benefits or filed application for the last previous recomputation of his primary insurance amount, where he is living at the time of the application for recomputation under this subsection, or

"(B) his wages and self-employment income in the year in which he died without becoming entitled to old-age insurance benefits, or (if he was entitled to such benefits) the year in which application was filed for the last previous computation of his primary insurance amount or in which he died, whichever first occurred, where he has died at the time of the application for such recomputation.

If the primary insurance amount of an individual was recomputed under section 215(f)(3) of the Social Security Act [subsec. (f)(3) of this section] as in effect prior to the enactment of this Act, and such amount would have been larger if the recomputation had been made under such section as modified by this subsection, then the Secretary shall recompute such primary insurance amount under such section as so modified, but only if an application for such recomputation is filed on or after the date of the enactment of this Act [Sept. 13, 1960]. A recomputation under the preceding sentence shall be effective for and after the first month for which the last previous recomputation of such individual's primary insurance amount under such section 215(f)(3) [this section] was effective, but in no event for any month prior to the twenty-fourth month before the month in which the application for a recomputation is filed under the preceding sentence."

**SPECIAL STARTING AND CLOSING DATES FOR CERTAIN INDIVIDUALS FOR COMPUTATION OF 1967 BENEFIT AMOUNTS**

Section 110 of act Aug. 1, 1966, provided that: "In the case of an individual who died or became (without the application of section 202(2)(1) of the Social Security Act)"
Act [section 402(j)(1) of this title] entitled to old-age insurance benefits in 1957 and with respect to whom not less than six of the quarters elapsing after 1955 and prior to the quarter following the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred, are quarters of coverage, his primary insurance amount shall be computed under section 215(a)(1)(A) of such Act [subsec. (a)(1)(A) of this section], with a starting date of December 31, 1955, and a closing date of July 1, 1957, but only if it would result in a higher primary insurance amount. For the purposes of section 215(f)(3)(C) of such Act, the determination of an individual’s closing date under the preceding sentence shall be considered as a determination of the individual’s closing date under section 215(b)(3)(A) of such Act and the recomputation provided for by such section 215(f)(3)(C) shall be made using July 1, 1957, as the closing date, but only if it would result in a higher primary insurance amount. In any such computation on the basis of a July 1, 1957, closing date, the total of his wages and self-employment income after December 31, 1956, shall, if it is in excess of $2,100, be reduced to such amount.

**SPECIAL STARTING AND CLOSING DATES FOR CERTAIN INDIVIDUALS FOR COMPUTATION OF 1966 BENEFIT AMOUNTS**

Section 102(e)(6) of act Sept. 1, 1954, provided that: “In the case of an individual who died or became (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) entitled to old-age insurance benefits in 1956 and with respect to whom not less than six of the quarters elapsing after 1954 and prior to the quarter following the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred, are quarters of coverage, his primary insurance amount shall be computed under section 215(a)(1)(A) of such Act, as amended by this Act [subsec. (a)(1)(A) of this section], with a starting date of December 31, 1954, and a closing date of July 1, 1956, but only if it would result in a higher primary insurance amount. For the purposes of section 215(f)(3)(C) of such Act, the determination of an individual’s closing date under the preceding sentence shall be considered as a determination of the individual’s closing date under section 215(b)(3)(A) of such Act, and the recomputation provided for by such section 215(f)(3)(C) shall be made using July 1, 1956, as the closing date, but only if it would result in a higher primary insurance amount. In any such computation on the basis of a July 1, 1956 closing date, the total of his wages and self-employment income after December 31, 1955, and a closing date of July 1, 1956, but only if it would result in a higher primary insurance amount. The provisions of section 215(f)(3)(C) shall be made using July 1, 1956, as the closing date, but only if it would result in a higher primary insurance amount. In any such computation on the basis of a July 1, 1956 closing date, the total of his wages and self-employment income after December 31, 1955, and a closing date of July 1, 1956, but only if it would result in a higher primary insurance amount. In any such computation on the basis of a July 1, 1956 closing date, the total of his wages and self-employment income after December 31, 1955, and a closing date of July 1, 1956, but only if it would result in a higher primary insurance amount.

**STUDY OF FEASIBILITY OF INCREASING BENEFITS**

Section 404 of act Sept. 1, 1954, authorized the Secretary of Health, Education, and Welfare to conduct a feasibility study with a view toward increasing the minimum old-age insurance benefit under this subchapter to $55, $60, or $75 per month and required him to report the results of his study to the Congress at the earliest practicable date.

**CHANGE OF WAGE CLOSING DATE OF CERTAIN INDIVIDUALS DEAD OR ELIGIBLE IN 1952 TO THE FIRST WAY OF THE QUARTER OF DEATH OR ENTITLEMENT**

Section 8(c) of act July 18, 1952, provided that: “In the case of an individual who died or became (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) entitled to old-age insurance benefits in 1952 and with respect to whom not less than six of the quarters elapsing after 1950 and prior to the quarter following the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred, are quarters of coverage, his wage closing date shall be the first day of such quarter of death or entitlement instead of the day specified in section 215(b)(3) of such Act [subsec. (b)(3) of this section], but only if it would result in a higher primary insurance amount for such individual. The terms used in this paragraph shall have the same meaning as when used in title II of the Social Security Act [this subchapter].”

**COMPUTATION OF INCREASED BENEFITS TO INDIVIDUALS ENTITLED THERETO FOR AUGUST 1952**

Section 8(e) of act July 18, 1952, provided that: “In case the benefit of any individual for any month after August 1952 is computed under section 2(c)(2)(A) of this Act [set out as a note under this section] through use of a benefit (after the application of sections 203 and 215(g) of the Social Security Act [section 403 of this title and subsec. (g) of this section] as in effect prior to the enactment of this Act [July 18, 1962]) for August 1952 which could have been derived from either of two (and not more than two) primary insurance amounts, and such primary insurance amounts differ from each other by not more than $0.10, then the benefit of such individual for such month of August 1952 shall, for the purposes of the last sentence of such section 2(c)(2)(A) [set out as a note under this section], be deemed to have been derived from the larger of such two primary insurance amounts.”

**COMPUTATION OF INCREASED BENEFITS FOR DEPENDENTS AND SURVIVORS ON BENEFIT ROLLS FOR AUGUST 1952**

Section 2(c)(2) of act July 18, 1952, as amended by act Sept. 1, 1954, §102(g), eff. Sept. 1, 1954, provided that: “(A) In the case of any individual who is (without the application of section 202(j)(1) of the Social Security Act [section 402(j)(1) of this title]) entitled to a monthly benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of such section 202 for August 1952, whose benefit for such month is computed through use of a primary insurance amount determined under paragraph (1) or (2) of section 215(c) of such Act [subsec. (c) of this section], and who is entitled to such benefit for any succeeding month on the basis of the same wages and self-employment income, the amendment made by this subparagraph, and the resulting amount, if not a multiple of $0.10, to the next higher multiple of $0.10. The provisions of section 215(c) of the Social Security Act as in effect prior to the enactment of this Act [July 18, 1952] for August 1952, increased, if it is not a multiple of $0.10, to the next higher multiple of $0.10, the amount of such benefit for such succeeding month shall instead be equal to the larger of (1) 112½ per cent of the amount of such benefit (after the application of sections 203(a) and 215(g) of the Social Security Act [section 403(a) of this title and subsec. (g) of this section] as in effect prior to the enactment of this Act [July 18, 1962]) for August 1952, increased, if it is not a multiple of $0.10, to the next higher multiple of $0.10, (ii) the amount of such benefit (after the application of sections 203(a) and 215(g) of the Social Security Act as in effect prior to the enactment of this Act [July 18, 1962]) for August 1952, increased, if it is not a multiple of $0.10, to the next higher multiple of $0.10, and the product obtained by multiplying $5 by the fraction applied to the primary insurance amount which was used in determining such benefit, and further increased, if such product is not a multiple of $0.10, to the next higher multiple of $0.10. The provisions of section 203(a) of the Social Security Act, as amended by this section (and, for purposes of such section 203(a), the provisions of section 215(c)(4) of the Social Security Act, as amended by this section), shall apply to such benefit as computed under the preceding sentence of this subparagraph, and the resulting amount, if not a multiple of $0.10, shall be increased to the next higher multiple of $0.10.

“(B) The provisions of subparagraph (A) shall cease to apply to the benefit of any individual under title II of the Social Security Act [this subchapter] for any month after August 1954.”

**DETERMINATION OF PRIMARY INSURANCE AMOUNT OF INDIVIDUALS WHO DIED AFTER 1939 AND PRIOR TO 1951**

Section 204(b) of Pub. L. 86-778 provided that: “The primary insurance amount (for purposes of title II of the Social Security Act [this subchapter]) of any indi-
individual who died after 1939 and prior to 1951 shall be determined as provided in section 215(a)(2) of such Act [subsec. (a)(2) of this section]."

**Benefits in Certain Cases of Deaths Before September 1950**

Section 109 of act Sept. 1, 1954, as amended by Pub. L. 86–778, title II, §120(c), Sept. 13, 1960, 74 Stat. 966, provided that in the case of an individual who died prior to Sept. 1, 1950, and was not a fully insured individual when he died and who had at least six quarters of coverage under this subchapter, such individual was generally to be deemed to have died fully insured, his primary insurance amount was to be deemed to be computed under subsec. (a)(2) of this section, the proof of support requirement in section 402(h) of this title was not to be applicable where such proof was filed before Sept. 1956, and that the provisions of this section were to apply to monthly benefits under section 402 of this title for months after Aug. 1954 and in or prior to Sept. 1960.

**Computation of Primary Insurance Amount of Individuals Who Died Prior to 1940**

Section 205(c) of Pub. L. 86–778 provided that: "The primary insurance amount (for purposes of title II of the Social Security Act [this subchapter]) of any individual who died prior to 1940, and who had not less than six quarters of coverage (as defined in section 213 of such Act [section 413 of this title]), shall be computed under section 215(a)(2) of such Act [subsec. (a)(2) of this section]."

§ 416. Additional definitions

For the purposes of this subchapter—

**a. Spouse; surviving spouse**

(1) The term "spouse" means a wife as defined in subsection (b) of this section or a husband as defined in subsection (f) of this section.

(2) The term "surviving spouse" means a widow as defined in subsection (c) of this section or a widower as defined in subsection (g) of this section.

**b. Wife**

The term "wife" means the wife of an individual, but only if she (1) is the mother of his son or daughter, (2) was married to him for a period of not less than one year immediately preceding the day on which her application is filed, or (3) in the month prior to the month of her marriage to him (A) was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (b), (e), or (h) of section 402 of this title, (B) had attained age eighteen and was entitled to, or on application therefor and attainment of the required age (if any) would have been entitled to, a widow's, child's or parent's insurance annuity (subject, however, to section 402(s) of this title), or (ii) she was entitled to, or upon application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (iii) she was entitled to, or upon application therefor and attainment of the required age (if any) would have been entitled to, a widow's, child's (after attainment of age 18), or parent's insurance annuity under section 231a of title 45.

(2) The term "surviving divorced wife" means the surviving wife of an individual who died, but only if she had been married to the individual for a period of not less than nine months immediately prior to the day on which he died, or (F) in the month prior to the month of her marriage to him (1) she was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (b), (e), or (h) of section 402 of this title, (ii) she had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (iii) she was entitled to, or upon application therefor and attainment of the required age (if any) would have been entitled to, a widow's, child's (after attainment of age 18), or parent's insurance annuity under section 231a of title 45.

(3) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

(A) the individual had been married prior to the individual's marriage to the surviving wife,

(B) the prior wife was institutionalized during the individual's marriage to the prior wife due to mental incompetence or similar incapacity.

(C) during the period of the prior wife's institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

(D) the prior wife continued to remain institutionalized up to the time of her death, and

(E) the individual married the surviving wife within 60 days after the prior wife's death.

**d. Divorced spouses; divorce**

(1) The term "divorced wife" means a woman divorced from an individual, but only if she had been married to such individual for a period of 10 years immediately before the date the divorce became effective.

(2) The term "surviving divorced wife" means a woman divorced from an individual who has died, but only if she had been married to the individual for a period of 10 years immediately before the date the divorce became effective.
(3) The term “surviving divorced mother” means a woman divorced from an individual who has died, but only if (A) she is the mother of his son or daughter, (B) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of 18, (C) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of 18, or (D) she was married to him at the time both of them legally adopted a child under the age of 18.

(4) The term “divorced husband” means a man divorced from an individual, but only if he had been married to such individual for a period of 10 years immediately before the date the divorce became effective.

(5) The term “surviving divorced husband” means a man divorced from an individual who has died, but only if he had been married to the individual for a period of 10 years immediately before the divorce became effective.

(6) The term “surviving divorced father” means a man divorced from an individual who has died, but only if (A) he is the father of her son or daughter, (B) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of 18, (C) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of 18, or (D) he was married to her at the time both of them legally adopted a child under the age of 18.

(7) The term “surviving divorced parent” means a surviving divorced mother as defined in paragraph (3) of this subsection or a surviving divorced father as defined in paragraph (6).

(8) The terms “divorce” and “divorced” refer to a divorce a vinculo matrimoni.

(c) Child

The term “child” means (1) the child or legally adopted child of an individual, (2) a stepchild who has been such stepchild for not less than one year immediately preceding the day on which application for child’s insurance benefits is filed or (if the insured individual is deceased) not less than nine months immediately preceding the day on which such individual died, and (3) a person who is the grandchild or stepgrandchild of an individual or his spouse, but only if (A) there was no natural or adoptive parent (other than such a parent who was under a disability) as defined in section 423(d) of this title, or (i) if such individual became entitled to old-age insurance benefits or disability insurance benefits or died, or (ii) if such individual had a period of disability which continued until such individual became entitled to old-age insurance benefits or disability insurance benefits, or died, at the time such period of disability began, or (B) such person was legally adopted after the death of such individual by such individual’s surviving spouse in an adoption that was decreed by a court of competent jurisdiction within the United States and such person’s natural or adopting parent or stepparent was not living in such individual’s household and making regular contributions toward such person’s support at the time such individual died. For purposes of clause (1), a person shall be deemed, as of the date of death of an individual, to be the legally adopted child of such individual if such person was either living with or receiving at least one-half of his support from such individual at the time of such individual’s death and was legally adopted by such individual’s surviving spouse after such individual’s death but only if (A) proceedings for the adoption of the child had been instituted by such individual before his death, or (B) such child was adopted by such individual’s surviving spouse before the end of two years after (i) the day on which such individual died or (ii) August 28, 1958. For purposes of clause (2), a person who is not the stepchild of an individual shall be deemed the stepchild of such individual if such individual was not the mother or adopting mother or the father or adopting father of such person and such individual and the mother or adopting mother, or the father or adopting father, as the case may be, of such person went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of subsection (f) of this section, would have been a valid marriage. For purposes of clause (2), a child shall be deemed to have been the stepchild of an individual for a period of one year throughout the month in which occurs the expiration of such one year. For purposes of clause (3), a person shall be deemed to have no natural or adoptive parent living (other than a parent who was under a disability) throughout the most recent month in which a natural or adoptive parent (not under a disability) dies.

(f) Husband

The term “husband” means the husband of an individual, but only if (1) he is the father of her son or daughter, (2) he was married to her for a period of not less than one year immediately preceding the day on which his application is filed, or (3) in the month prior to the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (c), (f) or (h) of section 402 of this title, (B) he had attained age eighteen while he was married to her and making regular contributions toward her support at the time such individual died, or parent’s insurance annuity under section 231a of title 45. For purposes of clause (2), a husband shall be deemed to have been married to an individual for a period of one year throughout the month in which occurs the first anniversary of his marriage to her. For purposes of subparagraph (C) of section 402(c) of this title, a divorced husband shall be deemed not to be married throughout the month which he becomes divorced.

(g) Widower

(1) The term “widower” (except when used in the first sentence of section 402(i) of this title) means the surviving husband of an individual, but only if (A) he is the father of her son or daughter, (B) he legally adopted her son or
applicant and such insured individual were validly
married at such time, such applicant shall, nev-
ertheless be deemed to be the wife, husband,
widow, or widower, as the case may be, of such
insured individual if such applicant would,
under the laws applied by such courts in deter-
mining the devolution of intestate personal
property, have the same status with respect to
the taking of such property as a wife, husband,
widow, or widower of such insured individual.

(B)(i) In any case where under subparagraph
(A) an applicant is not (and is not deemed to be)
the wife, widow, husband, or widower of a fully
or currently insured individual, or where under
subsection (b), (c), (d), (f), or (g) of this section
such applicant is not the wife, divorced wife,
widow, surviving divorced wife, husband, di-
vided husband, widow, or surviving divorced
husband of such individual, but it is established
to the satisfaction of the Commissioner of So-
cial Security that such applicant in good faith
went through a marriage ceremony with such
individual resulting in a purported marriage be-
tween them which, for a legal impediment not
to known to the applicant at the time of such
ceremony, would have been a valid marriage,
then, for purposes of subparagraph (A) and sub-
sections (b), (c), (d), (f), and (g) of this section,
such purported marriage shall be deemed to be
a valid marriage. Notwithstanding the preceding
sentence, in the case of any person who would be
deemed under the preceding sentence a wife,
widow, husband, or widower of the insured indi-
vidual, such marriage shall not be deemed to be
a valid marriage unless the applicant and the in-
sured individual were living in the same house-
hold at the time of the death of the insured indi-
vidual or (if the insured individual is living) at
the time the applicant files the application. A
marriage that is deemed to be a valid marriage
by reason of the preceding sentence shall con-
tinue to be deemed a valid marriage if the in-
sured individual and the person entitled to ben-
efits as the wife or husband of the insured indi-
vidual are no longer living in the same house-
hold at the time of the death of such insured indi-

(h) Determination of family status

(1)(A)(i) An applicant is the wife, husband,
widow, or widower of a fully or currently in-
sured individual for purposes of this subchapter
if the courts of the State in which such insured
individual is domiciled at the time such appli-
cant files and application, or, if such insured in-
dividual is dead, the courts of the State in which
he was domiciled at the time of death, or, if
such insured individual is or was not so domi-
ciled in any State, the courts of the District of
Columbia, would find that such applicant and
such insured individual were validly married at
the time such applicant files such application
or, if such insured individual is dead, at the time
he died.

(ii) If such courts would not find that such ap-
licant and such insured individual were validly
married at such time, such applicant shall, nev-
ertheless be deemed to be the wife, husband,
widow, or widower, as the case may be, of such
insured individual if such applicant would,
under the laws applied by such courts in deter-
mining the devolution of intestate personal
property, have the same status with respect to
the taking of such property as a wife, husband,
widow, or widower of such insured individual.

(B)(i) In any case where under subparagraph
(A) an applicant is not (and is not deemed to be)
the wife, widow, husband, or widower of a fully
or currently insured individual, or where under
subsection (b), (c), (d), (f), or (g) of this section
such applicant is not the wife, divorced wife,
widow, surviving divorced wife, husband, di-
vided husband, widow, or surviving divorced
husband of such individual, but it is established
to the satisfaction of the Commissioner of So-
cial Security that such applicant in good faith
went through a marriage ceremony with such
individual resulting in a purported marriage be-
tween them which, for a legal impediment not
to known to the applicant at the time of such
ceremony, would have been a valid marriage,
then, for purposes of subparagraph (A) and sub-
sections (b), (c), (d), (f), and (g) of this section,
such purported marriage shall be deemed to be
a valid marriage. Notwithstanding the preceding
sentence, in the case of any person who would be
deemed under the preceding sentence a wife,
widow, husband, or widower of the insured indi-
vidual, such marriage shall not be deemed to be
a valid marriage unless the applicant and the in-
sured individual were living in the same house-
hold at the time of the death of the insured indi-
vidual or (if the insured individual is living) at
the time the applicant files the application. A
marriage that is deemed to be a valid marriage
by reason of the preceding sentence shall con-
tinue to be deemed a valid marriage if the in-
sured individual and the person entitled to ben-
efits as the wife or husband of the insured indi-
vidual are no longer living in the same house-
hold at the time of the death of such insured indi-

(h) Determination of family status

(1)(A)(i) An applicant is the wife, husband,
widow, or widower of a fully or currently in-
sured individual for purposes of this subchapter
if the courts of the State in which such insured
individual is domiciled at the time such appli-
cant files and application, or, if such insured in-
dividual is dead, the courts of the State in which
he was domiciled at the time of death, or, if
such insured individual is or was not so domi-
ciled in any State, the courts of the District of
Columbia, would find that such applicant and
such insured individual were validly married at
the time such applicant files such application
or, if such insured individual is dead, at the time
he died.

(ii) If such courts would not find that such ap-
licant and such insured individual were validly
married at such time, such applicant shall, nev-
ertheless be deemed to be the wife, husband,
widow, or widower, as the case may be, of such
insured individual if such applicant would,
under the laws applied by such courts in deter-
moving the devolution of intestate personal
property, have the same status with respect to
the taking of such property as a wife, husband,
widow, or widower of such insured individual.

(B)(i) In any case where under subparagraph
(A) an applicant is not (and is not deemed to be)
the wife, widow, husband, or widower of a fully
or currently insured individual, or where under
subsection (b), (c), (d), (f), or (g) of this section
such applicant is not the wife, divorced wife,
widow, surviving divorced wife, husband, di-
vided husband, widow, or surviving divorced
husband of such individual, but it is established
to the satisfaction of the Commissioner of So-
Social Security that such applicant in good faith
went through a marriage ceremony with such
individual resulting in a purported marriage be-
tween them which, for a legal impediment not
to known to the applicant at the time of such
ceremony, would have been a valid marriage,
then, for purposes of subparagraph (A) and sub-
sections (b), (c), (d), (f), and (g) of this section,
such purported marriage shall be deemed to be
a valid marriage. Notwithstanding the preceding
sentence, in the case of any person who would be
deemed under the preceding sentence a wife,
widow, husband, or widower of the insured indi-
vidual, such marriage shall not be deemed to be
a valid marriage unless the applicant and the in-
sured individual were living in the same house-
hold at the time of the death of the insured indi-
vidual or (if the insured individual is living) at
the time the applicant files the application. A
marriage that is deemed to be a valid marriage
by reason of the preceding sentence shall con-
tinue to be deemed a valid marriage if the in-
sured individual and the person entitled to ben-
efits as the wife or husband of the insured indi-
vidual are no longer living in the same house-
hold at the time of the death of such insured indi-

In determining whether an applicant is the child or parent of a fully or currently insured individual for purposes of this subchapter, the Commissioner of Social Security shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such insured individual is domiciled at the time such applicant files application, or, if such insured individual is dead, by the courts of the State in which he was domiciled at the time of his death, or, if such insured individual is or was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking intestate personal property as a child or parent shall be deemed such.

(B) If an applicant is a son or daughter of a fully or currently insured individual but is not (and is not deemed to be) the child of such insured individual under subparagraph (A), such applicant shall nevertheless be deemed to be the child of such insured individual if such insured individual and the mother or father, as the case may be, of such applicant went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of paragraph (1)(B), would have been a valid marriage.

(3) An applicant who is the son or daughter of a fully or currently insured individual, but who is not (and is not deemed to be) the child of such insured individual under paragraph (2) of this subsection, shall nevertheless be deemed to be the child of such insured individual if:

(A) in the case of an insured individual entitled to old-age insurance benefits (who was not, in the month preceding such entitlement, entitled to disability insurance benefits)—

(i) such insured individual—

(I) has acknowledged in writing that the applicant is his or her son or daughter,

(II) has been decreed by a court to be the mother or father of the applicant, or

(III) has been ordered by a court to contribute to the support of the applicant at the time such applicant's application for benefits was filed;

(B) in the case of an insured individual entitled to disability insurance benefits, or who was entitled to such benefits in the month preceding the first month for which he or she was entitled to old-age insurance benefits—

(i) such insured individual—

(I) has acknowledged in writing that the applicant is his or her son or daughter,

(II) has been decreed by a court to be the mother or father of the applicant, or

(III) has been ordered by a court to contribute to the support of the applicant because the applicant is his or her son or daughter.

and such acknowledgment, court decree, or court order was made before such insured individual's most recent period of disability began; or

(ii) such insured individual is shown by evidence satisfactory to the Commissioner of Social Security to be the mother or father of the applicant and was living with or contributing to the support of the applicant at the time such applicant's application for benefits was filed;

(C) in the case of a deceased individual—

(i) such insured individual—

(I) had acknowledged in writing that the applicant is his or her son or daughter,

(II) had been decreed by a court to be the mother or father of the applicant, or

(III) had been ordered by a court to contribute to the support of the applicant because the applicant was his or her son or daughter.

and such acknowledgment, court decree, or court order was made before the death of such insured individual, or

(ii) such insured individual is shown by evidence satisfactory to the Commissioner of Social Security to have been the mother or father of the applicant, and such insured individual was living with or contributing to the support of the applicant at the time such insured individual died.

For purposes of subparagraphs (A)(i) and (B)(i), an acknowledgement, court decree, or court order shall be deemed to have occurred on the first day of the month in which it actually occurred.

(i) Disability; period of disability

(1) Except for purposes of sections 402(d), 402(e), 402(f), 423, and 425 of this title, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less. The provisions of paragraphs (2)(A), (2)(B), (3), (4), (5), and (6) of section 423(d) of this title shall be applied for purposes of determining whether an individual is under a disability within the meaning of the first sentence of this paragraph in the same manner as they are applied for purposes of paragraph (1) of such section. Nothing in this subchapter shall be construed as authorizing the Commissioner of Social Security or any other
officer or employee of the United States to interfere in any way with the practice of medicine or with relationships between practitioners of medicine and their patients, or to exercise any supervision or control over the administration or operation of any hospital.

(2)(A) The term "period of disability" means a continuous period (beginning and ending as hereinafter provided in this subsection) during which an individual was under a disability (as defined in paragraph (1)), but only if such period is of not less than five full calendar months' duration or such individual was entitled to benefits under section 423 of this title for one or more months in such period.

(B) No period of disability shall begin as to any individual unless such individual files an application for a disability determination with respect to such period; and no such period shall begin as to any individual after such individual attains retirement age (as defined in subsection (l) of this section). In the case of a deceased individual, the requirement of an application under the preceding sentence may be satisfied by an application for a disability determination filed with respect to such individual within 3 months after the month in which he died.

(C) A period of disability shall begin—

(i) on the day the disability began, but only if the individual satisfies the requirements of paragraph (3) on such day; or

(ii) if such individual does not satisfy the requirements of paragraph (3) on such day, then on the first day of the first quarter thereafter in which he satisfies such requirements.

(D) A period of disability shall end with the close of whichever of the following months is the earlier: (i) the month preceding the month in which the individual attains retirement age (as defined in subsection (l) of this section), or (ii) the month preceding (I) the termination month (as defined in section 423(a)(1) of this title), or, if earlier (II) the first month for which no benefit is payable by reason of section 423(e) of this title, where no benefit is payable for any of the succeeding months during the 36-month period referred to in such section. The provisions set forth in section 423(i) of this title with respect to determinations of whether entitlement to benefits under this subchapter or subchapter XVIII of this chapter based on the disability of any individual is terminated (on the basis of a finding that the physical or mental impairment on the basis of which such benefits are provided has ceased, does not exist, or is not disabling) shall apply in the same manner and to the same extent with respect to determinations of whether a period of disability has ended (on the basis of a finding that the physical or mental impairment on the basis of which the finding of disability was made has ceased, does not exist, or is not disabling).

(E) Except as is otherwise provided in subparagraph (F), no application for a disability determination which is filed more than 12 months after the month prescribed by subparagraph (D) as the month in which the period of disability ends (determined without regard to subparagraph (B) and this subparagraph) shall be accepted as an application for purposes of this paragraph.

(F) An application for a disability determination which is filed more than 12 months after the month prescribed by subparagraph (D) as the month in which the period of disability ends (determined without regard to subparagraphs (B) and (E)) shall be accepted as an application for purposes of this paragraph if—

(i) in the case of an application filed by or on behalf of an individual with respect to a disability which ends after January 1968, such application is filed not more than 36 months after the month in which such disability ended, such individual is alive at the time the application is filed, and the Commissioner of Social Security finds in accordance with regulations prescribed by the Commissioner that the failure of such individual to file an application for a disability determination within the time specified in subparagraph (E) was attributable to a physical or mental condition of such individual which rendered him incapable of executing such an application, and

(ii) in the case of an application filed by or on behalf of an individual with respect to a period of disability which ends in or before January 1968—

(I) such application is filed not more than 12 months after January 1968,

(II) a previous application for a disability determination has been filed by or on behalf of such individual (1) in or before January 1968, and (2) not more than 36 months after the month in which his disability ended, and

(III) the Commissioner of Social Security finds in accordance with regulations prescribed by the Commissioner, that the failure of such individual to file an application within the then specified time period was attributable to a physical or mental condition of such individual which rendered him incapable of executing such an application.

In making a determination under this subsection, with respect to the disability or period of disability of any individual whose application for a determination thereof is accepted solely by reason of the provisions of this subparagraph (F), the provisions of this subsection (other than the provisions of this subparagraph) shall be applied as such provisions are in effect at the time such determination is made.

(G) An application for a disability determination filed before the first day on which the applicant satisfies the requirements for a period of disability under this subsection shall be deemed a valid application (and shall be deemed to have been filed on such first day) only if the applicant satisfies the requirements for a period of disability before the Commissioner of Social Security makes a final decision on the application and no request under section 405(b) of this title for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Commissioner of Social Security).

(3) The requirements referred to in clauses (i) and (ii) of paragraph (2) of this subsection are satisfied by an individual with respect to any quarter only if—

(A) he would have been a fully insured individual (as defined in section 414 of this title)
had he attained age 62 and filed application for benefits under section 402(a) of this title on the first day of such quarter; and
(B) if he had not less than 20 quarters of coverage during the 40-quarter period which ends with such quarter, or
(ii) if such quarter ends before he attains (or would attain) age 31, not less than one-half (and not less than 6) of the quarters during the period ending with such quarter and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage, or
(iii) in the case of an individual (not otherwise insured under clause (i)) who, by reason of a prior period of disability that began during a period before the quarter in which he or she attained age 31, not less than one-half of the quarters beginning after such individual attained age 21 and ending with such quarter are quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter are quarters of coverage;
except that the provisions of subparagraph (B) of this paragraph shall not apply in the case of an individual who is blind (within the meaning of "blindness" as defined in paragraph (1)). For purposes of subparagraph (B) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage.
(j) Periods of limitation ending on nonwork days

Where this subchapter, any provision of another law of the United States (other than the Internal Revenue Code of 1986) relating to or changing the effect of this subchapter, or any regulation issued by the Commissioner of Social Security pursuant thereto provides for a period within which an act is required to be done which affects eligibility for or the amount of any benefit or payment under this subchapter or is necessary to establish or protect any rights under this subchapter, and such period ends on a Saturday, Sunday, or legal holiday, or on any other day all or part of which is declared to be a nonwork day for Federal employees by statute or Executive order, then such act shall be considered as done within such period if it is done on the first day thereafter which is not a Saturday, Sunday, or legal holiday or any other day all or part of which is declared to be a nonwork day for Federal employees by statute or Executive order. For purposes of this subchapter, the day on which a period ends shall include the day on which an extension of such period, as authorized by law or by the Commissioner of Social Security pursuant to law, ends. The provisions of this subchapter shall not extend the period during which benefits under this subchapter may (pursuant to section 402(j)(1) or 423(b) of this title) be accepted as such.

(k) Waiver of nine-month requirement for widow, stepchild, or widower in case of accidental death or in case of serviceman dying in line of duty, or in case of remarriage to same individual

The requirement in clause (E) of subsection (c)(1) of this section or clause (E) of subsection (g)(1) of this section that the surviving spouse of an individual have been married to such individual for a period of not less than nine months immediately prior to the day on which such individual died in order to qualify as such individual's widow or widower, and the requirement in subsection (e) of this section that the stepchild of a deceased individual have been such stepchild for not less than nine months immediately preceding the day on which such individual died in order to qualify as such individual's child, shall be deemed to have been satisfied where such individual dies within the applicable nine-month period, if—

(1) his death—
(A) is accidental, or
(B) occurs in line of duty while he is a member of a uniformed service serving on active duty (as defined in section 410(j)(2) of this title),
unless the Commissioner of Social Security determines that at the time of the marriage involved the individual could not have reasonably been expected to live for nine months, or

(2) the widow or widower of such individual had been previously married to such individual and subsequently divorced and such requirement would have been satisfied at the time of such divorce if such previous marriage had been terminated by the death of such individual at such time instead of by divorce; or

(B) the stepchild of such individual had been the stepchild of such individual during a previous marriage of such stepchild's parent to such individual which ended in divorce and such requirement would have been satisfied at the time of such divorce if such previous marriage had been terminated by the death of such individual at such time instead of by divorce;

except that paragraph (2) of this subsection shall not apply if the Commissioner of Social Security determines that at the time of the marriage involved the individual could not have reasonably been expected to live for nine months. For purposes of paragraph (1)(A) of this subsection, the death of an individual is accidental if he receives bodily injuries solely through violent, external, and accidental means and, as a direct result of the bodily injuries and independently of all other causes, loses his life not later than three months after the day on which he receives such bodily injuries.

(l) Retirement age

(1) The term "retirement age" means—
(A) with respect to an individual who attains early retirement age (as defined in paragraph (2)) before January 1, 2000, 65 years of age;
(B) with respect to an individual who attains early retirement age after December 31, 1999,
and before January 1, 2005, 65 years of age plus the number of months in the age increase factor (as determined under paragraph (3)) for the calendar year in which such individual attains early retirement age;

(B) with respect to an individual who attains early retirement age after December 31, 2004, and before January 1, 2017, 66 years of age; and

(D) with respect to an individual who attains early retirement age after December 31, 2016, and before January 1, 2022, 66 years of age plus the number of months in the age increase factor (as determined under paragraph (3)) for the calendar year in which such individual attains early retirement age; and

(E) with respect to an individual who attains early retirement age after December 31, 2021, 67 years of age.

(2) The term "early retirement age" means age 62 in the case of an old-age, wife's, or husband's insurance benefit, and age 60 in the case of a widow's or widower's insurance benefit.

(3) The age increase factor for any individual who attains early retirement age in a calendar year within the period to which subparagraph (B) or (D) of paragraph (1) applies shall be determined as follows:

(A) With respect to an individual who attains early retirement age in the 5-year period consisting of the calendar years 2000 through 2004, the age increase factor shall be equal to two-twelfths of the number of months in the period beginning with January 2000 and ending with December of the year in which the individual attains early retirement age.

(B) With respect to an individual who attains early retirement age in the 5-year period consisting of the calendar years 2017 through 2021, the age increase factor shall be equal to two-twelfths of the number of months in the period beginning with January 2017 and ending with December of the year in which the individual attains early retirement age.

wife, widow, surviving divorced wife, husband, divorced husband, widower, or surviving divorced husband of such individual” for “where under subsection (b), (c), (f), or (g) of this section such applicant is not the wife, widow, husband, or widower of such individual”, struck out “and such applicant and the insured individual were living in the same household at the time of the death of such insured individual or if such insured individual is living) at the time such applicant files the application,” after “valid marriage,”, substituted “subsections (b), (c), (d), (f), and (g)’’ for “subsections (b), (c), (d), (f), and (g)”, and inserted at end “Notwithstanding the preceding sentence, in the case of any person who would be deemed under the preceding sentence a wife, widow, husband, or widower of the insured individual, such marriage shall not be deemed to be a valid marriage unless the applicant and the insured individual were living in the same household at the time of the death of the insured individual or (if the insured individual is living) at the time the applicant files the application. A marriage that is deemed to be a valid marriage by reason of the preceding sentence shall continue to be deemed a valid marriage if the insured individual and the person entitled to benefits as the wife, widow, husband, or widower of such individual is living) at the time such applicant files the application, or (ii)”. Subsec. (h)(1)(B)(ii). Pub. L. 101–508, §519(a)(2)(B), substituted “’(ii) The provisions of clause (i) shall not apply’” for “The provisions of the preceding sentence shall not apply if another person is or has been entitled to a benefit under subsection (b), (c), (e), (f), or (g) of section 402 of this title on the basis of the wages and self-employment income of such insured individual and such other person is (or is deemed to be) a wife, widow, husband, or widower of such insured individual under subparagraph (A) at the time such applicant files the application, or (ii)”.

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Pursuant to section 405(i) of this title, that another person, if such other person is (or is deemed to be) the wife or husband, a wife or husband” for “a wife, widow, husband, or widower of such individual under subparagraph (A) at the time such applicant files the application, or (ii)”. Subsec. (h)(1)(B)(i). Pub. L. 101–508, §519(a)(2)(B), substituted “’(i) The provisions of clause (i) shall not apply’” for “The provisions of the preceding sentence shall not apply if another person is or has been entitled to a benefit under subsection (b), (c), (e), (f), or (g) of section 402 of this title on the basis of the wages and self-employment income of such insured individual and such other person is (or is deemed to be) a wife, widow, husband, or widower of such insured individual under subparagraph (A) at the time such applicant files the application, or (ii)”.


Subsec. (i)(2)(B). Pub. L. 98–369, §2662(a)(11)(B), substituted “subsection (i) of this section” for “subsection 416(f) of this title”.


Subsec. (i)(2)(D). Pub. L. 98–369, §2(b), inserted “The provisions set forth in section 423(f) of this title with respect to determinations of whether entitlement to benefits under this subchapter or subchapter XVIII of this chapter based on the disability of any individual is terminated (on the basis of a finding that the physical or mental impairment on the basis of which such benefits are provided has ceased, does not exist, or is not disabling) shall apply in the same manner and to the same extent with respect to determinations of whether a period of disability has ended (on the basis of a finding that the physical or mental impairment on the basis of which the finding of disability was made has ceased, does not exist, or is not disabling).”.

Pub. L. 98–369, §2661(b)(3), substituted “subsection (l) of this section” for “section 416(f) of this title”.

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Subsec. (d)(4), (5). Pub. L. 98–21, §301(c)(1), added pars. (4) and (5). Former par. (4) redesignated (6).

Subsec. (d)(6). Pub. L. 98–21, §301(c)(1), added par. (6) and redesignated former par. (6) as (8).


Subsec. (d)(8). Pub. L. 98–21, §306(c), redesignated former par. (6) as (8).


Subsec. (h)(3)(A)(i). Pub. L. 98–21, §201(c)(1)(D), substituted “’his or her’” for “’his’”.

Subsec. (h)(3)(A)(i)(II). Pub. L. 98–21, §303(d)(1), substituted “’his or her’” for “’his’”.


Subsec. (h)(3)(A)(ii). Pub. L. 98–21, §303(a), inserted “’mother or’ before “’father’”.


Subsec. (h)(3)(B)(i)(II). Pub. L. 98–21, §303(a), inserted “’mother or’ before “’father’”.


Subsec. (h)(3)(B)(ii). Pub. L. 98–21, §303(c), substituted “’his or her’” for “’his’”.

Subsec. (h)(3)(B)(ii)(I). Pub. L. 98–21, §303(c), substituted “’his or her’” for “’his’”.

Subsec. (h)(3)(B)(ii)(II). Pub. L. 98–21, §303(c), substituted “’his or her’” for “’his’”.

Subsec. (h)(3)(C)(i). Pub. L. 98–21, §303(a), inserted “’mother or’ before “’father’”.

Subsec. (h)(3)(C)(ii). Pub. L. 98–21, §303(a), inserted “’mother or’ before “’father’”.

Subsec. (i)(1). Pub. L. 98–21, §201(c)(1)(D), as amended by Pub. L. 98–369, §2662(c)(1), substituted “re-
...
period of disability for “No such disability”, and struck out “second month following the month in which the disability ceases”.

Subsec. (1)(E),added subpar. (E), substituted “12 months” for “three months” and “after the month prescribed by subparagraph (D) as the month in which the period of disability ends (determined without regard to subparagraph (B) and this subparagraph)” for “before the first day on which a period of disability can begin (as determined under this paragraph), or, in any case in which clause (ii) of section 423(a)(1) of this title is applicable, month before the first month for which such applicant becomes entitled to benefits under section 423 of this title,” and struck out “, and no such application which is filed prior to January 1, 1955, shall be regarded after for purposes of this paragraph”.

Subsec. (1)(F), added subpar. (F).

Subsec. (1)(G), substituted “three years” for “three years”.

Subsec. (2)(A), added subpar. (B)(i). Subsec. (2)(B)(ii), added subpar. (B)(ii) and, in the material following subpar. (B)(ii), inserted provision prohibiting inclusion of any quarter of any period in which any part of such quarter was a quarter of coverage and calling for reduction by one of the number of quarters in any period whenever such number of quarters is an odd number.

1964—Subsec. (1)(2), Pub. L. 88–850, §1(a), struck out provisions which directed that a period of disability shall begin if the individual satisfies the requirements of clause (3) of this subsection on such day, on the first day of the eighteen-month period which ends with the day before the day on which the individual files such application.

Subsec. (1)(3), Pub. L. 88–850, §1(b), substituted “paragraphs (2) and (4) of this subsection” for “paragraphs (2) and (4) of this subsection”.

Subsec. (1)(4), Pub. L. 88–850, §1(c), repealed par. (4) which related to the beginning of the period of disability for individuals who filed an application for a disability determination after Dec. 31, 1963, and before July 1, 1962, with respect to a disability which began before January 1961.

1961—Subsec. (a), Pub. L. 87–64, §102(c)(1), (2), added subpar. (a) which defined retirement age.

Subsecs. (b), (c), (f), (g), Pub. L. 87–64, §102(c)(2)(B), substituted “attainment of age 62” for “attainment of retirement age”.

Subsec. (1)(2), Pub. L. 87–64, §102(b)(2)(D), substituted “a period of disability shall (subject to section 223(a)(3) of this title) begin” for “a period of disability shall begin in third sentence.”

Subsec. (1)(3)(A), Pub. L. 87–64, §102(c)(3)(C), substituted “attainment age 62 (if a woman) or age 65 (if a man)” for “attained retirement age”.


1960—Subsec. (b), Pub. L. 86–778, §207(a), substituted “one year” for “three years”.

Subsec. (e), Pub. L. 86–778, §§207(b), 208(c), in first sentence, reduced the period for eligibility of a stepchild of a living individual from three years immediately preceding the day on which application for child’s benefits is filed to one year immediately preceding the day on which application for child’s benefits is filed.

Subsec. (f), Pub. L. 86–778, §207(c), substituted “one year” for “three years”.

Subsec. (h)(1), Pub. L. 86–778, §208(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (h)(2), Pub. L. 86–778, §208(b), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (i)(2), Pub. L. 86–778, §§402(c), 403(c), redesignated “period of disability” to include a period of less than six full calendar months’ duration if the individual was entitled to benefits under section 423 of this title for one or more months in such period, prohibited acceptance of an application, in any case in which clause (ii) of section 423(a) of this title is applicable, filed more than six months before the first month for which the applicant becomes entitled to benefits under section 423 of this title, substituted provisions requiring a period of disability to end with the close of the last day of the period preceding whichever of the following months is earlier: the month in which the individual attains the age of 65 or the third month following the month in which the disability ceases, for provisions which required a period of disability to end with the close of the last day of the first month in which either the disability ceases or the individual attains the age of 65, and inserted sentence providing that any application for a disability determination which is filed within such three months’ period or six months’ period shall be deemed to have been filed on such first day or in such first month, as the case may be.


1958—Subsec. (b), Pub. L. 85–940, §301(d), included within definition of “wife” a woman who, in the month prior to the month of her marriage, was entitled to, or on application therefor would have been entitled to, benefits under subsection (e) or (h) of section 402 of this title, or had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of section 402 of this title.

Subsec. (c), Pub. L. 85–940, §301(b)(2), included within definition of “widow” a woman whose husband had legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen, and a woman who, in the month prior to the month of her marriage, was entitled to, or on application therefor would have been entitled to, benefits under subsection (e) or (h) of section 402 of this title, or had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of section 402 of this title.

Subsec. (d), Pub. L. 85–940, §301(e), included within definition of “former wife divorced” a woman whose husband legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen.

Subsec. (e), Pub. L. 85–940, §302(a), struck out requirement that an adopted child of a living individual must have been adopted for not less than three years immediately preceding the day on which application for

Subsec. (f), Pub. L. 85–940, §302(b), added subpar. (F).

Subsec. (g), Pub. L. 85–940, §302(c), substituted “one year” for “three years”.

Subsec. (h), Pub. L. 85–940, §302(d), added subpar. (D).

Subsec. (i), Pub. L. 85–940, §302(e), added paragraphs (D) and (E).
child's benefits is filed, and inserted provisions requiring
a child to be deemed, as of the date of death of an
individual, to be the legally adopted child of such indi-
vidual if the child was living in the decedent's house-
hold at the time of his death and was legally adopted
by the surviving spouse after the individual's death but
before the end of two years after the day on which the
individual died. Act Aug. 28, 1958, and the child was not
receiving regular contributions toward his support
from someone other than the individual or his spouse,
or from any public or private welfare organization.
Subsec. (f). Pub. L. 85–840, §301(a)(2), included within
definition of "husband" a person who in the month
prior to the month of his marriage was entitled to, or
on application therefor and attainment of retirement
age in such prior month would have been entitled to,
benefits under subsection (f) or (h) of section 402 of this
title, or who had attained age eighteen and was enti-
tled to, or on application therefor would have been en-
titled to benefits under subsection (d) of section 402 of this
title.
Subsec. (g). Pub. L. 85–840, §301(c)(2), included within
definition of "widower" a person whose wife had legally
adopted his son or daughter while he was married to
her, or while such son or daughter was under the age of
eighteen, and a person who, in the month before the
month of his marriage, was entitled to, or on applica-
tion therefor and attainment of retirement age in such
prior month would have been entitled to, benefits under
subsection (f) or (h) of section 402 of this title, or who
had attained age eighteen and was entitled to, or on
application therefor would have been entitled to, benefits
under subsection (d) of section 402 of this title.
Subsec. (h)(3). Pub. L. 85–840, §305(b), repealed par. (3)
which defined "living with" for purposes of section 402(c)
of this title.
Subsec. (i)(2). Pub. L. 85–840, §201, substituted "while
under such disability" for "while under a disability"
in opening provisions, and "eighteen-month period" for
"one-year period" in cl. (A)(ii).
Subsec. (i)(3). Pub. L. 85–840, §204(a), struck out provi-
sions that required, for a period of disability to begin
with respect to any quarter, an individual to have not
less than six quarters of coverage during the thirteen-
month period which ends with such quarter, and in-
serted provisions requiring an individual to be fully in-
sured.
1963" for "July 1958" and "July 1960" for "July 1957",
and struck out provisions which required the applicant
to be alive on July 1, 1957.
generally to provide that the applicant is the wife, hus-
band, widow, or widower if there is a finding that the
applicant and the insured individual were validly mar-
tied at the time the application for benefits is filed, or
at the time the insured individual died, and to elimi-
nate provisions which provided certain conditions
under which a wife or husband would be deemed to be
having lived with his or her spouse, and which related to
determination of status of parent.
for "July 1957" and "July 1957" for "July 1956".
1956—Subsec. (a). Act Aug. 1, 1956, §102(a), reduced the
retirement age in the case of a woman from age sixty-
five to age sixty-two.
Subsec. (i)(1). Act Aug. 1, 1956, §103(c)(6), inserted
"Except for purposes of sections 402(d), 423, and 425 of
this title".
Subsec. (i)(2). Act Aug. 1, 1956, §102(d)(12), substituted
"the age of sixty-five" for "retirement age" in two places.
1954—Subsec. (1). Act Sept. 1, 1954, §104(d), added sub-
sec. (i). Former subsec. (i), which was added by act July
18, 1952, §3(d), ceased to be in effect at the close of June
30, 1953. See Effective and Termination Date of 1952
Amendment note set out under section 413 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT
530, provided that: "The amendments made by this sec-
tion [amending this section] shall be effective with re-
spect to applications for benefits under title II of the
Social Security Act [this subchapter] filed during
months ending after the date of the enactment of this
Act [Mar. 2, 2004]."

EFFECTIVE DATE OF 1994 AMENDMENT
Amendment by section 107(a)(4) of Pub. L. 103–256
effective Mar. 31, 1995, see section 110(a) of Pub. L.
103–296, set out as a note under section 401 of this

EFFECTIVE DATE OF 1990 AMENDMENT
Amendment by section 5103(b)(1) of Pub. L. 101–508
applicable with respect to monthly insurance benefits
for months after December 1990 for which applications
are filed on or after Jan. 1, 1991, or are pending on such
date, see section 5109(e) of Pub. L. 101–508, set out as a
note under section 402 of this title.

Section 5109(b) of Pub. L. 101–508 provided that: "The
amendments made by this section [amending this sec-
tion] shall apply with respect to benefits payable for
months after December 1990, but only on the basis of
applications filed after December 31, 1990."

Amendment by section 5103(b) of Pub. L. 101–508
applicable with respect to benefits for months after
December 1990, and applicable only with respect to ben-
efits for which application is filed with Secretary of
Health and Human Services after Dec. 31, 1990, with
exception from application requirement, see section
5119(e) of Pub. L. 101–508, set out as a note under
section 403 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT
Amendment by 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 provi-
sion 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 1984 AMENDMENTS
Amendment by section 2(b) of Pub. L. 98–460 applicable
to determinations made by the Secretary on or after Oct. 9, 1984, with certain enumerated exceptions and
qualifications, see section 2(d) of Pub. L. 98–460, set
out as a note under section 423 of this title.

Amendment by section 4(a)(2) of Pub. L. 98–460 applic-
able with respect to determinations made on or after
the first day of the first month beginning after 30 days
after Oct. 9, 1984, see section 4(c) of Pub. L. 98–460, set
out as a note under section 423 of this title.

Amendment by section 2661(f) of Pub. L. 98–369 applic-
tive as though included in the enactment of the Social
Security Amendments of 1983, Pub. L. 98–21, see section
2664(a) of Pub. L. 98–369, set out as a note under section
401 of this title.

Amendment by section 2663(a)(11) of Pub. L. 98–369 effec-
tive July 18, 1984, but not to be construed as chang-
ing or affecting any right, liability, status, or interpre-
tation which existed (under the provisions of law in-
volved) 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 AMENDMENT
Amendment by sections 301(c), 303, 304(c), 306(c), and
309(j) 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.

Section 332(c) of Pub. L. 98–21 provided that: "The
amendments made by this section [amending this sec-
tion and section 425 of this title] shall be effective with
respect to applications for disability insurance benefits
under section 223 of the Social Security Act [section 423
of this title]."
of this title), and for disability determinations under section 216(i) of such Act [subsec. (i) of this section], filed after the date of the enactment of this Act [Apr. 20, 1983] except that no monthly benefits under title II of the Social Security Act [this subchapter] shall be payable or increased by reason of the amendments made by this section for months before the month following the month of disability determinations under subsec. (i) of this section filed on or after October 1972 or before October 1972 under specified conditions, see section 116(c) of Pub. L. 92-603, set out as a note under section 423 of this title.

Section 333(b) of Pub. L. 98-21 provided that: "The amendment made by subsection (a) [amending this section] shall be effective on the date of the enactment of this Act [Apr. 20, 1983]."

**Effective Date of 1981 Amendment**

Amendment by section 2202(a)(2) of Pub. L. 97-35 applicable only with respect to deaths occurring after August 1981, see section 2202(b) of Pub. L. 97-35, set out as a note under section 402 of this title.

Amendment by section 2202(b), (c)(2) of Pub. L. 97-35 applicable only to monthly insurance benefits payable to individuals who attain age 62 after August 1981, and amendment by section 2203(d)(3), (4) of Pub. L. 97-35 applicable to monthly insurance benefits for months after August 1981, and only in the case of individuals who were not entitled to such insurance benefits for August 1981 or any preceding month, see section 2203(d)(1), (2) of Pub. L. 97-35, set out as a note under section 402 of this title.

**Effective Date of 1980 Amendments**

Amendment by Pub. L. 96-473 effective with respect to benefits payable for months beginning on or after Oct. 1, 1980, see section 5(d) of Pub. L. 96-473, set out as a note under section 402 of this title.

Amendment by section 303(b)(2)(B) of Pub. L. 96-265 effective on first day of sixth month which begins after June 9, 1980, to apply with respect to any individual whose disability has not been determined to have ceased prior to such first day, see section 303(d) of Pub. L. 96-265, set out as a note under section 402 of this title.

Amendment by section 306(b) of Pub. L. 96-265 applicable to applications filed after June 1980, see section 306(d) of Pub. L. 96-265, set out as a note under section 402 of this title.

**Effective Date of 1977 Amendment**

Amendment by Pub. L. 95-216 effective with respect to monthly benefits after Dec., 1978, and applications filed on or after Jan. 1, 1979, see section 337(c) of Pub. L. 95-216, set out as a note under section 402 of this title.

**Effective Date of 1974 Amendment**


**Effective Date of 1972 Amendment**

Amendment by section 104(g) of Pub. L. 92-603 applicable only in the case of a man who attains (or would attain) age 62 after December 1974, with the figure "62" in subsec. (i)(3)(A) of this section to be deemed to read "64" in the case of a man who attains age 62 in 1973, and deemed to read "63" in the case of a man who attains age 62 in 1974, see section 104(i) of Pub. L. 92-603, set out as a note under section 414 of this title.

Amendment by section 113(a) of Pub. L. 92-603 applicable with respect to monthly benefits payable under this subchapter for months after December 1972, but only on the basis of applications filed on or after Oct. 30, 1972, see section 113(c) of Pub. L. 92-603, set out as a note under section 402 of this title.

**Section 118(c) of Pub. L. 92-603 provided that: The amendments made by this section [amending this section] shall apply only with respect to benefits payable under title II of the Social Security Act [this subchapter] for months after December 1972 on the basis of applications filed in or after the month in which this Act is enacted (October 1972)."

Amendment by section 116(d) of Pub. L. 92-603 effective with respect to applications for disability determinations under subsec. (i) of this section filed on or after October 1972 or before October 1972 under specified conditions, see section 116(c) of Pub. L. 92-603, set out as a note under section 423 of this title.

**Effective Date of 1971 Amendment**

Amendment by section 117(a) of Pub. L. 92-603 effective with respect to applications for disability determinations under subsec. (i) of this section filed in or after October 1972 or before October 1972 under specified conditions, see section 117(c) of Pub. L. 92-603, set out as a note under section 423 of this title.

Section 118(c) of Pub. L. 92-603 provided that: "The amendments made by this section [amending this section] shall apply only with respect to applications filed after the date of the enactment of this Act [Oct. 1972]."

**Effective Date of 1968 Amendment**

Amendment by section 104 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.

Section 105(c) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) [amending this section] shall apply only with respect to applications for disability determinations filed under section 216(i) of the Social Security Act [subsec. (i) of this section] in or after the month in which this Act is enacted [January 1968]." The amendments made by subsection (b) [amending section 423 of this title] shall apply with respect to monthly benefits under title II of such Act [this subchapter] for months after January 1968, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted.

Section 111(b) of Pub. L. 90-248 provided that: "No monthly insurance benefits under title II of the Social Security Act [this subchapter] shall be payable or increased for any month before the month in which this Act is enacted [January 1968] by reason of amendments made by subsection (a) [amending this section]."

Section 150(b) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to monthly benefits payable under title II of the Social Security Act [this subchapter] for months after January 1968, but only on the basis of an application filed in or after the month in which this Act is enacted [January 1968]."

Section 156(e) of Pub. L. 90-248 provided that: "The amendments made by this section [amending this section] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after January 1968, but only on the basis of applications filed in or after the month in which this Act is enacted [January 1968]."

Amendment by section 158(d) 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 subsec. (i) of this section, see section 158(e) of Pub. L. 90-248, set out as a note under section 423 of this title.

Section 172(c) of Pub. L. 90-248 provided that: "The amendments made by this section [amending this sec-
shall be effective with respect to benefits under section 223 of the Social Security Act [section 423 of this title] for months after January 1965 based on applications filed after the date of enactment of this Act [Jan. 2, 1965] and with respect to disability determinations under section 216(i) of the Social Security Act [subsec. (i) of this section] based on applications filed after the date of enactment of this Act.

**Effective Date of 1965 Amendment**

Amendment by section 338(c), (d)(2)(B) of Pub. L. 89–97 applicable with respect to monthly insurance benefits under this subchapter beginning with the second month following July 1965, but, in the case of an individual who was not entitled to a monthly insurance benefit under section 402 of this title for the first month following July 1965, only on the basis of an application filed in or after July 1965, see section 308(e) of Pub. L. 89–97, set out as a note under section 402 of this title.

Amendment by section 334(a)–(d) of Pub. L. 89–97 applicable only with respect to monthly insurance benefits under section 401 et seq. of this title beginning with September 1965 but only on the basis of applications filed in or after July 1965, see section 334(g) of Pub. L. 89–97, set out as a note under section 402 of this title.

Amendment by section 339(c) of Pub. L. 89–97 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 402 of this title] shall be applicable with respect to monthly insurance benefits under title II of the Social Security Act [this subchapter] beginning with the second month following the month in which this Act is enacted [July 1965] but only on the basis of an application filed in or after the month in which this Act is enacted."

Amendment by section 303(a)(1), (b)(1), (2) of Pub. L. 89–97 effective with respect to applications for disability insurance benefits under section 423 of this title, and for disability determinations under subsec. (i) of this section, filed in or after July 1965, see section 303(f)(1) of Pub. L. 89–97, set out as a note under section 423 of this title.

Amendment by section 304(l) of Pub. L. 89–97 applicable with respect to monthly insurance benefits under this subchapter for and after the second month following July 1965 but only on the basis of applications filed in or after July 1965, see section 304(e) of Pub. L. 89–97, set out as a note under section 402 of this title.

Section 328(d) of Pub. L. 89–97 provided that: "The amendments made by this section [amending this section and sections 402 and 404 of this title] shall apply only with respect to (1) applications filed on or after the date of enactment of this Act [July 30, 1965], (2) applications as to which the Secretary has not made a final decision before the date of enactment of this Act, and (3) if a civil action with respect to final decision by the Secretary has been commenced under section 205(g) of the Social Security Act [section 405(g) of this title] before the date of enactment of this Act, applications as to which there has been no final judicial decision before the date of enactment of this Act."

Section 444(e) of Pub. L. 89–97 provided that: "The amendments made by this section [amending this section and section 423 of this title] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after the first month following the month in which this Act is enacted (July 1965), on the basis of applications for such benefits filed in or after the month in which this Act is enacted."

**Effective Date of 1964 Amendment**

Section 1(d) of Pub. L. 88–650 provided that:

"(1) The amendments made by subsections (a), (b), and (c) [amending this section] shall apply in the case of applications for disability determinations under section 216(i) of the Social Security Act [subsec. (i) of this section] filed after the month following the month in which this Act is enacted [October 1964]."

"(2) Except as provided in the succeeding paragraphs, such amendments shall also apply, and as the case may be, to such amendments had been enacted on July 1, 1962, in the case of applications for disability determinations filed under section 216(i) of the Social Security Act (subsec. (i) of this section) during the period beginning July 1, 1962, and ending with the close of the month following the month in which this Act is enacted [October 1964], by an individual who—"

"(A) has been under a disability (as defined in such section 216(i)) continuously since he filed such application and up to (i) the first day of the second month following the month in which this Act is enacted or (ii) if earlier, the first day of the month in which he attained the age of 65, and"

"(B) is living on the day specified in subparagraph (A)(i)."

"(3) In the case of an individual to whom paragraph (2) applies and who filed an application for disability insurance benefits under section 223 of the Social Security Act [section 423 of this title] during the period specified in such paragraph—"

"(A) if such individual was under a disability (as defined in section 223(c) of such Act) throughout such period and was not entitled to disability insurance benefits under such section 223 for any month in such period (except for the amendments made by this section), such application and any application filed during such period for benefits under section 202 of the Social Security Act [section 402 of this title] on the basis of the wages and self-employment income of such individual shall, notwithstanding section 202(j)(2) and the first sentence of section 223(b), be deemed an effective application, or"

"(B) if such individual was not entitled (without the application of this section) to disability insurance benefits under section 223 for any month immediately preceding—"

"(i) the second month following the month in which this Act was enacted [October 1964], or"

"(ii) if earlier, the month in which he became entitled to benefits under section 202(a) (section 402(a) of this title), his primary insurance amount shall be recomputed, but only if such amount would be increased solely by reason of the enactment of this section."

"(4) No monthly insurance benefits, and no increase in monthly insurance benefits, may be paid under title II of the Social Security Act [this subchapter] by reason of the enactment of this section for any month before the eleventh month before the month in which this Act is enacted [October 1964], and (C) who files an application for disability insurance benefits under section 223 of the Social Security Act—"

"(i) subsection (a)(3) of section 223 of the Social Security Act shall not prevent him from being entitled to such disability insurance benefits;"

"(ii) the provisions of subsection (a)(1) of such section 223 terminating entitlement to disability insur-
ance benefits by reason of entitlement to old-age insurance benefits shall not apply with respect to him unless and until he again becomes entitled to such old-age insurance benefits under the provisions of section 202 of such Act;

"(iii) such individual shall, for any month for which he is thereby entitled to both old-age insurance benefits and disability insurance benefits, be entitled only to such disability insurance benefits; and

"(iv) in case the benefits reduced under subsection (q) of section 202 of such Act are old-age insurance benefits (I) such old-age insurance benefits for the months in the period referred to in paragraph (2) of this subsection shall not be recomputed solely by reason of the enactment of this section, and, if otherwise recomputed, the provisions of and amendments made by this section shall not apply to such recomputation; and (II) the months for which he received such old-age insurance benefits before or during the period for which he becomes entitled, by reason of such enactment, to disability insurance benefits under such section 223 and the months for which he received such disability insurance benefits shall be excluded from the 'reduction period' and the 'adjusted reduction period', as defined in paragraphs (5) and (6), respectively, of such subsection (q) for purposes of determining the amount of the old-age insurance benefits to which he may subsequently become entitled.

"(6) The entitlement of any individual to benefits under section 202 of the Social Security Act [section 402 of this title] shall not be terminated solely by reason of the enactment of this section, except where such individual is entitled to benefits under section 202(a) or 223 of such Act [section 402(a) or 423 of this title] in an amount which (but for this subsection) would have required termination of such benefits under such section 202."

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by section 102(b)(2)(D) of Pub. L. 87–64 effective Aug. 1, 1961, and amendment by section 102(c)(1), (2)(B), (3)(C) of Pub. L. 87–64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961, based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f)(4), (6) and 109 of Pub. L. 87–64, set out as notes under section 402 of this title.

Section 105 of Pub. L. 87–64 provided that the amendment made by that section is effective with respect to applications for disability determinations filed on or after July 1, 1961.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 207(d) of Pub. L. 86–778 provided that: ‘‘The amendments made by this section [amending this section] shall apply only with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months beginning with the month in which this Act is enacted [September 1960], on the basis of applications filed in or after such month."

Section 208(f) of Pub. L. 86–778 provided that: ‘‘The amendments made by the preceding provisions of this section [amending this section and section 402 of this title] shall be applicable (I) with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months beginning with the month in which this Act is enacted [September 1960] on the basis of an application filed in or after such month, and (2) in the case of a lump-sum death payment under such title based on an application filed in or after such month, but only if no person, other than the person filing such application, has filed an application for a lump-sum death payment under such title prior to the date of the enactment of this Act [Sept. 13, 1960] with respect to the death of the same individual."

Amendment by section 402(e) of Pub. L. 86–778 applicable only in the case of individuals who become entitled to benefits under section 423 of this title in or after September 1960, see section 402(f) of Pub. L. 86–778, set out as a note under section 423 of this title.

Amendment by section 403(c) of Pub. L. 86–778 applicable only in the case of individuals who have a period of disability (as defined in subsec. (i) of this section) beginning on or after Sept. 13, 1960, or beginning before Sept. 13, 1960 and continuing, without restriction beyond September 1966, set out as a note under section 423 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 207(a) of Pub. L. 85–840 provided that: ‘‘The amendments made by this amendment [amending this section] shall apply with respect to applications for a disability determination under section 216(i) of the Social Security Act [subsec. (i) of this section] filed after June 1958. The amendments made by section 302 [amending this section and section 423 of this title] shall apply with respect to applications for disability insurance benefits under section 223 of such Act filed after December 1957. The amendments made by section 303 [amending this section and section 423 of this title] shall apply with respect to (1) applications for disability insurance benefits under such section 223 or for a disability determination under such section 216(i) filed on or after the date of enactment of this Act [Aug. 28, 1958], and (2) applications for such benefits or for such a determination filed after Aug. 1957 and prior to such date of enactment if the applicant has not died prior to such date of enactment and if notice to the applicant of the Secretary’s decision with respect thereto has not been given to him on or prior to such date, except that (A) no benefits under title II of the Social Security Act [this subchapter] for the month in which this Act is enacted [August 1958] or any prior month shall be payable or increased by reason of the amendments made by subsection (k) of this section [amending this section and section 403 of this title] (but no such recomputation shall be regarded as a recomputation for purposes of section 215(f) of such Act), The amendments made by section 303 (other than by subsections (k) and (m) [amending sections 401, 402, 403, 414, 422, and 425 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after the month in which this Act is enacted, but only if an application for such benefits is filed on or after the date of enactment of this Act. The amendments made by section 303 [amending this section and section 423 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for the month in which this Act is enacted and succeeding months."

Amendment by section 303(a)(2), (b)(2), (c)(2), (d), (e) of Pub. L. 85–840 applicable with respect to monthly benefits under section 402 of this title for months beginning after Aug. 28, 1958, but only if an application for such benefits is filed on or after such date, see section 303(f) of Pub. L. 85–840, set out as a note under section 402 of this title.

Section 302(b) of Pub. L. 85–840 provided that: ‘‘The amendment made by this section [amending this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months beginning after the date of enactment of this Act [Aug. 28, 1958], but only if an application for such benefits is filed on or after such date, see section 302(f) of Pub. L. 85–840, set out as a note under section 402 of this title.

Amendment by section 303(b) of Pub. L. 85–840 applicable in the case of lump-sum death payments under section 423 of this title on the basis of the wages and self-employment income of any individual who dies after August 1958, see section 303(c) of Pub. L. 85–840, set out as a note under section 402 of this title.
Edward effectiveness of 1957 Amendment
Amendment by Pub. L. 85–238 applicable to monthly benefits under section 402 of this title for months after August 1957, but not to operate to deprive any such parent or child of any other benefits to which he would otherwise be entitled under section 402(h) of this title, see section 3(1) of Pub. L. 85–238, set out as a note under section 402 of this title.

Effective Date of 1956 Amendment
Section 102(b) of act Aug. 1, 1956, provided that:
"(1) The amendment made by subsection (a) [amending this section] shall apply in the case of benefits under subsection (e) of section 202 of the Social Security Act [section 402(e) of this title] for months after October 1956, but only, except in the case of an individual who was entitled to wife's or mother's insurance benefits under such section 202 for October 1956, or any month thereafter, on the basis of applications filed after the date of enactment of this Act [Aug. 1, 1956]. The amendment made by subsection (a) shall apply in the case of benefits under subsection (b) of such section 202 for months after October 1956 on the basis of applications filed after the date of enactment of this Act.

"(2) Except as provided in paragraphs (1) and (4), the amendment made by subsection (a) shall apply in the case of lump-sum death payments under section 202(i) of the Social Security Act with respect to deaths after October 1956, and in the case of monthly benefits under title II of such Act [this subchapter] for months after October 1956 on the basis of applications filed after the date of enactment of this Act.

"(3) For purposes of section 215(b)(3)(B) of the Social Security Act [section 415(b)(3)(B) of this title] (but subject to paragraphs (1) and (2) of this subsection)—

"(A) a woman who attains the age of sixty-two prior to November 1956 and who was not eligible for old-age insurance benefits under section 202 of such Act (as in effect prior to the enactment of this Act) for any month prior to November 1956 shall be deemed to have attained the age of sixty-two in 1956 or, if earlier, the year in which she died;

"(B) a woman shall not, by reason of the amendment made by subsection (a), be deemed to be a fully insured individual before November 1956 or the month in which she died, whichever month is the earlier; and

"(C) the amendment made by subsection (a) shall not be applicable in the case of any woman who was eligible for old-age insurance benefits under such section 202 for any month prior to November 1956. A woman shall, for purposes of this paragraph, be deemed eligible for old-age insurance benefits under section 202 of the Social Security Act for any month if she was or would have been, upon filing application therefor in such month, entitled to such benefits for such month.

"(4) For purposes of section 409(l) of such Act [section 409(l) of this title], the amendment made by subsection (a) shall apply only with respect to remuneration paid after October 1956.

Effective Date of 1954 Amendment
Amendment by section 106(d) of act Sept. 1, 1954, applicable with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955, but that no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 419(l) of this title, see section 106(h) of act Sept. 1, 1954, set out as a note under section 419 of this title.

Effective and Termination Date of 1952 Amendment
For effective and termination dates of amendment by Act July 18, 1952, see section 3(f), (g) of act July 18, 1952, set out as a note under section 413 of this title.

§ 417. Benefits for veterans
(a) Determination of benefits
(1) For purposes of determining entitlement to and the amount of any monthly benefit for any...
month after August 1950, or entitlement to and

the amount of any lump-sum death payment in

case of a death after such month, payable under

this subchapter on the basis of the wages and

self-employment income of any World War II

veteran, and for purposes of section 416(i)(3)

of this title, such veteran shall be deemed to have

been paid wages (in addition to the wages, if

any, actually paid to him) of $160 in each month
during any part of which he served in the active

military or naval service of the United States
during World War II. This subsection shall not be

applicable in the case of any monthly benefit

or lump-sum death payment if—

(A) a larger such benefit or payment, as the

case may be, would be payable without its ap-

lication; or

(B) a benefit (other than a benefit payable in

a lump sum unless it is a commutation of, or

a substitute for, periodic payments) which is

based, in whole or in part, upon the active

military or naval service of such veteran dur-

ing World War II is determined by any agency

or wholly owned instrumentality of the United

States (other than the Department of Veter-

ans Affairs) to be payable by it under any

other law of the United States or under a sys-

tem established by such agency or instrumen-

tality.

The provisions of clause (B) of this paragraph

shall not apply in the case of any monthly bene-

fit or lump-sum death payment under this sub-

chapter if its application would reduce by $0.50

or less the primary insurance amount (as com-

puted under section 415 of this title prior to any

recomputation thereof pursuant to section 415(f)

of this title) of the individual on whose wages

and self-employment income such benefit or

payment is based. The provisions of clause (B) of

this paragraph shall also not apply for purposes

of section 416(i)(3) of this title.

(2) Upon application for benefits or a lump-

sum death payment on the basis of the wages

and self-employment income of any World War

II veteran, the Commissioner of Social Security

shall make a decision without regard to clause

(B) of paragraph (1) of this subsection unless the

Commissioner has been notified by some other

agency or instrumentality of the United States

that, on the basis of the military or naval serv-

ice of such veteran during World War II, a ben-

efit described in clause (B) of paragraph (1) of

this subsection has been determined by such agency

or instrumentality to be payable by it. If the

Commissioner has not been so notified, the Com-

missioner of Social Security shall then ascer-

tain whether some other agency or wholly

owned instrumentality of the United States has

decided that a benefit described in clause (B) of

paragraph (1) of this subsection is payable by it.

If any such agency or instrumentality has de-

cided, or thereafter decides, that such a benefit

is payable by it, it shall so notify the Commiss-

ioner of Social Security, and the Commissioner

of Social Security shall certify no further bene-

fits for payment or shall recompute the amount

of any further benefits payable, as may be re-

quired by paragraph (1) of this subsection.

(3) Any agency or wholly owned instrument-

ality of the United States which is authorized by

any law of the United States to pay benefits, or

has a system of benefits which are based, in

whole or in part, on military or naval service

during World War II shall, at the request of the

Commissioner of Social Security, certify to the

Commissioner, with respect to any veteran, such

information as the Commissioner of Social Se-

curity deems necessary to carry out the Com-

missioner’s functions under paragraph (2) of this

subsection.

(b) Determination of insurance status

(1) Subject to paragraph (3), any World War II

veteran who died during the period of three

years immediately following his separation from

the active military or naval service of the

United States shall be deemed to have died a

fully insured individual whose primary insur-

ance amount is the amount determined under

section 415(c) of this title as in effect in Decem-

ber 1978. Notwithstanding section 415(d) of this

title as in effect in December 1978, the primary

insurance benefit (for purposes of section 415(c)

of this title as in effect in December 1978) of

such veteran shall be determined as provided in

this subchapter as in effect prior to August 28,

1950, except that the 1 per centum addition pro-

vided for in section 409(a)(4)(B) of this title as in

effect prior to August 28, 1950, shall be applica-

ble only with respect to calendar years prior to

1951. This subsection shall not be applicable in

the case of any monthly benefit or lump-sum

dead payment payment if—

(A) a larger such benefit or payment, as the

case may be, would be payable without its ap-

lication; or

(B) any pension or compensation is deter-

mined by the Secretary of Veterans Affairs to

be payable by him on the basis of the death of

such veteran;

(C) the death of the veteran occurred while

he was in the active military or naval service

of the United States; or

(D) such veteran has been discharged or re-

leased from the active military or naval serv-

ice of the United States subsequent to July 26,

1951.

(2) Upon an application for benefits or a lump-

sum death payment on the basis of the wages

and self-employment income of any World War

II veteran, the Commissioner of Social Security

shall make a decision without regard to para-

graph (1)(B) of this subsection unless the Com-

missioner has been notified by the Secretary of

Veterans Affairs that pension or compensation

is determined to be payable by that Secretary

by reason of the death of such veteran. The

Commissioner of Social Security shall then as-

certain whether the veteran is a World War II

veteran who died during the period of three

years immediately following his separation from

the active military or naval service of the

United States; or

has a system of benefits which are based, in

whole or in part, on military or naval service

during World War II shall, at the request of the

Commissioner of Social Security, certify to the

Commissioner, with respect to any veteran, such

information as the Commissioner of Social Se-

curity deems necessary to carry out the Com-

missioner’s functions under paragraph (2) of this

subsection.

(b) Determination of insurance status

(1) Subject to paragraph (3), any World War II

veteran who died during the period of three

years immediately following his separation from

the active military or naval service of the

United States shall be deemed to have died a

fully insured individual whose primary insur-

ance amount is the amount determined under

section 415(c) of this title as in effect in Decem-

ber 1978. Notwithstanding section 415(d) of this
title as in effect in December 1978, the primary

insurance benefit (for purposes of section 415(c)
of this title as in effect in December 1978) of

such veteran shall be determined as provided in

this subchapter as in effect prior to August 28,
1950, except that the 1 per centum addition pro-
vided for in section 409(a)(4)(B) of this title as in
effect prior to August 28, 1950, shall be applica-
ble only with respect to calendar years prior to
1951. This subsection shall not be applicable in
the case of any monthly benefit or lump-sum
dead payment payment if—

(A) a larger such benefit or payment, as the
case may be, would be payable without its ap-
lication; or

(B) any pension or compensation is deter-

mined by the Secretary of Veterans Affairs to
be payable by him on the basis of the death of
such veteran;

(C) the death of the veteran occurred while
he was in the active military or naval service
of the United States; or

(D) such veteran has been discharged or re-

leased from the active military or naval serv-

ice of the United States subsequent to July 26,
1951.

(2) Upon an application for benefits or a lump-
sum death payment on the basis of the wages
and self-employment income of any World War
II veteran, the Commissioner of Social Security
shall make a decision without regard to para-
graph (1)(B) of this subsection unless the Com-
mmissioner has been notified by the Secretary of
Veterans Affairs that pension or compensation
is determined to be payable by that Secretary
by reason of the death of such veteran. The
Commissioner of Social Security shall then as-
certain whether the veteran is a World War II
veteran who died during the period of three
years immediately following his separation from
the active military or naval service of the
United States; or

has a system of benefits which are based, in
whole or in part, on military or naval service
during World War II shall, at the request of the
Commissioner of Social Security, certify to the
Commissioner, with respect to any veteran, such
information as the Commissioner of Social Se-
curity deems necessary to carry out the Com-
missioner’s functions under paragraph (2) of this
subsection.
this subsection to any individual, not exceeding the amount of any accrued pension or compensation payable to him by the Secretary of Veterans Affairs, shall (notwithstanding the provisions of section 5301 of title 38) be deemed to have been paid to him by that Secretary on account of such accrued pension or compensation. No such payment certified by the Commissioner of Social Security, and no payment certified by the Commissioner for any month prior to the first month for which any pension or compensation was paid by the Secretary of Veterans Affairs shall be deemed by reason of this subsection to have been an erroneous payment.

(3)(A) The preceding provisions of this subsection shall apply for purposes of determining the entitlement to benefits under section 402 of this title, based on the primary insurance amount of the deceased World War II veteran, of any surviving individual only if such surviving individual makes application for such benefits before the end of the 18-month period after November 1990.

(B) Subparagraph (A) shall not apply if any person is entitled to benefits under section 402 of this title based on the primary insurance amount of such veteran for the month preceding the month in which such application is made.

c. **Filing proof of support**

In the case of any World War II veteran to whom subsection (a) of this section is applicable, proof of support required under section 402(h) of this title may be filed by a parent at any time prior to July 1951 or prior to the expiration of two years after the date of the death of such veteran, whichever is the later.

d. **Definitions**

For the purposes of this section—

(1) The term "World War II" means the period beginning with September 16, 1940, and ending at the close of July 24, 1947.

(2) The term "World War II veteran" means any individual who served in the active military or naval service of the United States at any time during World War II and who, if discharged or released therefrom, was so discharged or released under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty; but such term shall not include any individual who died while in the active military or naval service of the United States if his death was inflicted (other than by an enemy of the United States) as lawful punishment for a military or naval offense.

e. **Determination based on wages and self-employment**

(1) For purposes of determining entitlement to and the amount of any monthly benefit or lump-sum death payment payable under this subchapter on the basis of wages and self-employment income of any veteran (as defined in paragraph (4) of this subsection), and for purposes of section 416(i)(3) of this title, such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of $160 in each month during any part of which he served in the active military or naval service of the United States on or after July 25, 1947, and prior to January 1, 1957. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon the active military or naval service of such veteran on or after July 25, 1947, and prior to January 1, 1957, is determined by any agency or wholly owned instrumentality of the United States (other than the Department of Veterans Affairs) to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) of this paragraph shall not apply in the case of any monthly benefit or lump-sum death payment under this subchapter if its application would reduce by $0.50 or less the primary insurance amount (as computed under section 415 of this title prior to any recomputation thereof pursuant to subsection (f) of section 415 of this title) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) of this paragraph shall also not apply for purposes of section 416(i)(3) of this title. In the case of monthly benefits under this subchapter for months after December 1956 (and any lump-sum death payment under this subchapter with respect to a death occurring after December 1956) based on the wages and self-employment income of a veteran who performed service (as a member of a uniformed service) to which the provisions of section 410(j)(1) of this title are applicable, wages which would, but for the provisions of clause (B) of this paragraph, be deemed under this subsection to have been paid to such veteran with respect to his active military or naval service performed after December 1950 shall be deemed to have been paid to him with respect to such service notwithstanding the provisions of such clause, but only if the benefits referred to in such clause which are based (in whole or in part) on such service are payable solely by the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, National Oceanic and Atmospheric Administration Corps, or Public Health Service.

(2) Upon application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any veteran, the Commissioner of Social Security shall make a decision without regard to clause (B) of paragraph (1) of this subsection unless the Commissioner has been notified by some other agency or instrumentality of the United States that, on the basis of the military or naval service of such veteran on or after July 25, 1947, and prior to January 1, 1957, a benefit described in clause (B) of paragraph (1) of this subsection has been determined by such agency or instrumentality to be payable by it. If the Commissioner has not been so notified, the Commissioner of Social Security shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit de-
scribed in clause (B) of paragraph (1) of this subsection is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Commissioner of Social Security that by reason of such decision no further annuity will be paid to such surviving spouse or child under such section (other than this subsection) and section 410 of this title as in effect before the enactment of the Social Security Amendments of 1950, over.

(b) Any amounts previously transferred from the general fund of the Treasury to such Trust Funds pursuant to the provisions of this section as in effect immediately before April 20, 1983.

Such actuarial present value shall be based on the relevant actuarial assumptions set forth in the report of the Board of Trustees of each such Trust Fund for 1983 under sections 40(c) and 1395i(b) of this title. Within thirty days after April 20, 1983, the Secretary of the Treasury shall transfer the amount determined under this paragraph with respect to each such Trust Fund to such Trust Fund from amounts in the general fund of the Treasury not otherwise appropriated.

(2) The Commissioner of Social Security shall revise the amount determined under paragraph (1) with respect to each such Trust Fund in 1985 and each fifth year thereafter, as determined appropriate by the Commissioner of Social Security from data which becomes available to the Commissioner after the date of the determination under paragraph (1) on the basis of the amount of benefits and administrative expenses actually paid from such Trust Fund under this subchapter or subchapter XVIII of this chapter and the relevant actuarial assumptions set forth in the report of the Board of Trustees of such Trust Fund for such year under section 40(c) or 1395i(b) of this title. Within 30 days after any such revision, the Secretary of the Treasury, to the extent provided in advance in appropriation Acts, shall transfer to such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, or from such Trust Fund to the general fund of the Treasury, such amounts as the Secretary of the Treasury determines necessary to take into account such revision.

1 See References in Text note below.
(h) Determination of veterans status

(1) For the purposes of this section, any individual who the Commissioner of Social Security finds—

(A) served during World War II (as defined in subsection (d)(1) of this section) in the active military or naval service of a country which was on September 16, 1940, at war with a country with which the United States was at war during World War II;

(B) entered into such active service on or before December 8, 1941;

(C) was a citizen of the United States throughout such period of service or lost his United States citizenship solely because of his entrance into such service;

(D) had resided in the United States for a period or periods aggregating four years during the five-year period ending on the day of, and was domiciled in the United States on the day of, such entrance into such active service; and

(E)(i) was discharged or released from such service under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty, or

(ii) died while in such service,

shall be considered a World War II veteran (as defined in subsection (d)(2) of this section) and such service shall be considered to have been performed in the active military or naval service of the United States.

(2) In the case of any individual to whom paragraph (1) applies, proof of support required under section 402(f) or (h) of this title may be filed at any time prior to the expiration of two years after the date of such individual’s death or August 28, 1958, whichever is the later.


REFERENCES IN TEXT

ministration of amounts to be appropriated to trust funds and to revisions of such amounts for provisions which had formerly required that, in September of 1965, 1970, and in October 1965, and every fifth October thereafter up to and including October 2010, the Secretary determine the amount which, if paid in equal installments at the beginning of each fiscal year in the period beginning with July 1, 1965, in the case of the first such determination, and with the beginning of the first fiscal year commencing after the determination in the case of all other such determinations, and ending with the close of September 30, 2015, would accumulate, with interest compounded annually, to an amount equal to the amount needed to place each of the Trust Funds and the Federal Hospital Insurance Trust Fund in the same position at the close of September 30, 2015, as he estimated they would otherwise be in at the close of that date if section 410 of this title as in effect prior to the Social Security Act Amendments of 1956, and this section, had not been enacted, with the interest to be used in determining such amount to be the rate determined under section 401(d) of this title for public-debt obligations which were or could have been issued for purchase by the Trust Funds in the June preceding the September in which the determinations were made and in the September preceding the September in which the determinations in 1965, 1970, and 1975 were made and in the September preceding the October in which all other determinations were made.

1981—Subsec. (b)(1). Pub. L. 97–123 struck out "as modified by the application of section 415(a)(6) of this title"

1976—Subsec. (g)(1). Pub. L. 94–273, §415(g)(1), substituted provisions relating to determination of the required amount for payment in September of 1965, 1970, and 1975, and in October 1965 and in every fifth October thereafter up to and including October 2010, and ending with the close of September 30, 2015, for provisions relating to determination of the required amount for payment in September 1965, and in every fifth September thereafter up to and including September 30, 2015, and inserting with the close of June 30, 2015, for provisions relating to the rate of interest for the determinations requiring the Secretary to determine before October 1, 1965, for purposes of section 415(c) of this title as in effect in December 1978" for "the Trust Fund annually", and "such Trust Fund during" for "the Trust Fund during" in par. (2).

1958—Subsec. (b)(2). Pub. L. 85–857 substituted "section 331(b) of title 38" for "section 454a of title 38".

1956—Subsec. (e)(1). Pub. L. 89–97, §314(b), substituted "Trust Funds" for "Trust Fund" in par. (1), and "the Federal Old-Age and Survivors Insurance Trust Fund in" for "the Trust Fund in", "such Trust Fund annually", for "the Trust Fund annually", and "such Trust Fund during" for "the Trust Fund during" in par. (2).
right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98–389, set out as a note under section 401 of this title.

**Effective Date of 1963 Amendment**

Amendment by section 308 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.

**Effective Date of 1961 Amendment**

Amendment by section 2201(c)(7) of Pub. L. 97–35 and by section 2(g) of Pub. L. 97–123 applicable with respect to benefits for months after December 1961 with certain exceptions, see section 202 of Pub. L. 97–123, set out as a note under section 415 of this title.

**Effective Date of 1977 Amendment**

Amendment by Pub. L. 95–216 effective with respect to monthly benefits and lump-sum death payments for deaths occurring after December 1978, see section 206 of Pub. L. 95–216, set out as a note under section 402 of this title.

**Effective Date of 1960 Amendment**


**Effective Date of 1958 Amendments**

Amendment by Pub. L. 85–857 effective Jan. 1, 1959, see section 2 of Pub. L. 85–857, set out as an Effective Date note preceding Part I of Title 38, Veterans’ Benefits.

Section 314(c)(1) of Pub. L. 85–840 provided that: "The amendment made by subsection (a) [amending this section] shall apply only with respect to (A) monthly benefits under sections 202 and 235 of the Social Security Act [sections 402 and 423 of this title] for months after the month in which this Act [i.e., Aug. 1956] is enacted [Aug. 1958], (B) lump-sum death payments under such section 202 in the case of deaths occurring after the month in which this Act is enacted, and (C) periods of disability under section 216(f) (section 416(f) of this title) in the case of applications for a disability determination filed after the month in which this Act is enacted."

**Effective Date of 1956 Amendment**

Section 404(d) of act Aug. 1, 1956, provided that: "Except for the last sentence of section 217(e)(1) of the Social Security Act [subsec. (e)(1) of this section] as amended by subsection (a) of this section, the amendments made by such subsection (a) [amending this section] shall be effective as though they had been enacted on March 31, 1956. Such last sentence of section 217(e)(1) of the Social Security Act shall become effective January 1, 1957."

Amendment by section 404 of act Aug. 1, 1956, effective Jan. 1, 1957, see section 603(a) of act Aug. 1, 1956.

**Effective Date of 1954 Amendment**

Amendment by section 106(e) of act Sept. 1, 1954, applicable with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955, but that no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 415 of this title, see section 106(h) of act Sept. 1, 1954, set out as a note under section 415 of this title.

**Effective Date of 1952 Amendment**

Section 5(c) of act of July 18, 1952, as amended by Pub. L. 86–778, title III, §304(d), Sept. 13, 1960, 74 Stat. 966, provided that:

"(1) The amendments made by subsections (a) and (b) [amending this section and section 405 of this title] shall apply with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months after August 1952, and with respect to lump-sum death payments in the case of deaths occurring after August 1952, except that, in the case of any individual who is entitled, on the basis of the wages and self-employment income of any individual to whom section 217(e) of the Social Security Act [subsec. (e) of this section] applies, to monthly benefits under such section 202 for August 1952, such amendments shall apply (A) only if an application for recomputation by reason of such amendments is filed by such individual, or any other individual, entitled to benefits under such section 202 on the basis of such wages and self-employment income, and (B) only with respect to such benefits for months after whichever of the following is the later: August 1952 of the seventh month before the month in which such application was filed. Recomputations of benefits as required to carry out the provisions of this paragraph shall be made notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title]; but no such recomputation shall be regarded as a recomputation for purposes of section 215(f) of such act. Notwithstanding the preceding provisions of this paragraph, the primary insurance amount of an individual shall not be recomputed under such provisions unless such individual files the application referred to in clause (A) of the first sentence of this paragraph prior to January 1961 or, if he dies without filing such application, his death occurred prior to January 1961.

"(2) In the case of any veteran (as defined in section 217(e)(4) of the Social Security Act [subsec. (e)(4) of this section]) who died prior to September 1952, the requirement in subsections (f) and (h) of section 202 of the Social Security Act that proof of support be filed after two years of the date of such death shall not apply if such proof is filed prior to September 1954.

Section 5(d)(2) of act July 18, 1952, provided that: "The amendment made by paragraph (1) of this subsection [amending this section] shall apply only in the case of applications for benefits under section 202 of the Social Security Act [section 402 of this title] filed after August 1952."

**Effective Date**

Section 105 of act Aug. 28, 1950, provided that this section is effective Sept. 1, 1950.

**Transfer of Functions**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, see out as a note under section 542 of Title 6.

Coast Guard transferred to Department of Transportation, and functions, powers, and duties relating to Coast Guard, of Secretary of the Treasury and of other officers and offices of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89–670, §6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89–670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

**Recomputation of Primary Insurance Amount of Certain Individuals**

Section 314(c)(2) of Pub. L. 85–840 provided that: "In the case of any individual—

"(A) who is a World War II veteran (as defined in section 217(d)(2) of the Social Security Act [subsec.
§ 418. Voluntary agreements for coverage of State and local employees

(a) Purpose of agreement

(1) The Commissioner of Social Security shall, at the request of any State, enter into an agreement with such State for the purpose of extending the insurance system established by this subchapter to services performed by individuals as employees of such State or any political subdivision thereof. Each such agreement shall contain such provisions, not inconsistent with the provisions of this section, as the State may request.

(2) Notwithstanding section 410(a) of this title, for the purposes of this subchapter the term "employment" includes any service included under an agreement entered into under this section.

(b) Definitions

For the purposes of this section—

(1) The term "State" does not include the District of Columbia, Guam, or American Samoa.

(2) The term "political subdivision" includes any instrumentality of (A) a State, (B) one or more political subdivisions of a State, or (C) a State and one or more of its political subdivisions.

(3) The term "employee" includes an officer of a State or political subdivision.

(4) The term "retirement system" means a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof.

(5) The term "coverage group" means (A) employees of the State other than those engaged in performing service in connection with a proprietary function; (B) employees of a political subdivision of a State other than those engaged in performing service in connection with a proprietary function; (C) employees of a State engaged in performing service in connection with a single proprietary function; or (D) employees of a political subdivision of a State engaged in performing service in connection with a single proprietary function. If under the preceding sentence an employee would be included in more than one coverage group by reason of the fact that he performs service in connection with two or more proprietary functions or in connection with both a proprietary function and a nonproprietary function, he shall be included in only one such

(d)(2) of this section) wholly or partly by reason of service described in section 217(h)(1)(A) of such Act; and

"(B) who (i) became entitled to old-age insurance benefits under section 202(a) of the Social Security Act [section 402(a) of this title] or to disability insurance benefits under section 223 of such Act [section 423 of this title] prior to the first day of the month following the month in which this Act is enacted [Aug. 1956], or (i) died prior to such first day, and whose widow, former wife divorced, widower, child, or parent is entitled for the month in which this Act is enacted, on the basis of his wages and self-employment income, to a monthly benefit under section 202 of such Act; and

(C) any part of whose service described in section 217(h)(1)(A) of the Social Security Act was not included in the computation of his primary insurance amount under section 215 of such Act [section 415 of this title] but would have been included in such computation if the amendment made by subsection (a) of this section had been effective prior to the date of such computation,

the Secretary of Health, Education, and Welfare [now Health and Human Services] shall, notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title], recompute the primary insurance amount of such individual upon the filing of an application, after the month in which this Act is enacted [Aug. 1956], or (i) died prior to such first day, and whose widow, former wife divorced, widower, child, or parent is entitled for the month in which this Act is enacted, on the basis of his wages and self-employment income, to a monthly benefit under section 202 of such Act; and

A recomputation if the amendment made by subsection (a) of this title would have been included in such computation, of which his active military or naval service included in the computation of his primary insurance amount under section 217(f) of the Social Security Act to have such active military or naval service included in the computation of such monthly benefits. The terms used in this subsection shall have the same meaning as when used in title II of the Social Security Act [this subchapter]."
coverage group. The determination of the coverage group in which such employee shall be included shall be made in such manner as may be specified in the agreement. Persons employed under section 709 of title 32, who elected under section 6 of the National Guard Technicians Act of 1968 to remain covered by an employee retirement system of, or plan sponsored by, a State or the Commonwealth of Puerto Rico, shall, for the purposes of this chapter, be employees of the State or the Commonwealth of Puerto Rico and (notwithstanding the preceding provisions of this paragraph), shall be deemed to be a separate coverage group. For purposes of this section, individuals employed pursuant to an agreement, entered into pursuant to section 1624 of title 7 or section 489n of title 7, between a State and the United States Department of Agriculture to perform services as inspectors of agricultural products may be deemed, at the option of the State, to be employees of the State and (notwithstanding the preceding provisions of this paragraph) shall be deemed to be a separate coverage group.

(e) Services covered

(1) An agreement under this section shall be applicable to any one or more coverage groups designated by the State.

(2) In the case of each coverage group to which the agreement applies, the agreement must include all services (other than services excluded by or pursuant to subsection (d) or paragraph (3), (5), or (6) of this subsection) performed by individuals as members of such group.

(3) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any one or more of the following:

(A) All services in any class or classes of (i) elective positions, (ii) part-time positions, or (iii) positions the compensation for which is on a fee basis;

(B) All services performed by individuals as members of a coverage group in positions covered by a retirement system on the date such agreement is made applicable to such coverage group, but only in the case of individuals who, on such date (or, if later, the date on which they first occupy such positions), are not eligible to become members of such system and whose services in such positions have not already been included under such agreement pursuant to subsection (d)(3) of this section.

(4) The Commissioner of Social Security shall, at the request of any State, modify the agreement with such State so as to (A) include any coverage group to which the agreement did not previously apply, or (B) include, in the case of any coverage group to which the agreement applies, services previously excluded from the agreement; but the agreement as so modified may not be inconsistent with the provisions of this section applicable in the case of an original agreement with a State. A modification of an agreement pursuant to clause (B) of the preceding sentence may apply to individuals to whom paragraph (3)(B) of this subsection is applicable (whether or not the previous exclusion of the service of such individuals was pursuant to such paragraph), but only if such individuals are, on the effective date specified in such modification, ineligible to be members of any retirement system or if the modification with respect to such individuals is pursuant to subsection (d)(3) of this section.

(5) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any agricultural labor, or service performed by a student, designated by the State. This paragraph shall apply only with respect to service which is excluded from employment by any provision of section 410(a) of this title other than paragraph (7) of such section and service the remuneration for which is excluded from wages by subparagraph (B) of section 409(a)(7) of this title.

(6) Such agreement shall exclude—

(A) service performed by an individual who is employed to relieve him from unemployment,

(B) service performed in a hospital, home, or other institution by a patient or inmate thereof,

(C) covered transportation service (as determined under section 410(k) of this title),

(D) service (other than agricultural labor or service performed by a student) which is excluded from employment by any provision of section 410(a) of this title other than paragraph (7) of such section,

(E) service performed by an individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency, and

(F) service described in section 410(a)(7)(F) of this title which is included as "employment" under section 410(a) of this title.

(7) No agreement may be made applicable (either in the original agreement or by any modification thereof) to service performed by any individual to whom paragraph (3)(B) of this subsection is applicable unless such agreement provides (in the case of each coverage group involved) either that the service of any individual to whom such paragraph is applicable and who is a member of such coverage group shall continue to be covered by such agreement in case he thereafter becomes eligible to be a member of a retirement system, or that such service shall cease to be so covered when he becomes eligible to be a member of such a system (but only if the agreement is not already applicable to such system pursuant to subsection (d)(3) of this section), whichever may be desired by the State.

(8)(A) Notwithstanding any other provision of this section, the agreement with any State entered into under this section may at the option of the State be modified at any time to exclude service performed by election officials or election workers if the remuneration paid in a calendar year for such service is less than $1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under subparagraph (B) for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year. Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed in and after the calendar year in which the modification is mailed or de-
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415(a)(1)(B)(i) of this title, except that—

and in the same manner as is provided under

of Social Security shall adjust the amount re-

system either (A) on the date such agreement is

average group in positions covered by a retirement

State or political subdivision thereof, as may be

tions which are, by reason of action by such

on September 1, 1954 (except in the case of posi-

formed by employees as members of any cov-

by any modification thereof) to any service per-

applicable (either in the original agreement or

longer covered by a retirement system on the

appropriate, taken prior to September 1, 1954, no

men and publish in the Federal Register

subparagraph not later than November 1 preced-

in enacting the succeeding paragraphs of

ployees in positions covered by a retirement sys-

is made applicable to service performed in such

section shall authorize the extension of the in-

a position (other than a position excluded by

employee as a member of any coverage group in

such date (or, if later, the date on which such in-

termined and publish in the Federal Register

Social Security that the following conditions

The Commissioner of Social Security shall de-

each adjusted amount determined under this

subsection not later than November 1 preced-

for which the adjustment is made.

(d) Positions covered by retirement systems

(1) No agreement with any State may be made applicable (either in the original agreement or by any modification thereof) to any service performed by employees as members of any coverage group in positions covered by a retirement system either (A) on the date such agreement is made applicable to such coverage group, or (B) on September 1, 1954 (except in the case of positions which are, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to September 1, 1954, no longer covered by a retirement system on the date referred to in clause (A), and except in the case of positions excluded by paragraph (5)(A) of this subsection). The preceding sentence shall not be applicable to any service performed by an employee as a member of any coverage group in a position (other than a position excluded by paragraph (5)(A) of this subsection) covered by a retirement system on the date an agreement is made applicable to such coverage group if, on such date (or, if later, the date on which such individual first occupies such position), such individual is ineligible to be a member of such system.

(2) It is declared to be the policy of the Congress in enacting the succeeding paragraphs of this subsection that the protection afforded employees in positions covered by a retirement system on the date an agreement under this section is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enact-

(3) Notwithstanding paragraph (1) of this sub-

section, an agreement with a State may be made applicable (either in the original agreement or by any modification thereof) to service performed by employees in positions covered by a retirement system (including positions specified in paragraph (4) of this subsection but not including positions excluded by or pursuant to paragraph (5)), if the governor of the State, or an official of the State designated by him for the purpose, certifies to the Commissioner of Social Security that the following conditions have been met:

(A) A referendum by secret written ballot was held on the question of whether service in positions covered by such retirement system should be excluded from or included under an agreement under this section;

(B) An opportunity to vote in such referendum was given (and was limited) to eligible employees;

(C) Not less than ninety days' notice of such referendum was given to all such employees;

(D) Such referendum was conducted under the supervision of the governor or an agency or individual designated by him; and

(E) A majority of the eligible employees voted in favor of including service in such positions under an agreement under this section.

An employee shall be deemed an "eligible employee" for purposes of any referendum with respect to any retirement system if, at the time such referendum was held, he was in a position covered by such retirement system and was a member of such system, and if he was in such a position at the time notice of such referendum was given as required by clause (C) of the preceding sentence; except that he shall not be deemed an "eligible employee" if, at the time the referendum was held, he was in a position to which the State agreement already applied, or if he was in a position excluded by or pursuant to paragraph (5). No referendum with respect to a retirement system shall be valid for purposes of this paragraph unless held within the two-year period which ends on the date of execution of the agreement or modification which extends the insurance system established by this subchapter to such retirement system, nor shall any referendum with respect to a retirement system be valid for purposes of this paragraph if held less than one year after the last previous referendum held with respect to such retirement system.

(4) For the purposes of subsection (c) of this section, the following employees shall be deemed to be a separate coverage group—

(A) all employees in positions which were covered by the same retirement system on the date the agreement was made applicable to such system (other than employees to whose services the agreement already applied on such date);

(B) all employees in positions which became covered by such system at any time after such date; and

(C) all employees in positions which were covered by such system at any time before such date and to whose services the insurance system established by this subchapter has not been extended before such date because the positions were covered by such retirement system (including employees to whose services the agreement was not applicable on such date because such services were excluded pursuant to subsection (c)(3)(B) of this section).

(5)(A) Nothing in paragraph (3) of this subsection shall authorize the extension of the insurance system established by this subchapter to service in any policeman's or fireman's position.
(B) At the request of the State, any class or classes of positions covered by a retirement system which may be excluded from the agreement pursuant to paragraph (3) or (5) of subsection (c) of this section, and to which the agreement does not already apply, may be excluded from the agreement at the time it is made applicable to such retirement system; except that, notwithstanding the provisions of paragraph (3)(B) of such subsection, such exclusion may not include any services to which such paragraph (3)(B) is applicable. In the case of any such exclusion, each such class so excluded shall, for purposes of this subsection, constitute a separate retirement system in case of any modification of the agreement thereafter agreed to.

(6)(A) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned. Where a retirement system covering positions of employees of a State and positions of employees of one or more political subdivisions of the State, or covering positions of employees of two or more political subdivisions of the State, is not divided into separate retirement systems pursuant to the preceding sentence or pursuant to subparagraph (C), then the State may, for purposes of subsection (e) of this section only, deem the system to be a separate retirement system with respect to any one or more of the political subdivisions concerned.

(B) At the request of the State, any class or classes of positions covered by a retirement system to which subparagraph (A) of this section only, deemed the system to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of such system who do not desire such coverage, shall, if the State so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. If, in the case of a separate retirement system which is deemed to exist by reason of subparagraph (A) and which has been divided into two divisions or parts pursuant to the first sentence of this subparagraph, individuals become members of such system by reason of action taken by a political subdivision after coverage under an agreement under this section has been extended to the division or part thereof composed of positions of individuals who desire such coverage, the positions of such individuals who become members of such retirement system by reason of the action so taken shall be included in the division or part of such retirement system of which such individuals so become members.

(C) For the purposes of this subsection, any retirement system established by the State of Alaska, California, Connecticut, Florida, Georgia, Illinois, Kentucky, Louisiana, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, Wisconsin, or Hawaii, or any political subdivision of any such State, which, on, before, or after August 1, 1956, is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. If, in the case of a separate retirement system which is deemed to exist by reason of subparagraph (A) and which has been divided into two divisions or parts pursuant to the first sentence of this subparagraph, individuals become members of such system by reason of action taken by a political subdivision after coverage under an agreement under this section has been extended to the division or part thereof composed of positions of individuals who desire such coverage, the positions of such individuals who become members of such retirement system by reason of the action so taken shall be included in the division or part of such retirement system of which such individuals so become members.

(D)(i) The position of any individual which is covered by any retirement system to which subparagraph (C) is applicable shall, if such individual is ineligible to become a member of such system on August 1, 1956, or, if later, the day he first occupies such position, be deemed to be a separate retirement system for the employees of such institution of higher learning. For the purposes of this subparagraph, the term “institutions of higher learning” includes junior colleges and teachers colleges. If a retirement system covers positions of employees of a hospital which is an integral part of a political subdivision, then, for purposes of the preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of such hospital.

(ii) Notwithstanding clause (i), the State may, pursuant to subsection (c)(4)(B) of this section and subject to the conditions of continuation or termination of coverage provided for in subsection (c)(7) of this section, modify its agreement under this section to include services performed by all individuals described in clause (i) other than those individuals to whose services the agreement already applies. Such individuals shall be deemed (on and after the effective date of the modification) to be in positions covered by the separate retirement system consisting of the positions of members of the division or part who desire coverage under the insurance system established under this subchapter.

(E) An individual who is in a position covered by a retirement system to which subparagraph
(C) is applicable and who is not a member of such system but is eligible to become a member thereof shall, for purposes of this subsection (other than paragraph (8) of this subsection), be regarded as a member of such system; except that, in the case of any retirement system a division or part of which is covered under the agreement (either in the original agreement or by a modification thereof), which coverage is agreed to prior to 1960, the preceding provisions of this subsection shall apply only if the State so requests, be treated, after division of the retirement system pursuant to such subparagraph (C), the same as individuals in positions referred to in subparagraph (F).

(F) In the case of any retirement system divided pursuant to subparagraph (C), the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of positions of members who desire such coverage if it is so provided in a modification of such agreement which is mailed, or delivered by other means, to the Commissioner of Social Security prior to 1970 or, if later, the expiration of two years after the date on which such agreement, or the modification thereof, making the agreement applicable to such separate retirement system, as the case may be, is agreed to, but only if, prior to such modification or such later modification, as the case may be, the individual occupying such position agrees with the State a written request for such transfer. Notwithstanding subsection (e)(1) of this section, any such modification or later modification, providing for the transfer of additional positions within a retirement system previously divided pursuant to subparagraph (C) to the separate retirement system composed of positions of members who desire coverage, shall be effective with respect to services performed after the same effective date as that which was specified in the case of such previous division.

(G) For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or Hawaii which covers positions of employees of such State who are compensated in whole or in part from grants made to such State under subchapter III of this chapter, there shall be deemed to be, if such State so desires, a separate retirement system with respect to any of the following:

(i) the positions of such employees;

(ii) the positions of all employees of such State covered by such retirement system who are employed in the department of such State in which the employees referred to in clause (i) are employed; or

(iii) employees of such State covered by such retirement system who are employed in such department of such State in positions others than those referred to in clause (i).

(7) The certification by the governor (or an official of the State designated by him for the purpose) required under paragraph (3) of this subsection shall be deemed to have been made, in the case of a division or part (created under subparagraph (C) of paragraph (6) of this subsection or the corresponding provision of prior law) consisting of the positions of members of a retirement system who desire coverage under the agreement under this section, if the governor (or the official so designated) certifies to the Commissioner of Social Security that—

(A) an opportunity to vote by written ballot on the question of whether they wish to be covered under an agreement under this section was given to all individuals who were members of such system at the time the vote was held; (B) not less than ninety days' notice of such vote was given to all individuals who were members of such system on the date the notice was issued;

(C) the vote was conducted under the supervision of the governor or an agency or individual designated by him; and

(D) such system was divided into two parts or divisions in accordance with the provisions of subparagraphs (C) and (D) of paragraph (6) of this subsection or the corresponding provision of prior law.

For purposes of this paragraph, an individual in a position to which the State agreement already applied or in a position excluded by or pursuant to paragraph (5) of this subsection shall not be considered a member of the retirement system.

(b)(A) Notwithstanding paragraph (1) of this subsection, if under the provisions of this subsection an agreement is, after December 31, 1958, made applicable to service performed in positions covered by a retirement system, service performed by an individual in a position covered by such a system may not be excluded from the agreement because such position is also covered under another retirement system.

(B) Subparagraph (A) shall not apply to service performed by an individual in a position covered under a retirement system if such individual, on the day the agreement is made applicable to service performed in positions covered by such retirement system, is not a member of such system and is a member of another system.

(C) If an agreement is made applicable, prior to 1959, to service in positions covered by any retirement system, the preceding provisions of this paragraph shall be applicable in the case of such system if the agreement is modified to so provide.

(D) Except in the case of State agreements modified as provided in subsection (l) of this section and agreements with interstate instrumentalities, nothing in this paragraph shall authorize the application of an agreement to service in any policeman's or fireman's position.

(e) Effective date of agreement; retroactive coverage:

(1) Any agreement or modification of an agreement under this section shall be effective with respect to services performed after an effective date specified in such agreement or modification; except that such date may not be earlier than the last day of the sixth calendar year preceding the year in which such agreement or modification, as the case may be, is mailed or delivered by other means to the Commissioner of Social Security.

(2) In the case of service performed by members of any coverage group—
(A) to which an agreement under this section is made applicable, and
(B) with respect to which the agreement, or modification thereof making the agreement so applicable, specifies an effective date earlier than the date of execution of such agreement and such modification, respectively,

the agreement shall, if so requested by the State, be applicable to such services (to the extent the agreement was not already applicable) performed before such date of execution and after such effective date by any individual as a member of such coverage group if he is such a member on a date, specified by the State, which is earlier than such date of execution, except that in no case may the date so specified be earlier than the date such agreement or such modification, as the case may be, is mailed, or delivered by other means, to the Commissioner of Social Security.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, in the case of services performed by individuals as members of any coverage group to which an agreement under this section is made applicable, and with respect to which there were timely paid in good faith to the Secretary of the Treasury amounts equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1986 had such services constituted employment for purposes of chapter 21 of such Code at the time they were performed, and with respect to which refunds were not obtained, such individuals may, if so requested by the State, be deemed to be members of such coverage group on the date designated pursuant to paragraph (2).

(f) Duration of agreement

No agreement under this section may be terminated, either in its entirety or with respect to any coverage group, on or after April 20, 1983.

(g) Instrumentalities of two or more States

(1) The Commissioner of Social Security may, at the request of any instrumentality of two or more States, enter into an agreement with such instrumentality for the purpose of extending the insurance system established by this subchapter to services performed by individuals as employees of such instrumentality. Such agreement, to the extent practicable, shall be governed by the provisions of this section applicable in the case of an agreement with a State.

(2) In the case of any instrumentality of two or more States, if—

(A) employees of such instrumentality are in positions covered by a retirement system of such instrumentality or of any of such States or any of the political subdivisions thereof, and

(B) such retirement system is (on, before, or after August 30, 1957) divided into two divisions or parts, one of which is composed of positions of members of such system who are employees of such instrumentality and who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who are employees of such instrumentality and who do not desire such coverage, and

(C) it is provided that there shall be included in such division or part composed of the positions of members desiring such coverage all employees of such instrumentality who become members of such system after such coverage is extended,

then such retirement system shall, if such instrumentality so desires, be deemed to be a separate retirement system with respect to each such division or part. An individual who is in a position covered by a retirement system divided pursuant to the preceding sentence and who is not a member of such system but is eligible to become a member thereof shall, for purposes of this subsection, be regarded as a member of such system. Coverage under the agreement of any such individual shall be provided under the same conditions, to the extent practicable, as are applicable in the case of the States to which the provisions of subsection (d)(6)(C) of this section apply. The position of any employee of any such instrumentality which is covered by any retirement system to which the first sentence of this paragraph is applicable shall, if such individual is ineligible to become a member of such system on August 30, 1957, or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this subchapter. Services in positions covered by a separate retirement system created pursuant to this subsection (and consisting of the positions of members who desire coverage under an agreement under this section) shall be covered under such agreement on compliance, to the extent practicable, with the same conditions as are applicable to coverage under an agreement under this section of services in positions covered by a separate retirement system created pursuant to subparagraph (C) of subsection (d)(6) of this section or the corresponding provision of prior law (and consisting of the positions of members who desire coverage under such agreement).

(3) Any agreement with any instrumentality of two or more States entered into pursuant to this chapter may, notwithstanding the provisions of subsection (d)(5)(A) of this section and the references thereto in subsections (d)(1) and (d)(3) of this section, apply to services performed by employees of such instrumentality in any policeman’s or fireman’s position covered by a retirement system, but only upon compliance, to the extent practicable, with the requirements of subsection (d)(3) of this section. For the purpose of the preceding sentence, a retirement system which covers positions of policemen or firemen or both, and other positions shall, if the instrumentality concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

(h) Delegation of functions

The Commissioner of Social Security is authorized, pursuant to agreement with the head of any Federal agency, to delegate any of the Commissioner’s functions under this section to any officer or employee of such agency and otherwise to utilize the services and facilities of
such agency in carrying out such functions, and payment therefor shall be in advance or by way of reimbursement, as may be provided in such agreement.

(i) Wisconsin Retirement Fund

(1) Notwithstanding paragraph (1) of subsection (d) of this section, the agreement with the State of Wisconsin may, subject to the provisions of this subsection, be modified so as to apply to services performed by employees in positions covered by the Wisconsin retirement fund or any successor system.

(2) All employees in positions covered by the Wisconsin retirement fund at any time on or after January 1, 1955, shall, for the purposes of subsection (c) only, be deemed to be a separate coverage group; except that there shall be excluded from such separate coverage group all employees in positions to which the agreement applies without regard to this subsection.

(3) The modification pursuant to this subsection shall exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) service performed by any individual during any period before he is included under the Wisconsin retirement fund.

(4) The modification pursuant to this subsection shall, if the State of Wisconsin requests it, exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) all service performed in policemen’s positions, all service performed in firemen’s positions, or both.

(j) Certain positions no longer covered by retirement systems

Notwithstanding subsection (d) of this section, an agreement with any State entered into under this section prior to September 1, 1954 may, prior to January 1, 1958, be modified pursuant to subsection (c)(4) of this section so as to apply to services performed by employees, as members of any coverage group to which such agreement already applies (and to which such agreement applied on September 1, 1954), in positions (1) to which such agreement does not already apply, (2) which were covered by a retirement system on the date such agreement was made applicable to such coverage group, and (3) which, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to September 1, 1954, are no longer covered by a retirement system on the date such agreement is made applicable to such services.

(k) Certain employees of State of Utah

Notwithstanding the provisions of subsection (d) of this section, the agreement with the State of Utah entered into pursuant to this section may be modified pursuant to subsection (c)(4) of this section so as to apply to services performed for any of the following, the employees performing services for each of which shall constitute a separate coverage group: Weber Junior College, Carbon Junior College, Dixie Junior College, Central Utah Vocational School, Salt Lake Area Vocational School, State School for the Deaf and Blind, Union High School (Roosevelt, Utah), Utah High School Activities Association, State Industrial School, State Training School, State Board of Education, and Utah School Employees Retirement Board. Any modification agreed to prior to January 1, 1955, may be made effective with respect to services performed by employees as members of any of such coverage groups after an effective date specified therein, except that in no case may such date be earlier than December 31, 1950. Coverage provided for in this subsection shall not be affected by a subsequent change in the name of a group.

(l) Policemen and firemen in certain States

Any agreement with a State entered into pursuant to this section may, notwithstanding the provisions of subsection (d)(5)(A) of this section and the references thereto in subsections (d)(1) and (d)(3) of this section, be modified pursuant to subsection (c)(4) of this section to apply to services performed by employees of such State or any political subdivision thereof in any policeman’s or fireman’s position covered by a retirement system in effect on or after August 1, 1956, but only upon compliance with the requirements of subsection (d)(3) of this section. For the purposes of the preceding sentence, a retirement system which covers positions of policemen or firemen, or both, and other positions shall, if the State concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

(m) Positions compensated solely on a fee basis

(1) Notwithstanding any other provision in this section, an agreement entered into under this section may be made applicable to service performed after 1967 in any class or classes of positions compensated solely on a fee basis to which such agreement did not apply prior to 1967 only if the State specifically requests that its agreement be made applicable to such service in such class or classes of positions.

(2) Notwithstanding any other provision in this section, an agreement entered into under this section may be modified, at the option of the State, at any time after 1967, so as to exclude services performed in any class or classes of positions compensation for which is solely on a fee basis.

(3) Any modification made under this subsection shall be effective with respect to services performed after the last day of the calendar year in which the modification is mailed or delivered by other means to the Commissioner of Social Security.

(4) If any class or classes of positions have been excluded from coverage under the State agreement by a modification agreed to under this subsection, the Commissioner of Social Security and the State may not thereafter modify such agreement so as to again make the agreement applicable with respect to such class or classes of positions.

(n) Optional medicare coverage of current employees

(1) The Commissioner of Social Security shall, at the request of any State, enter into or modify an agreement with such State for the purpose of extending the provisions of subchapter XVIII of this chapter, and sections 426 and 426-1 of this title, to services performed by employees of such State or any political sub-
division thereof who are described in paragraph (2).

(2) This subsection shall apply only with respect to employees—

(A) whose services are not treated as employment as that term applies under section 410(p) of this title by reason of paragraph (3) of such section; and

(B) who are not otherwise covered under the State's agreement under this section.

(3) For purposes of sections 426 and 426–1 of this title, services covered under an agreement pursuant to this subsection shall be treated as "medicare qualified government employment".

(4) Except as otherwise provided in this subsection, the provisions of this section shall apply with respect to services covered under such agreement pursuant to this subsection.


References in Text

Section 6 of the National Guard Technicians Act of 1968, referred to in subsec. (b)(5), is section 6 of Pub. L. 90–486, which is set out as a note under section 709 of Title 32, National Guard.

The Internal Revenue Code of 1986, referred to in subsec. (e)(3), is classified to Title 26, Internal Revenue Code.

Amendments


Subsec. (c)(8). Pub. L. 103–296, §303(c), (d), substituted “at any time” for “on or after January 1, 1968,”, substituted “$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under subparagraph (B) for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year” for “$100”, substituted “Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed in and after the calendar year in which the modification is mailed or delivered by other means to the Secretary,” for “Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed after an effective date, specified in such modification, which shall not be earlier than the last day of the calendar quarter in which the modification is mailed or delivered by other means to the Secretary,” inserted subpar. (A) designation, and added subpar. (B).

Pub. L. 103–296, §107(a)(4), in par. (8) as amended by Pub. L. 103–296, §308(c), (d), substituted “Commissioner of Social Security” for “Secretary” in last sentence of subpar. (A) and in introductory and closing provisions of subpar. (B).


Subsec. (d)(8)(D). Pub. L. 103–296, §308(b), substituted “State agreements modified as provided in” for “agreements with the States named in”.

Subsec. (e)(1), (2). Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary”.


Subsec. (g)(1), (b). Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” in subsecs. (g)(1) and (h) and “the Commissioner’s” for ‘‘his’’ in subsec. (b).

Subsec. (i). Pub. L. 103–296, §305(a), struck out par. (1) designation before “Any agreement with”, substituted “a State entered into pursuant to this section” for “the State of Alabama, California, Florida, Georgia, Hawaii, Idaho, Kansas, Maine, Maryland, Mississippi, Montana, New York, North Carolina, North Dakota, Oregon, Puerto Rico, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, or Washington entered into pursuant to this section prior to August 1, 1956,”, and struck out par. (2) which read as follows: “A State, not otherwise listed by name in paragraph (1), shall be deemed to be a State listed in such paragraph for the purpose of extending coverage under this subchapter to service in firemen’s positions covered by a retirement system, if the governor of the State, or an official of the State designated by him for the purpose, certifies to the Secretary that the overall benefit protection of the employees in such positions would be improved by reason of the extension of such coverage to such employees. Notwithstanding the provisions of the second sentence of such paragraph (1), such firemen’s positions shall be deemed a separate retirement system and no other positions shall be included in such system.”


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1989—Subsec. (c)(5). Pub. L. 101–239 substituted “paragraph (B) of section 409(a)”) for “paragraph (2) of section 409(h)”.

1987—Subsec. (n). Pub. L. 100–203, §9023(c), redesignated subsec. (v) as (n), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (6) which had previously been struck out of subsec. (v) by section 4099(f)(7) of Pub. L. 100–203 prior to its redesignation as subsec. (n) by Pub. L. 100–203, §9023(c)(1). See below.

Subsec. (v). Pub. L. 100–203, §9023(c)(1), redesignated subsec. (v) as (n).

Subsec. (w)(3). Pub. L. 100–203, §9009(b)(7), struck out par. (3) which read as follows: “Payments by the State required under subsection (e) of this section with respect to employees covered under this subsection shall be limited to amounts equivalent to the sum of the taxes which would be imposed by sections 3101(b) and 3111(b) of the Internal Revenue Code of 1954 if such services for which wages were paid to such employees constituted ‘employment’ as defined in section 3121 of such Code.”


Subsec. (e). Pub. L. 99–509, §9002(c)(1), (2)(E), redesignated subsec. (f) as (e), substituted “Any agreement” for “Except as provided in subsection (e)(2) of this section, any agreement” and struck out former subsec. (e) which required that agreements made under this section include certain provisions relating to payments and reports by States and allowed inclusion of certain provisions relating to employees employed by two or more political subdivisions of a State.


Subsec. (f)(1). Pub. L. 99–272, §11205(c), substituted “is mailed or delivered by other means to the Secretary” for “is agreed to by the Secretary and the State”.

Subsec. (g). Pub. L. 99–509, §9002(c)(1), redesignated subsec. (k) as (g). Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 99–509, §9002(c)(1), redesignated subsec. (l) as (h) and struck out former subsec. (h) which required that amounts received by the Secretary of the Treasury under an agreement made under this section be deposited in the Trust Funds and the Federal Hospital Insurance Trust Fund in certain ratio and provided for adjustment of amount due if more or less than certain amount due is paid.

Subsec. (1). Pub. L. 99–509, §9002(c)(1), redesignated subsec. (m) as (l) and struck out former subsec. (l), relating to regulations of the Secretary.

Subsec. (j). Pub. L. 99–509, §9002(c)(1), redesignated subsec. (n) as (j) and struck out former subsec. (j) which read as follows: “In case any State does not make, at the time or times due, the payments provided for under an agreement pursuant to this section, there shall be added, as part of the amounts due, interest at the rate of 6 per centum per annum from the date due until paid, and the Secretary may, in his discretion, deduct such amounts plus interest from any amounts certified by him to the Secretary of the Treasury for payment to such State under any other provision of this chapter.

Amounts so deducted shall be deemed to have been paid to such State under such other provision of this chapter.

Amounts equal to the amounts deducted under this subsection are hereby appropriated to the Trust Funds in the ratio in which amounts are deposited in such Funds pursuant to subsection (h)(1) of this section.”


Subsec. (m). Pub. L. 99–509, §9002(c)(1), redesignated subsec. (u) as (m). Former subsec. (m) redesignated (i).


Subsec. (n) to (p). Pub. L. 99–509, §9002(c)(1), redesignated subsec. (n) to (p) as (j) to (l), respectively.

Subsec. (q). Pub. L. 99–509, §9002(c)(1), struck out subsec. (q) which provided time limitations on liability of States for amounts due under agreements under this section.

Subsec. (r). Pub. L. 99–509, §9002(c)(1), struck out subsec. (r) which provided time limitations on credits and refunds of overpayments by States under agreements under this section.

Subsec. (s). Pub. L. 99–509, §9002(c)(1), struck out subsec. (s) which related to review by Secretary.

Subsec. (t). Pub. L. 99–509, §9002(c)(1), struck out subsec. (t) which provided for judicial review of decisions by Secretary of Health and Human Services under former subsec. (s) of this section.

Subsec. (u). Pub. L. 99–509, §9002(c)(1), redesignated subsec. (u) as (m).

Subsec. (u)(3). Pub. L. 99–272, §12110(b), substituted “is mailed or delivered by other means to the Secretary” for “is agreed to by the Secretary and the State”.


Subsec. (w). Pub. L. 99–509, §9002(c)(1), struck out subsec. (w) which read as follows: “Notwithstanding sections 3125(a), 6205(a)(5), 6143(a)(5), and 6413(c)(2)(G) of the Internal Revenue Code of 1954, any State shall make payments of the taxes imposed with respect to such services for employees of such State and of a political subdivision thereof under sections 3101(b) and 3111(b) of such Code, and reports of such services, under the same procedures as apply to payments and reports under subsection (e) of this section, but only if any employees of such State or of such political subdivision thereof respectively are covered under an agreement pursuant to this section.”

Pub. L. 99–272, §12105(c), added subsec. (w).


1983—Subsec. (e)(1)(A). Pub. L. 98–21, §432(a), amended subpar. (A) generally, designating existing provisos as cl. (i), and in (i) as so designated, substituting “on the last day of each calendar month” for “within the thirty-day period immediately following the last day of each calendar month” and inserting “with respect to the period which includes the first fifteen days of such calendar month” before “if the services”, and adding cl. (ii).

Subsec. (g). Pub. L. 98–21, §103(a), amended subsec. (g) generally, substituting provision that no agreement under this section may be terminated on or after April 20, 1983, for provision that had authorized the termination of agreements of States with the Secretary conditioned upon the giving of advance notice.

Subsec. (o). Pub. L. 98–21, §225(a), inserted provision that coverage provided for in this subsection shall not be affected by a subsequent change in the name of a group.

1980—Subsec. (e)(1)(A). Pub. L. 96–265, §503(a), substituted “(A) that the State will pay to the Secretary of the Treasury, within the thirty-day period immediately following the last day of each calendar month,
amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1964 if the services for which wages were paid in such month to employees covered by the agreement constituted employment as defined in section 3121 of such Code” for “(A) that the State will pay to the Secretary of the Treasury, at such time or times as the Secretary of Health, Education, and Welfare may by regulations prescribe, amounts equivalent to the sum of the taxes which would be imposed by sections 1401 and 1410 of the Internal Revenue Code of 1939, if the services of employees covered by the agreement constituted employment as defined in section 1426 of the Internal Revenue Code of 1939”.

1977—Subsec. (c)(8). Pub. L. 95–216, § 353(b)(1), substituted “year” for “quarter” and “$100” for “$50”.


Subsec. (q)(4)(B). Pub. L. 95–216, § 353(b)(3), substituted references to calendar years for references to calendar quarters wherever appearing.

Subsec. (q)(6)(B). Pub. L. 95–216, § 353(b)(4), substituted “period or periods designated by the State in such wage reports as the period or” for “calendar quarters designated by the State in such wage reports as the”.

Subsec. (r)(1). Pub. L. 95–216, § 353(b)(5), in provisions preceding cl. (A) and in cl. (B) substituted “year” for “quarter”, and in cl. (A) struck out “in which occurred the calendar quarter” after “year”.


1968—Subsec. (b)(5). Pub. L. 90–486 substituted provisions pertaining to the coverage of persons employed under section 709 of title 32, who elected under section 6 of the National Guard Technicians Act of 1968 to remain covered by an employee retirement system of, or plan sponsored by, a state or the Commonwealth of Puerto Rico, such persons, for the purposes of this chapter, to be considered employees of the state or the Commonwealth of Puerto Rico, for provisions pertaining to the coverage of civilian employees of National Guard units of a state who are employed pursuant to section 42 of title 32, and who are paid from funds allocated to such units by the Department of the Defense, such persons, for the purposes of this section, to be deemed employees of the state.

Subsec. (c)(3). Pub. L. 90–231, § 116(b)(1)(A), struck out subpar. (A) which provided for the exclusion of any service of an emergency nature and redesignated subpars. (B) and (C) as (A) and (B), respectively.

Subsec. (c)(4). Pub. L. 90–231, § 116(b)(1)(B), substituted “‘3(B)’” for “‘3(C)’”.


Subsec. (c)(7). Pub. L. 90–248, § 116(b)(1)(B), substituted “‘3(B)’” for “‘3(C)’”.

Subsec. (c)(8). Pub. L. 90–248, § 116(c), added par. (8).


Subsec. (d)(6)(D). Pub. L. 90–248, § 116(a), designated existing provisions as cl. (i) and added cl. (ii).


Subsec. (h)(1). Pub. L. 89–97, § 108(b), substituted “Trust Funds and the Federal Hospital Insurance Trust Fund in the ratio in which amounts are appropriated to such Funds pursuant to section 1395k of such title, subsection (b)(1) of such section, and subsection (a)(1) of section 1395l of this title, respectively” for “Trust Funds in the ratio in which amounts are appropriated to such Funds pursuant to subsections (a)(3) and (b)(1) of section 401 of this title”.


Subsec. (d)(6)(F). Pub. L. 87–64, § 106, substituted “prior to 1963 or, if later, the expiration of two years after the date” for “prior to 1963 or, if later the expiration of one year after the date”, and inserted sentence providing that any such modification or later modification, providing for the transfer of additional positions within a retirement system previously divided pursuant to subparagraph (C) to the separate retirement system composed of positions of members who desire coverage, shall be effective with respect to services performed after the same effective date as that which was specified in the case of such previous division.


Subsec. (d)(3). Pub. L. 86–777, § 118(a)(1), authorized certification by an official of the State designated by the Governor for that purpose.

Subsec. (d)(6). Pub. L. 86–624, § 30(e), substituted “Hawaii” for “the Territory of Hawaii” in cl. (C) and (G), and struck out “or Territory” after “State” in two places in cl. (C) and in seven places in cl. (G).

Subsec. (d)(6)(A). Pub. L. 86–778, § 112(c)(2), authorized a State, where a retirement system covering positions of employees of a State and positions of employees of one or more political subdivisions of the State, or covering positions of employees of two or more political subdivisions of the State, is not divided into separate retirement systems, to deem the system, for purposes of subsection (f) of this section, to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or any one or more of the political subdivisions concerned.

Subsec. (d)(6)(B). Pub. L. 86–778, § 112(g), inserted sentences providing that if a retirement system covers positions of employees of a hospital which is an integral part of a political subdivision, then, for purposes of preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of such hospital.

Subsec. (d)(6)(C). Pub. L. 86–778, § 112(b)(1), (j), inserted sentence requiring the positions of individuals, who become members of a separate retirement system which has been divided into two divisions or parts by reason of action taken by a political subdivision after coverage under an agreement under this section has been extended to the division or part thereof composed of positions of individuals who desire such coverage, to be included in the division or part of such system composed of positions of members who do not desire such coverage if such individuals, on the day before becoming such members, were in the division or part of another separate retirement system composed of positions of members who do not desire coverage under an agreement and all of the positions in the system of
which such individuals so become members and all of the positions in the separate retirement system would have been covered by a single retirement system if the State had not taken action to provide for separate retirement systems, and included retirement systems established by the State of Texas.

Subsec. (d)(7). Pub. L. 86–778, §102(a)(2), included certifications made by an official of the State designated by the Governor for that purpose.

Subsec. (e). Pub. L. 86–778, §102(c)(1), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subs. (A) and (B), and added par. (2).

Subsec. (f)(1). Pub. L. 86–778, §102(c)(1), (e)(2), inserted exception to subsection (e)(2) of this section, and substituted provisions restricting the effective date of any agreement of modification to a date not earlier than the last day of the sixth calendar year preceding the year in which such agreement or modification is agreed to by the Secretary and the State for provisions which specified the effective date of agreements or modifications entered into prior to 1960 and which limited the effective date of agreements or modifications entered into after 1959 to a date not earlier than the last day of the calendar year preceding the year in which such agreement or modification is agreed to by the Secretary and the State.


Pub. L. 86–624, §30(f), substituted “Hawaii” for “Territory of Hawaii”.

Subsecs. (q) to (t). Pub. L. 86–778, §102(f)(1), added subsecs. (q) to (t).


1958—Subsec. (d)(6). Pub. L. 85–840, §315(a)(1), designated first sentence as subpar. (A), second and third sentences as subpar. (B), fourth sentence as subpar. (C), fifth sentence as subpar. (D), sixth sentence as subpar. (E), added subs. (F) and (P), and amended subpar. (C) to include retirement systems established by the States of Massachusetts and Vermont.

Pub. L. 85–787 added Massachusetts and Vermont to States authorized to divide their retirement systems into two parts, and inserted sentence permitting transfer, in cases of divided retirement system, of members not desiring coverage to system of members desiring coverage.

Subsec. (d)(7). Pub. L. 85–840, §315(a)(2), substituted “(created under subparagraph (C) of paragraph (6) of this subsection or the corresponding provision of prior law)” for “(created under the fourth sentence of paragraph (6) of this subsection)”, and “subparagraphs (C) and (D) of paragraph (6) of this subsection or the corresponding provision of prior law” for “the fourth and fifth sentences of paragraph (6) of this subsection”.


Subsec. (f). Pub. L. 85–840, §315(c)(1), designated existing provisions as par. (1), redesignated cls. (1) to (4) of (par. 1) as cls. (A) to (D), and added par. (2).

Subsec. (k)(2). Pub. L. 85–840, §315(a)(3), inserted provisions requiring an individual who is in a position covered by a retirement system divided pursuant to the preceding sentence and who is not a member of such system but is eligible to become a member thereof to be regarded, for the purposes of this subsection, as a member of such system, and providing for coverage under the agreement of any such individual.


1957—Subsec. (d)(6). Pub. L. 85–227 authorized the States of California, Connecticut, Minnesota, and Rhode Island, or any political subdivisions thereof, to divide their retirement system into two divisions or parts.


Subsec. (f)(4). Pub. L. 85–226, §3, redesignated former par. (3) as (4), and substituted “1959” for “1957”.

Subsec. (k). Pub. L. 85–226, §1, redesignated existing provisions as par. (1) and added par. (2).

Subsec. (p). Pub. L. 85–226, §2, included agreements with the States of Alabama, Georgia, Maryland, New York, and Tennessee, or the Territory of Hawaii.

1956—Subsec. (d)(6). Act Aug. 1, 1956, §104(e), authorized the State of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, or the Territory of Hawaii, or any political subdivision thereof, to divide their retirement system into two divisions or parts, and provided for a separate retirement system with respect to employees of the States of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or the Territory of Hawaii who are compensated in whole or in part from grants under subchapter III of this chapter.

Subsec. (h)(1). Act Aug. 1, 1956, §103(f), required amounts to be deposited in the Trust Funds in the ratio in which amounts are appropriated to such Funds pursuant to section 401(a)(3), (b)(1), of this title.

Subsec. (j). Act Aug. 1, 1956, §105(g), substituted “Secretary of Health, Education, and Welfare” for “Administrator”, and provided for appropriation of amounts in the ratio in which amounts are deposited in the Trust Funds pursuant to subsection (h)(1) of this section.

Subsec. (p). Act Aug. 1, 1956, §104(g), added subsec. (p).

1954—Subsec. (b)(5). Act Sept. 1, 1954, §101(a)(1), (2), inserted sentence at end relating to civilian employees of State National Guard units and a sentence relating to certain State inspectors of agricultural products.

Subsec. (c)(3). Act Sept. 1, 1954, §101(b)(3), inserted an additional optional exclusion with respect to all services performed by individuals as members of any coverage group who are in positions covered by a retirement system on the date when the group is brought under the agreement if these individuals are not eligible to become members of the system on that date, or on any later date when they first occupy the positions, and if they have not already been included under the agreement by means of a referendum.


Subsec. (c)(5). Act Sept. 1, 1954, §101(a)(5), (6), substituted “paragraph (7)” for “paragraph (8)” and inserted at end “and service the remuneration for which is excluded from wages by paragraph (2) of section 209(h)”.

Subsec. (c)(6)(D). Act Sept. 1, 1954, §101(a)(5), substituted “paragraph (7)” for “paragraph (8)”.


Subsec. (d). Act Sept. 1, 1954, §101(h)(1)(A), struck out “Exclusion of” in heading, redesignated the subsection as (d)(1), and inserted sentence at end.

Subsec. (d)(1). Act Sept. 1, 1954, §101(h)(1)(B), inserted provision in first sentence making the prohibition inapplicable to service in positions which though covered by a retirement system on the enactment date, were, by reason of action taken prior to the enactment date by the appropriate governmental unit, no longer covered by a retirement system when the coverage group which included employees in such positions was brought under an agreement.

Subsec. (d)(2) to (6). Act Sept. 1, 1954, §101(h)(2), added pars. (2) to (6).

Subsec. (f). Act Sept. 1, 1954, §101(h)(6), permitted agreements or modifications entered into during 1955, 1956, and 1957 to be made retroactive to a date not earlier than December 31, 1957.

Subsec. (m)(1). Act Sept. 1, 1954, §101(h)(7), substituted “paragraph (1) of subsection (d)” for “subsection (d)”.


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TITLe 42—THE PUBLIC HEALTH AND WELFARE
Effective Date of 2004 Amendment

Effective Date of 1994 Amendment
Amendment by section 107(a)(4) of Pub. L. 103–296 effective Mar. 31, 1995, see section 118(a) of Pub. L. 103–296 set out as a note under section 11332(d) of this title. Amendment by section 303(c) of Pub. L. 103–296 applicable with respect to service performed on or after Jan. 1, 1995, see section 303(e) of Pub. L. 103–296, set out as a note under section 410 of this title.

Section 303(c) of Pub. L. 103–296 provided that: "The amendments made by this section [amending this section] shall apply with respect to modifications filed by States after the date of the enactment of this Act [Aug. 15, 1994]."

Effective Date of 1990 Amendment
Amendment by Pub. L. 101–508 applicable with respect to service performed after July 1, 1991, see section 11332(d) of Pub. L. 101–508, set out as a note under section 11321 of Title 26, Internal Revenue Code.

Effective Date of 1986 Amendments

Section 9002(d) of Pub. L. 99–509 provided that: "The amendments made by this section [amending section 3121 of Title 26, Internal Revenue Code, amending this section and sections 405 and 424a of this title and sections 1402, 3121, and 3306 of Title 26, and renumbering section and sections 405 and 424a of this title and sections 1402, 3121, and 3306 of Title 26, and renumbering former section 3126 of Title 26 as section 3127] are effective with respect to payments due with respect to wages paid after December 31, 1986, including wages paid after such date by a State (or political subdivision thereof) that modified its agreement pursuant to the amendment made by subsection (a) of this section and sections 405 and 424a of this title and sections 1402, 3121, and 3306 of Title 26, and renumbering section and sections 405 and 424a of this title and sections 1402, 3121, and 3306 of Title 26, and renumbering former section 3126 of Title 26 as section 3127] prior to the date of the enactment of this Act [Oct. 21, 1986]; except that in cases where, in accordance with the currently applicable schedule, deposits of taxes due under an agreement entered into pursuant to section 218 of the Social Security Act would be required within 3 days after the close of an eight-month period, such 3-day requirement shall be changed to a 7-day requirement for wages paid prior to October 1, 1987, and to a 5-day requirement for wages paid after September 30, 1987, and prior to October 1, 1988. For wages paid prior to October 1, 1988, the deposit schedule for taxes imposed under sections 3101 and 3111 shall be determined separately from the deposit schedule for taxes withheld under section 3402 [26 U.S.C. 3402] if the taxes imposed under sections 3101 and 3111 are due with respect to service included under an agreement entered into pursuant to section 218 of the Social Security Act."

Section 1211(c) of Pub. L. 99–272 provided that: "The amendments made by this section [amending this section] shall apply with respect to agreements and modifications of agreements which are mailed or delivered to the Secretary of Health and Human Services (under section 218 of the Social Security Act [this section]) on or after the date of the enactment of this Act [Apr. 7, 1986]."

Section 1320s(d)(3) of Pub. L. 99–272 provided that: "The amendment made by subsection (c) [amending this section] shall apply to services performed after March 31, 1986."

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(h) of Pub. L. 98–369, set out as a note under section 401 of this title.

Effective Date of 1983 Amendment
Section 103(b) of Pub. L. 98–21 provided that: "The amendment made by subsection (a) [amending this section] shall be effective with respect to the payment of taxes (referred to in section 218(e)(1)(A) of the Social Security Act [subtitle (e)(1)(A) of this section], as amended by subsection (a)) on account of wages paid on or after July 1, 1980."

Effective Date of 1977 Amendment
Section 333(g) of Pub. L. 95–216 provided that: "The amendments made by subsection (b) of this section [amending this section] shall apply with respect to renumeration paid after December 31, 1977, except that the amendment made by subsection (b)(2) shall apply with respect to notices submitted by the States to the Secretary after the date of the enactment of this Act [Dec. 20, 1977]. The amendments made by subsections (d) and (f)(2) [amending sections 405 and 429 of this title] shall be effective January 1, 1978. Except as otherwise specifically provided, the remaining amendments made by this section [amending sections 403, 424a, and 430 of this title] shall be effective January 1, 1979."

Effective Date of 1968 Amendments
Amendment by Pub. L. 90–486 effective Jan. 1, 1968, except that no deductions or withholding from salary which result therefrom shall commence before first day of first pay period that begins on or after Jan. 1, 1968, see section 11 of Pub. L. 90–486, set out as a note under section 709 of Title 32, National Guard.

Section 116(b)(3) of Pub. L. 90–248 provided that: "The amendments made by this subsection [amending this section] shall be effective with respect to services performed on or after January 1, 1968."

Section 120(c) of Pub. L. 90–248 provided that: "The amendment made by this section [amending this section] shall apply in the case of any State with respect to modifications of such State agreement under section 218 of the Social Security Act [this section] made after the date of enactment of this Act [Jan. 2, 1968]."

Effective Date of 1961 Amendment

Effective Date of 1960 Amendment
Section 102(b)(2) of Pub. L. 86–778 provided that: "The amendment made by paragraph (1) [amending this section] shall apply in the case of transfers of positions (as described therein) which occur on or after the date of enactment of this Act [Sept. 13, 1960]. Such amendment shall also apply in the case of such transfers in any State which occurred prior to such date, but only upon request of the Governor (or other official designated by him for the purpose) filed with the Secretary of Health, Education, and Welfare on or after July 1, 1961; and, in the
case of any such request, such amendment shall apply only with respect to wages paid on and after the date on which such request is filed.''

Section 102(f)(3) of Pub. L. 86–778 provided that: ‘‘The amendment made by paragraph (1) [amending this section] shall apply in the case of any agreement or modification of an agreement under section 218 of the Social Security Act [this section] which is agreed to on or after January 1, 1960; except that in the case of any such agreement or modification agreed to before January 1, 1961, the effective date specified therein shall not be earlier than December 31, 1955. The amendment made by paragraph (2) [amending this section] shall apply in the case of any such agreement or modification which is agreed to on or after the date of the enactment of this Act [Sept. 13, 1960].’’

Section 102(f)(3) of Pub. L. 86–778 provided that:

’’(A) The amendments made by paragraphs (1) and (2) [amending this section and section 405 of this title] shall become effective on the first day of the second calendar year following the year in which this Act is enacted [1960].

’’(B) In any case in which the Secretary of Health, Education, and Welfare has notified a State prior to the beginning of such second calendar year that there is an amount due by such State, that such State’s claim for a credit or refund of an overpayment is disallowed, or that such State has been allowed an overpayment, under an agreement pursuant to section 218 of the Social Security Act [this section], then the Secretary shall be deemed to have made an assessment of such amount due as provided in section 218(q) of such Act or notified the State of such allowance or disallowance, as the case may be, on the first day of such second calendar year. In such a case the 90-day limitation in section 218(e) of such Act shall not be applicable with respect to the assessment so deemed to have been made or the notification of allowance or disallowance so deemed to have been given the State. However, the preceding sentences of this subparagraph shall not apply if the Secretary makes an assessment of such amount due or notifies the State of such allowance or disallowance on or after the first day of the second calendar year following the year in which this Act is enacted [1960] and within the period specified in section 218(q) of the Social Security Act or the period specified in section 218(r) of such Act, as the case may be.’’

Amendments by section 103(1) of Pub. L. 86–778 applicable only with respect to service performed after 1960, and amendment by section 103(2)(O) of Pub. L. 86–778 effective on Sept. 13, 1960, see section 103(1) of Pub. L. 86–778, set out as a note under section 402 of this title.

Effective Date of 1958 Amendment

Section 315(c)(2) of Pub. L. 85–840 provided that: ‘‘The amendment made by this subsection [amending this section] shall apply in the case of any agreement, or modification of an agreement, under section 218 of the Social Security Act [this section], which is executed after the date of enactment of this Act [Aug. 28, 1958].’’

Effective Date of 1954 Amendment

Section 101(h)(9) of act Sept. 1, 1954, provided that: ‘‘The amendments made by this subsection, other than paragraph (1)(B) [amending this section], shall take effect January 1, 1955.’’

Section 101(h)(1) of act Sept. 1, 1954, provided that the amendment made by that section is effective as of January 1, 1954.

Section 101(h)(1) of act Sept. 1, 1954, provided that: ‘‘In the case of any coverage group to which the amendment made by paragraph (1) [amending this section] is applicable, any agreement or modification of an agreement agreed to prior to January 1, 1956, may, notwithstanding section 218(c) of the Social Security Act [subsection (i) of this section], be made effective with respect to services performed by employees as members of such coverage group after any effective date specified therein, but in no case may such effective date be earlier than December 31, 1956.’’

Section 101(j) of act Sept. 1, 1954, provided that the amendment made by that section is effective as of January 1, 1951.

Amendment by section 101(a)(5), (6) of act Sept. 1, 1954, shall be applicable only with respect to services (whether performed after 1954 or prior to 1955) for which the remuneration is paid after 1954, see section 101(n) of act Sept. 1, 1954, set out as a note under section 405 of this title.

Effective Date of 1953 Amendment

Section 2 of act Aug. 15, 1953, provided that: ‘‘For the purposes of section 418(1) of the Social Security Act (relating to effective date of agreements) [subsection (f) of this section], the amendment made by the first section of this Act [amending this section] shall take effect as of January 1, 1951.’’

Exemption for Students Employed by State Schools, Colleges, or Universities


‘‘(a) In General.—Notwithstanding section 218 of the Social Security Act [this section], any agreement with a State (or any modification thereof) entered into pursuant to such section may, at the option of such State, be modified at any time on or after January 1, 1999, and on or before March 31, 1999, so as to exclude service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

‘‘(b) Effective Date of Modification.—Any modification of an agreement pursuant to subsection (a) shall be effective with respect to services performed after June 30, 2000.

‘‘(c) Irrevocability of Modification.—If any modification of an agreement pursuant to subsection (a) terminates coverage with respect to service performed in the employ of a school, college, or university, by a student who is enrolled and regularly attending classes at such school, college, or university, the Commissioner of Social Security and the State may not thereafter modify such agreement so as to again make the agreement applicable to such service performed in the employ of such school, college, or university.’’

Treatment of Certain Credits as Amounts Deposited in Social Security Trust Funds Pursuant to Agreement

Section 123(b)(4) of Pub. L. 98–21, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ‘‘For purposes of subsection (h) of section 218 of the Social Security Act [subsec. (h) of this section] (relating to deposits in social security trust funds of amounts received under section 218 agreements), amounts allowed as a credit pursuant to subsection (d) of section 3510 of the Internal Revenue Code of 1986 (former 26 U.S.C. 3510(d)) (relating to credit for remuneration paid during 1984 which is covered under an agreement under section 218 of the Social Security Act) shall be treated as amounts received under such an agreement.’’

Modification of Agreement With State of Iowa To Provide Coverage for Certain Policemen and Firemen

Section 9008 of Pub. L. 100–203 provided that:

‘‘(a) In General.—Notwithstanding subsection (d)(5)(A) of section 218 of the Social Security Act [subsec. (d)(5)(A) of this section] and the references thereto in subsections (d)(4) and (d)(3) of such section 218, the agreement with the State of Iowa heretofore entered into pursuant to such section 218 may, at any time
prior to January 1, 1989, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions required to be covered by the retirement system pursuant to section 418.1 of the Iowa Code as in effect on July 1, 1953, if the State of Iowa has at any time prior to the date of the enactment of this Act (Dec. 22, 1967) paid to the Secretary of the Treasury, with respect to any of the services performed in such positions, the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date).

“(b) SERVICE TO BE COVERED.—Notwithstanding the provisions of subsection (e) of section 218 of the Social Security Act (as so redesignated by section 9002(c)(1) of the Omnibus Budget Reconciliation Act of 1986), any modification in the agreement with the State of Iowa under subsection (a) shall be made effective with respect to—

“(1) all services performed in any policeman's or fireman's position to which the modification relates on or after January 1, 1987, and

“(2) all services performed in such a position before January 1, 1987, with respect to which the State of Iowa has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date) at the time or times established pursuant to subsection (e)(1), if and to the extent that—

“(A) no refund of the sums so paid has been obtained, or

“(B) a refund of part or all of the sums so paid has been obtained but the State of Iowa repays to the Secretary of the Treasury the amount of such refund within 90 days after the date on which the modification is agreed to by the State and the Secretary of Health and Human Services.’’

MODIFICATION OF AGREEMENT WITH STATE OF CONNECTICUT TO PROVIDE COVERAGE FOR CONNECTICUT STATE POLICE

Section 12114 of Pub. L. 99-272 provided that: ‘‘Notwithstanding any provision of section 218 of the Social Security Act [this section], the Secretary of Health and Human Services shall, upon the request of the Governor of Connecticut, modify the agreement under such section between the Secretary and the State of Connecticut to provide that service performed after the date of the enactment of this Act [July 1, 1975] by members of the Division of the State Police within the Connecticut Department of Public Safety, who are hired on or after May 8, 1984, and who are members of the tier II plan of the Connecticut State Employees Retirement System, shall be covered under such agreement.’’

MODIFICATION OF AGREEMENT WITH STATE OF ILLINOIS TO PROVIDE COVERAGE FOR CERTAIN POLICEMEN AND FIREFIREFIREFIREFIREFIRE

Section 318 of Pub. L. 95-216 provided that the agreement with the State of Illinois entered into pursuant to this section could, at any time prior to Jan. 1, 1979, be modified pursuant to subsection (c)(4) of this section so as to apply to services performed in the policemen's or firemen's positions covered by the Illinois Municipal Retirement Fund on Dec. 20, 1977, if the State of Illinois had prior to such date paid to the Secretary of the Treasury, with respect to any of the services performed in such positions, the sums prescribed pursuant to subsection (e)(1) of this section.

MODIFICATION OF REPORTING PROCEDURES IN EFFECT DECEMBER 1, 1975, UNDER FEDERAL-STATE AGREEMENTS

Pub. L. 94-392, § 8(k), Jan. 2, 1976, 89 Stat. 1140, provided that: ‘‘Notwithstanding the provisions of section 218(b) of the Social Security Act [subsection (i) of this section], nothing contained in the amendments made by the preceding provisions of this section [enacting section 432 of this title and amending sections 401, 403, 424a, and 430 of this title and title 6103 of Title 26, Internal Revenue Code, and amending provisions set out under sections 401 and 432 of this title] shall be construed to authorize or require the Secretary, in promulgating regulations or amendments thereto under such regulations, as in effect on December 1, 1975, for the reporting by States to the Secretary of the wages of individuals covered by social security pursuant to Federal-State agreements entered into pursuant to section 218 of the Social Security Act [this section].’’

MODIFICATION OF AGREEMENT WITH STATE OF WEST VIRGINIA WITH RESPECT TO CERTAIN POLICEMEN AND FIREFIREFIREFIREFIREFIRE

Pub. L. 94-392, § 6, Jan. 2, 1976, 89 Stat. 1316, provided that:

‘‘(a) Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act [subsection (d)(5)(A) of this section and the references thereto in subsections (d)(1) and (d)(3) of such section 218], the agreement with the State of West Virginia heretofore entered into pursuant to section 218 [this section] may, at any time prior to 1977, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions covered by a retirement system on the date of the enactment of this Act [Jan. 2, 1976] by individuals as employees of any class III or class IV municipal corporation (as defined in or under the laws of the State) if the State of West Virginia has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed by employees of any class III or class IV municipal corporation, the sums prescribed pursuant to subsection (e)(1) of such section 218. For purposes of this subsection, a retirement system which covers positions of policemen or firemen, or both, and other positions, shall, if the State of West Virginia so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

‘‘(b) Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act, any modification in the agreement with the State of West Virginia under subsection (a) of this section, to the extent it involves services performed by individuals as employees of any class III or class IV municipal corporation, may be made effective with respect to—

“(1) all services performed by any individual, in any policeman's or fireman's position to which the modification relates, on or after the date of the enactment of this Act; and

“(2) all services performed by any individual in such a position before such date of enactment with respect to which the State of West Virginia has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 at the time or times established pursuant to such subsection (e)(1) if and to the extent that—

“(A) no refund of the sums so paid has been obtained, or

“(B) a refund of part or all of the sums so paid has been obtained but the State of West Virginia repays to the Secretary of the Treasury the amount of such refund within ninety days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare.’’

Section 133 of Pub. L. 92-663 provided that:

‘‘(a) Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act [subsection (d)(5)(A) of this section and the references thereto in subsections (d)(1) and (d)(3) of such section 218] the agreement with the State of West Virginia heretofore entered into pursuant to section 218 [this section] may, at any time prior to 1974, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to
services performed in policemen's or firemen's positions covered by a retirement system on the date of the enactment of this Act [Oct. 30, 1972] by individuals as employees of any class III or class IV municipal corporation (as defined in or under the laws of the State) if the State of West Virginia has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to service in any class of part-time positions in any coverage group or classes of part-time positions in any coverage group, the amount of any refund within ninety days after the date that such refund has been obtained, or

"(2) service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF NEW MEXICO TO COVER CERTAIN HOSPITAL EMPLOYEES

Section 127 of Pub. L. 92–663 provided that: "Notwithstanding any provisions of section 218 of the Social Security Act, any modification in the agreement with the State of West Virginia under subsection (a) of this section, to the extent it involves services performed by individuals as employees of any class III or class IV municipal corporation, may be made effective with respect to—

"(1) all services performed by such individual, in any policeman's or fireman's position to which the modification relates, on or after the date of the enactment of this Act; and

"(2) all services performed by such individual in such a position before such date of enactment with respect to which the State of West Virginia has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

"(A) no refund of the sums so paid has been obtained, or

"(B) a refund of part or all of the sums so paid has been obtained but the State of West Virginia repays to the Secretary of Health, Education, and Welfare the amount of such refund within ninety days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare.

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF LOUISIANA WITH RESPECT TO VOTER REGISTRARS

Section 139 of Pub. L. 92–663 provided that: "Notwithstanding any provisions of section 218 of the Social Security Act [this section], the Agreement with the State of Louisiana heretofore entered into pursuant to such section may be modified so as to terminate the coverage of all employees who are in positions under the Registrars of Voters Employees' Retirement System, effective after December 1975, but only if such State files with him notice of termination on or before December 1975.

"(b) If the coverage of such employees in positions under such retirement system is terminated pursuant to subsection (a), coverage cannot later be extended to employees in positions under such retirement system."

MODIFICATION OF AGREEMENTS WITH STATES WITH RESPECT TO CERTAIN STUDENTS AND PART-TIME EMPLOYEES

Section 141 of Pub. L. 92–663 provided that:

"(a) Notwithstanding any provision of section 218 of the Social Security Act [this section], the agreement with any State (or any modification thereof) entered into pursuant to such section may, at the option of such State, be modified at any time prior to January 1, 1974, so as to exclude either or both of the following:

"(1) service in any class or classes of part-time positions; or

"(2) service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

"(b) Any modification of such agreement pursuant to this section shall be effective with respect to services performed after the end of the calendar quarter following the calendar quarter in which such agreement is modified.

"(c) If any such modification terminates coverage with respect to service in any class or classes of part-time positions in any coverage group or classes of part-time positions in any coverage group, the Secretary of Health, Education, and Welfare and the State may not thereafter modify such agreement so as to again make the agreement applicable to service in such positions in such coverage group; if such modification terminates coverage with respect to service performed in the employ of a school, college, or university, by a student who is enrolled and regularly attending classes at such school, college, or university, the Secretary of Health, Education, and Welfare and the State may not thereafter modify such agreement so as to again make the agreement applicable to such service performed in the employ of such school, college, or university.

MODIFICATION OF AGREEMENT WITH STATE OF MASSACHUSETTS WITH RESPECT TO EMPLOYEES OF THE MASSACHUSETTS TURNPIKE AUTHORITY

Section 124 of Pub. L. 90–214 provided that:

"(a) Notwithstanding the provisions of section 218(g)(1) of the Social Security Act [subsec. (g)(1) of this section] the Secretary may, under such conditions as he deems appropriate, permit the State of Massachusetts to modify its agreement entered into under section 218 of such Act [this section] so as to terminate the coverage of the employees of the Massachusetts Turnpike Authority effective at the end of any calendar quarter within the two years next following the date on which such agreement is so modified.

"(b) If the coverage of employees of the Massachusetts Turnpike Authority is terminated pursuant to subsection (a), coverage cannot later be extended to the employees of such Authority."

MODIFICATION OF AGREEMENTS WITH STATES OF NORTH DAKOTA AND IOWA WITH RESPECT TO CERTAIN STUDENTS

Section 338 of Pub. L. 89–97 provided that: "Notwithstanding any provision of section 218 of the Social Security Act [this section], the agreements with the States of North Dakota and Iowa entered into pursuant to such section may, at the option of the State, be modified so as to exclude service performed in any calendar quarter in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university and if the remuneration for such service is less than $56. Any modification of either of such agreements pursuant to this Act shall be effective with respect to services performed after an effective date specified in such modification, except that
such date shall not be earlier than the date of enactment of this Act [July 30, 1965]."

Modification of Existing Agreement With State of Nebraska Prior to February 1966


“(1) Notwithstanding any provision of section 218 of the Social Security Act [this section], the agreement with the State of California heretofore entered into pursuant to such section may at the option of such State, be modified so as to exclude services performed within such State by individuals as justices of the peace or constables, if such individuals are compensated for such services on a fee basis. Any modification of such agreement pursuant to this subsection shall be effective with respect to services performed after an effective date specified in such modification, except that such date shall not be earlier than the date of enactment of this Act [Sept. 13, 1960].”

Modification of Existing Agreement With State of Maine Prior to July 1, 1967

Section 316 of Pub. L. 85–444, as amended by Pub. L. 86–778, title I, §102(j), Sept. 13, 1960, 74 Stat. 955; Pub. L. 88–350, §1, July 2, 1964, 78 Stat. 240; Pub. L. 89–97, title III, §337, July 30, 1965, 79 Stat. 409, eff. July 1, 1965, provided that: ‘‘For the purposes of any modification which might be made after the date of enactment of this Act [Aug. 28, 1958] and prior to July 1, 1967, by the State of Maine of its existing agreement made under section 218 of the Social Security Act [this section], any retirement system of such State which covers positions of teachers and positions of other employees shall, if such State so desires, be deemed (notwithstanding the provisions of subsection (f) of such section 218, such modification shall be effective with respect to (i) all services performed by such individual in any such position on or after the date of enactment of this Act, and (ii) all such services, performed before such date, with respect to which such State has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e) of such section 218, at the time or times established pursuant to such subsection.’’

Modification of Existing Agreements With States of California, Connecticut, Minnesota, or Rhode Island Prior to 1960

Section 2 of Pub. L. 86–284, as amended by Pub. L. 86–778, title I, §102(j), Sept. 13, 1960, 74 Stat. 955; Pub. L. 88–350, §1, July 2, 1964, 78 Stat. 240; Pub. L. 89–97, title III, §337, July 30, 1965, 79 Stat. 409, eff. July 1, 1965, provided that: ‘‘Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act [subsec. (d)(5)(A) of this section] and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of Oklahoma heretofore entered into pursuant to this subsection may at the time of enactment of this Act [Sept. 16, 1959] if (1) in the case of an individual performing such services on such date, such individual is ineligible to become a member of such retirement system, or, in the case of an individual who prior to such date has ceased to perform such services, such individual was, on the last day he did perform such services, ineligible to become a member of such retirement system, and (2) such State has, prior to 1959, paid to the Secretary of the Treasury, with respect to any of the services performed by such individual in any such position, the sums prescribed pursuant to subsection (e)(1) of such section 218. Notwithstanding the provisions of subsection (f) of such section 218, such modification shall be effective with respect to (i) all services performed by such individual in any such position on or after the date of enactment of this Act, and (ii) all such services, performed before such date, with respect to which such State has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e) of such section 218, at the time or times established pursuant to such subsection.’’
no case may such date be earlier than December 31, 1955.'"

MODIFICATION OF EXISTING AGREEMENTS WITH STATES OF FLORIDA, NEVADA, NEW MEXICO, MINNESOTA, OKLAHOMA, PENNSYLVANIA, TEXAS, WASHINGTON, OR HAWAII PRIOR TO JULY 1, 1962

Section 101(k) of act Sept. 1, 1954, provided that: "If, prior to January 1, 1956, the agreement with the State of Arizona entered into pursuant to section 218 of the Social Security Act [this section] is modified pursuant to subsection (d)(3) of such section so as to apply to service performed by employees in positions covered by the Arizona Teachers' Retirement System the modification may, notwithstanding section 218(f) of the Social Security Act [this section] or section 218(g) of the Social Security Act [this section], be modified prior to July 1, 1962, so as to apply to services performed by employees of the respective public school districts of such State or Territory who, on the date such agreement is made applicable to such services, are not in positions the incumbents of which are required by State or Territorial law or regulation to have valid State or Territorial teachers' or administrators' certificates in order to receive pay for their services. The provisions of this subsection shall not apply to services of any such employees to which any such agreement applies without regard to this subsection."

Section 120(b) of Pub. L. 90-248 provided that: "Nothing in the amendments made by subsection (a) [amending this section] shall authorize the extension of the insurance system established by title II of the Social Security Act [this subchapter] under the provisions of section 218(d)(6)(C) of such Act [§ 418(d)(6)(C) of this title] to service in any fireman's position."

VALIDATION OF COVERAGE FOR CERTAIN EMPLOYEES OF AN INTEGRAL UNIT OF A POLITICAL SUBDIVISION OF ALASKA

Section 342 of Pub. L. 89-97 provided that: "For purposes of the agreement under section 218 of the Social Security Act [this section] entered into by the State of Alaska, or its predecessor the Territory of Alaska, where employees of an integral unit of a political subdivision of the State or Territory of Alaska have in good faith been included under the State or Territory's agreement as a coverage group on the basis that such integral unit of a political subdivision was a political subdivision, then such unit of the political subdivision shall, for purposes of section 218(b)(2) of such Act, be deemed to be a political subdivision, and employees performing services within such unit shall be deemed to be a coverage group, effective with the effective date specified in such agreement or modification of such agreement with respect to such coverage group and ending with the last day of the year in which this Act is enacted (1965)."

VALIDATION OF COVERAGE FOR DISTRICT ENGINEERING AIDS OF SOIL AND WATER CONSERVATION DISTRICTS OF OKLAHOMA

Section 1 of Pub. L. 90-650, § 3, Oct. 13, 1964, 78 Stat. 1077, provided that: "For purposes of the agreement under section 218 of the Social Security Act [this section] entered into by the State of Oklahoma, remuneration paid to district engineering aids of soil and water conservation districts of the State of Oklahoma which was reported by the State as amounts paid to such aids as employees of the State for services performed by them during the period beginning January 1, 1951, and ending with the close of June 30, 1962, shall be deemed to have been paid to such aids for services performed by them in the employ of the State."

VALIDATION OF COVERAGE FOR CERTAIN EMPLOYEES OF AN INTEGRAL UNIT OF A POLITICAL SUBDIVISION OF ARKANSAS

Section 1 of Pub. L. 93-778 provided that: "That, for purposes of the agreement under section 218 of the Social Security Act [this section] entered into by the State of Arkansas, where employees of an integral unit of a political subdivision of the State of Arkansas have in good faith been included under the State's agreement as a coverage group on the basis that such integral unit of a political subdivision was a political subdivision, then such unit of the political subdivision shall, for purposes of section 218(b)(2) of such Act, be deemed to be a political subdivision, and employees performing services within such unit shall be deemed to be a coverage group, effective with the effective date specified in such agreement or modification of such agreement with respect to such coverage group and ending with the last day of the year in which this Act is enacted (1962)."

VALIDATION OF COVERAGE FOR CERTAIN MISSISSIPPI TEACHERS

Section 102(b) of Pub. L. 89-778 provided that: "For purposes of the agreement under section 218 of the Social Security Act [this section] entered into by the State of Mississippi, services of teachers in such State performed after February 28, 1961, and prior to October 1, 1969, shall be deemed to have been performed by such teachers as employees of the State. The term 'teacher' as used in the preceding sentence means—

(1) any individual who is licensed to serve in the capacity of teacher, librarian, registrar, supervisor, principal, or superintendent and who is principally engaged in the public elementary or secondary school
system of the State in any one or more of such capacities;

(2) any employee in the office of the county superintendent of education or the county school supervisor, or in the office of the principal of any county or municipal public elementary or secondary school in the State; and

(3) any individual licensed to serve in the capacity of teacher who is engaged in any educational capacity in any day or night school conducted under the supervision of the State department of education as a part of the adult education program provided for under the laws of Mississippi or under the laws of the United States.

Presumption of Work Deductions for Services Performed Prior to 1956 in Case of Certain Retrospective State Agreements: Recomputation

Section 101(l) of act Sept. 1, 1954, provided that:

“(1) In the case of any services performed prior to 1955 to which an agreement under section 218 of the Social Security Act [this section] was made applicable, deductions which—

“(A) were not imposed under section 203 of such Act [section 403 of this title] with respect to such services performed prior to the date the agreement was agreed to or, if the original agreement was not applicable to such services, performed prior to the date the modification making such agreement applicable to such services was agreed to, and

“(B) would have been imposed under such section 203 had such agreement, or modification, as the case may be, been agreed to on the date it became effective, shall be deemed to have been imposed, but only for purposes of section 215(f)(2)(A) or section 215(f)(4)(A) of such Act [section 415(f)(2)(A) or section 415(f)(4)(A) of this title] as in effect prior to the enactment of this Act [Sept. 1, 1954]. An individual with respect to whose services the preceding sentence is applicable, or in the case of his death, his survivors entitled to monthly benefits under section 202 of the Social Security Act [section 402 of this title] on the basis of his wages and self-employment income, shall be entitled to a recomputation of his primary insurance amount under such section 215(f)(2)(A) or section 215(f)(4)(A), as the case may be, if the conditions specified therein are met and if, with respect to a recomputation under such section 215(f)(2)(A), such individual files the application referred to in such section after August 1954 and prior to January 1956 or, with respect to a recomputation under such section 215(f)(4)(A), such individual died prior to January 1956 and any of such survivors entitled to monthly benefits files an application, in addition to the application filed for such monthly benefits, for a recomputation under such section 215(f)(4)(A).

“(2) For purposes of a recomputation made by reason of paragraph (1) of this subsection, the primary insurance amount of the individual who performed the services referred to in such paragraph shall be computed under subsection (a)(2) of section 215 of the Social Security Act, as amended by this Act (but, for such purposes, without application of subsection (d)(4) of such section, as in effect prior to the enactment of this Act or as amended by this Act) and as though he became entitled to old-age insurance benefits in whichever of the following months yields the highest primary insurance amount:

“(A) the month following the last month for which deductions are deemed, pursuant to paragraph (1) of this subsection, to have been made; or

“(B) the first month after the month determined under subparagraph (A) (and prior to September 1954) in which his benefits under section 202(a) of the Social Security Act [section 402(a) of this title] were no longer subject to deductions under section 203(b) of such Act [section 403(b) of this title]; or

“(C) the first month after the last month (and prior to September 1954) in which his benefits under section 202(a) of the Social Security Act were subject to deductions under section 203(b) of such Act; or

“(D) the month in which such individual filed his application for recomputation referred to in paragraph (1) of this subsection or, if he died without filing such application and prior to January 1, 1956, the month in which he died, and in any such case (but, if the individual is deceased, only if death occurred after August 1954) the amendments made by subsections (b)(1), (e)(1) and (e)(3)(B) of section 102 of this Act [amending section 415 of this title] shall be applicable.

Such recomputation shall be effective for and after the month in which the application required by paragraph (1) of this subsection is filed. The provisions of this subsection shall not be applicable in the case of any individual if his primary insurance amount has been recomputed under section 215(f)(2) of the Social Security Act on the basis of an application filed prior to September 1954.

“(3) If any recomputation under section 215(f) of the Social Security Act is made by reason of deductions deemed pursuant to paragraph (1) of this subsection to have been imposed with respect to benefits based on the wages and self-employment income of any individual, the total of the benefits based on such wages and self-employment income for months for which such deductions are so deemed to have been imposed shall be recovered by making, in addition to any other deductions under section 203 of such Act, deductions from the increase in benefits, based on such wages and self-employment income, resulting from such recomputation.”


Section, act Aug. 14, 1935, ch. 531, title II, § 219, as added Aug. 28, 1950, ch. 809, title I, § 107, 64 Stat. 517, prescribed the effective date of this subchapter in Puerto Rico as January 1 of the first calendar year which begins more than 90 days after the date on which the President received a certification from the Governor of Puerto Rico.

Effective Date of Repeal

Repeal effective Sept. 13, 1960, see section 103(c)(1), (3) of Pub. L. 86–778, set out as an Effective Date of 1960 Amendment note under section 402 of this title.

§ 420. Disability provisions inapplicable if benefit rights impaired

None of the provisions of this subchapter relating to periods of disability shall apply in any case in which their application would result in the denial of monthly benefits or a lump-sum death payment which would otherwise be payable under this subchapter; nor shall they apply in the case of any monthly benefit or lump-sum death payment under this subchapter if such benefit or payment would be greater without their application.


Prior Provisions

A prior section 420, act Aug. 14, 1935, ch. 531, title II, § 220, as added July 18, 1952, ch. 945, §3(e), 66 Stat. 772, relating to inapplicability of disability provisions if benefits were reduced, ceased to be in effect at the close of June 30, 1953. See Effective and Termination Date of 1962 Amendment note set out under section 413 of this title.

§ 421. Disability determinations

(a) State agencies

(1) In the case of any individual, the determination of whether or not he is under a disabili-
ity (as defined in section 416(i) or 423(d) of this title) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency, notwithstanding any other provision of law, in any State that notifies the Commissioner of Social Security in writing that it wishes to make such disability determinations commencing with such month as the Commissioner of Social Security and the State agree upon, but only if (A) the Commissioner of Social Security has not found, under subsection (b)(1) of this section, that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Commissioner of Social Security, under subsection (b)(2) of this section, that it does not wish to make such determinations. If the Commissioner of Social Security once makes the finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Commissioner of Social Security may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may again make disability determinations under this paragraph.

(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this subchapter and the standards and criteria contained in regulations or other written guidelines of the Commissioner of Social Security pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make such determinations. In addition, the Commissioner of Social Security shall promulgate regulations specifying, in such detail as the Commissioner deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations;

(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations;

(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Commissioner of Social Security, and, as the Commissioner finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

(D) fiscal control procedures that the State agency may be required to adopt, and

(E) the submission of reports and other data, in such form and at such time as the Commissioner of Social Security may require, concerning the State agency’s activities relating to the disability determination.

Nothing in this section shall be construed to authorize the Commissioner of Social Security to take any action except pursuant to law or to regulations promulgated pursuant to law.

(b) Determinations by Commissioner

(1) If the Commissioner of Social Security finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with the Commissioner’s regulations and other written guidelines, the Commissioner of Social Security shall, not earlier than 180 days following the Commissioner’s finding, and after the Commissioner has complied with the requirements of paragraph (3), make the disability determinations referred to in subsection (a)(1) of this section.

(2) If a State, having notified the Commissioner of Social Security of its intent to make disability determinations under subsection (a)(1) of this section, no longer wishes to make such determinations, it shall notify the Commissioner of Social Security in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days, or (if later) until the Commissioner of Social Security has complied with the requirements of paragraph (3). Thereafter, the Commissioner of Social Security shall make the disability determinations referred to in subsection (a)(1) of this section.

(3) (A) The Commissioner of Social Security shall develop and initiate all appropriate procedures to implement a plan with respect to any partial or complete assumption by the Commissioner of Social Security of the disability determination function from a State agency, as provided in this section, under which employees of the affected State agency who are capable of performing duties in the disability determination process for the Commissioner of Social Security shall, notwithstanding any other provision of law, have a preference over any other individual in filling an appropriate employment position with the Commissioner of Social Security (subject to any system established by the Commissioner of Social Security for determining hiring priority among such employees of the State agency) unless any such employee is the administrator, the deputy administrator, the assistant administrator (or his equivalent) of the State agency, in which case the Commissioner of Social Security may accord such priority to such employee.

(B) The Commissioner of Social Security shall not make such assumption of the disability determination function until such time as the Secretary of Labor determines that, with respect to employees of such State agency who will be displaced from their employment on account of
such assumption by the Commissioner of Social Security and who will not be hired by the Commissioner of Social Security to perform duties in the disability determination process, the State has made fair and equitable arrangements to protect the interests of employees so displaced. Such protective arrangements shall include only those provisions which are provided under all applicable Federal, State and local statutes including, but not limited to, (i) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements; (ii) the continuation of collective-bargaining rights; (iii) the assignment of affected employees to other jobs or to retraining programs; (iv) the protection of individual employees against a worsening of their positions with respect to their employment; (v) the protection of health benefits and other fringe benefits; and (vi) the provision of severance pay, as may be necessary.

(c) Review of determination by Commissioner

(1) The Commissioner of Social Security may on the Commissioner’s own motion or as required under paragraphs (2) and (3) review a determination, made by a State agency under this section, that an individual is or is not under a disability (as defined in section 416(i) or 423(d) of this title) and, as a result of such review, may modify such agency’s determination and determine that such individual either is or is not under a disability (as so defined) or that such individual’s disability began on a day earlier or later than that determined by such agency, or that such disability ceased on a day earlier or later than that determined by such agency. A review by the Commissioner of Social Security on the Commissioner’s own motion of a State agency determination under this paragraph may be made before or after any action is taken to implement such determination.

(2) The Commissioner of Social Security (in accordance with paragraph (3)) shall review determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 416(i) or 423(d) of this title). Any review by the Commissioner of Social Security of a State agency determination under this paragraph shall be made before any action is taken to implement such determination.

(3)(A) In carrying out the provisions of paragraph (2) with respect to the review of determinations made by State agencies pursuant to this section that individuals are under disabilities (as defined in section 416(i) or 423(d) of this title), the Commissioner of Social Security shall review—

(i) at least 50 percent of all such determinations made by State agencies on applications for benefits under this subchapter, and

(ii) other determinations made by State agencies pursuant to this section to the extent necessary to assure a high level of accuracy in such other determinations.

(B) In conducting reviews pursuant to subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review those determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect.

(C) Not later than April 1, 1992, and annually thereafter, the Commissioner of Social Security shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report setting forth the number of reviews conducted under subparagraph (A)(i)(ii) during the preceding fiscal year and the findings of the Commissioner of Social Security based on such reviews of the accuracy of the determinations made by State agencies pursuant to this section.

(d) Hearings and judicial review

Any individual dissatisfied with any determination under subsection (a), (b), (c), or (g) of this title shall be entitled to a hearing therefore by the Commissioner of Social Security to the same extent as is provided in section 405(b) of this title with respect to decisions of the Commissioner of Social Security, and to judicial review of the Commissioner’s final decision after such hearing as is provided in section 405(g) of this title.

(e) State’s right to cost from Trust Funds

Each State which is making disability determinations under subsection (a)(1) of this section shall be entitled to receive from the Trust Funds, in advance or by way of reimbursement, as determined by the Commissioner of Social Security, the cost to the State of making disability determinations under subsection (a)(1) of this section. The Commissioner of Social Security shall from time to time certify such amount as is necessary for this purpose to the Managing Trustee, reduced or increased, as the case may be, by any sum (for which adjustment hereunder has not previously been made) by which the amount certified for any prior period was greater or less than the amount which should have been paid to the State under this subsection for such period; and the Managing Trustee, prior to audit or settlement by the Government Accountability Office, shall make payment from the Trust Funds at the time or times fixed by the Commissioner of Social Security, in accordance with such certification. Appropriate adjustments between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund with respect to the payments made under this subsection shall be made in accordance with paragraph (1) of subsection (g) of section 401 of this title (but taking into account any refunds under subsection (f) of this section) to insulate that the Federal Disability Insurance Trust Fund is charged with all expenses incurred which are attributable to the administration of section 423 of this title and the Federal Old-Age and Survivors Insurance Trust Fund is charged with all other expenses.

(f) Use of funds

All money paid to a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned to the Treasury of the United States for deposit in the Trust Funds.
(g) Regulations governing determinations in certain cases

In the case of individuals in a State which does not undertake to perform disability determinations under subsection (a)(1) of this section, or which has been found by the Commissioner of Social Security to have substantially failed to make disability determinations in a manner consistent with the Commissioner’s regulations and guidelines, in the case of individuals outside the United States, and in the case of any class or classes of individuals for whom no State undertakes to make disability determinations, the determinations referred to in subsection (a) of this section shall be made by the Commissioner of Social Security in accordance with regulations prescribed by the Commissioner.

(h) Evaluation of mental impairments by qualified medical professionals

An initial determination under subsection (a), (c), (g), or (i) of this section that an individual is not under a disability, in any case where there is evidence which indicates the existence of a mental impairment, shall be made only if the Commissioner of Social Security has made every reasonable effort to ensure that a qualified psychiatrist or psychologist has completed the medical portion of the case review and any applicable residual functional capacity assessment.

(i) Review of disability cases to determine continuing eligibility; permanent disability cases; appropriate number of cases reviewed; reporting requirements

(1) In any case where an individual is or has been determined to be under a disability, the case shall be reviewed by the applicable State agency or the Commissioner of Social Security (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years, subject to paragraph (2); except that where a finding has been made that such disability is permanent, such reviews shall be made at such times as the Commissioner of Social Security determines to be appropriate. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administration of this subchapter.

(2) The requirement of paragraph (1) that cases be reviewed at least every 3 years shall not apply to the extent that the Commissioner of Social Security determines, on a State-by-State basis, that such requirement should be waived to insure that only the appropriate number of such cases are reviewed. The Commissioner of Social Security shall determine the appropriate number of cases to be reviewed in each State after consultation with the State agency performing such reviews, based upon the backlog of pending reviews, the projected number of new applications for disability insurance benefits, and the current and projected staffing levels of the State agency, but the Commissioner of Social Security shall provide for a waiver of such requirement only in the case of a State which makes a good faith effort to meet proper staffing requirements for the State agency and to process case reviews in a timely fashion. The Commissioner of Social Security shall report annually to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the determinations made by the Commissioner of Social Security under the preceding sentence.

(3) The Commissioner of Social Security shall report annually to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the number of reviews of continuing disability carried out under paragraph (1), the number of such reviews which result in an initial determination of benefits, the number of requests for reconsideration of such initial determination or for a hearing with respect to such termination under subsection (d) of this section, or both, and the number of such initial determinations which are overturned as the result of a reconsideration or hearing.

(4) In any case in which the Commissioner of Social Security initiates a review under this subsection of the case of an individual who has been determined to be under a disability, the Commissioner of Social Security shall notify such individual of the nature of the review to be carried out, the possibility that such review could result in the termination of benefits, and the right of the individual to provide medical evidence with respect to such review.

(5) For suspension of reviews under this subsection in the case of an individual using a ticket to work and self-sufficiency, see section 1320b-19(i) of this title.

(j) Rules and regulations; consultative examinations

The Commissioner of Social Security shall prescribe regulations which set forth, in detail—

(1) the standards to be utilized by State disability determination services and Federal personnel in determining when a consultative examination should be obtained in connection with disability determinations;

(2) standards for the type of referral to be made; and

(3) procedures by which the Commissioner of Social Security will monitor both the referral processes used and the product of professionals to whom cases are referred.

Nothing in this subsection shall be construed to preclude the issuance, in accordance with section 553(b)(A) of title 5, of interpretive rules, general statements of policy, and rules of agency organization relating to consultative examinations if such rules and statements are consistent with such regulations.

(k) Establishment of uniform standards for determination of disability

(1) The Commissioner of Social Security shall establish by regulation uniform standards which shall be applied at all levels of determination, review, and adjudication in determining whether individuals are under disabilities as defined in sections 416(i) or 423(d) of this title.

(2) Regulations promulgated under paragraph (1) shall be subject to the rulemaking procedures established under section 553 of title 5.
(l) Special notice to blind individuals with respect to hearings and other official actions

(1) In any case where an individual who is applying for or receiving benefits under this subchapter on the basis of disability by reason of blindness is entitled to receive notice from the Commissioner of Social Security of any decision or determination made or other action taken or proposed to be taken with respect to his or her rights under this subchapter, such individual shall at his or her election be entitled either (A) to receive a supplementary notice of such decision, determination, or action, by telephone, within 5 working days after the initial notice is mailed, (B) to receive the initial notice in the form of a certified letter, or (C) to receive notification by some alternative procedure established by the Commissioner of Social Security and agreed to by the individual.

(2) The election under paragraph (1) may be made at any time, but an opportunity to make such an election shall in any event be given to every individual who is an applicant for benefits under this subchapter on the basis of disability by reason of blindness, at the time of his or her application. Such an election, once made by an individual, shall apply with respect to all notices of decisions, determinations, and actions which such individual may thereafter be entitled to receive under this subchapter until such time as it is revoked or changed.

(m) Work activity as basis for review

(1) In any case where an individual entitled to disability insurance benefits under section 423 of this title or to monthly insurance benefits under section 424 of this title based on such individual's disability (as defined in section 423(d) of this title) has received such benefits for at least 24 months—

(A) no continuing disability review conducted by the Commissioner may be scheduled for the individual solely as a result of the individual's work activity;

(B) no work activity engaged in by the individual may be used as evidence that the individual is no longer disabled; and

(C) no cessation of work activity by the individual may give rise to a presumption that the individual is unable to engage in work.

(2) An individual to which paragraph (1) applies shall continue to be subject to—

(A) continuing disability reviews on a regularly scheduled basis that is not triggered by work; and

(B) termination of benefits under this subchapter in the event that the individual has earnings that exceed the level of earnings established by the Commissioner to represent substantial gainful activity.


Prior Provisions


Amendments


1994—Pub. L. 103–296 substituted “Commissioner of Social Security” for “Secretary” wherever appearing except where appearing before “of Labor” in subsec. (b)(3)(B) and substituted “the Commissioner deems” for “he deems” and “the Commissioner finds” for “he finds” in subsec. (a)(2), “the Commissioner’s” for “his” wherever appearing in subsecs. (b)(1), (c)(1), and (g), “the Commissioner has compelled” for “he has compelled” in subsec. (b)(1), “Commissioner’s” for “Secretary’s” in subsec. (d), and “prescribed by the Commissioner” for “prescribed by him” in subsec. (g).

1990—Subsec. (c)(3). Pub. L. 101–508 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “In carrying out the provisions of paragraph (2) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 416(i) or 422(d) of this title), the Secretary shall—

“(A) at least 15 percent of all such determinations made by State agencies in the fiscal year 1981;

“(B) at least 35 percent of all such determinations made by State agencies in the fiscal year 1982, and

“(C) at least 63 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1982.”


1986—Subsec. (e). Pub. L. 99–514 struck out “under this section” before “shall be entitled”.

1984—Subsec. (a)(1)(A). Pub. L. 98–460, § 17(a)(2), (b), temporarily substituted “subsection (b)(1)(C) of this section” for “subsection (b)(1) of this section”.

See Effective and Termination Dates of 1984 Amendments note below.

Subsec. (b)(1). Pub. L. 98–460, § 17(a)(1), (b), temporarily amended par. (1) generally. Prior to amendment, par. (1) read as follows: “If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other written guidelines, the Secretary shall, not earlier than 180 days following his finding, and after he has complied with the requirements of paragraph (3), make the disability determinations referred to in subsection (a)(1) of this section.” See Effective and Termination Dates of 1984 Amendments note below.

Subsec. (b)(3). Pub. L. 98–460, § 17(a)(3), (b), temporarily substituted “Except as provided in subparagraph
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Title 42—The Public Health and Welfare

1980 Amendments

Subsec. (a) Act Aug. 1, 1956, $103(c)(7), inserted reference to "423(c)".

1956—Subsec. (a) Act Aug. 1, 1956, $103(c)(8), restricted disability to definition of such term contained in section 416(1) or 423(c) of this title.

1956—Subsec. (c) Act Aug. 1, 1956, $103(c)(8), substituted "Trust Funds" for "Trust Fund", and provided for adjustments between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund with respect to payments made under this subsection.

Effective Date of 1999 Amendment

Amendment by section 101(b)(1)(A) of Pub. L. 106–170 effective with the first month following one year after Dec. 17, 1999, see section 101(c) of Pub. L. 106–170, see section 101(c) of Pub. L. 106–170, set out as an Effective Date note under section 1320b–19 of this title.

Effective Date of 1994 Amendment


Effective Date of 1990 Amendment

Section 512(b) of Pub. L. 101–508 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to determinations made by State agencies in fiscal years after fiscal year 1990."

Effective Date of 1989 Amendment

Section 10306(a)(3) of Pub. L. 101–239 provided that: "The amendment made by this section [amending this section] shall become effective on January 1, 1990."

Effective Date of 1988 Amendment

Section 802(b) of Pub. L. 100–647 provided that: "The amendment made by this section [amending this section] shall apply to reports required to be submitted after the date of the enactment of this Act [Nov. 10, 1988]."

Effective and Termination Dates of 1984 Amendments

Section 8(c) of Pub. L. 98–460 provided that: "The amendments made by this section [amending this section and section 1382c of this title] shall apply to determinations made after 60 days after the date of the enactment of this Act [Oct. 9, 1984]."

Section 17(b) of Pub. L. 98–460 provided that: "The amendments made by subsection (a) of this section [amending this section] shall become effective on the date of the enactment of this Act [Oct. 9, 1984] and shall expire on December 31, 1987. The provisions of the Social Security Act amended by subsection (a) of this section (as such provisions were in effect immediately before the date of the enactment of this Act) shall be effective after December 31, 1987."

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 266a(b) of Pub. L. 98–369, set out as a note under section 401 of this title.

Effective Date of 1983 Amendment

Section 3(b) of Pub. L. 97–455 provided that: "The amendments made by subsection (a) [amending this section] shall become effective on the date of the enactment of this Act [Jan. 12, 1983]."

Effective Date of 1980 Amendment

Section 304(h) of Pub. L. 96–265 provided that: "The amendments made by subsections (a), (b), (d), (e), and (f) [amending this section] shall become effective with the twelfth month following the month in which this Act is enacted [June 1980]. Any State that, on the effective date of the amendments made by this section, has in effect an agreement with the Secretary of Health and Human Services under section 221(a) of the Social Security Act [subsection (a) of this section] (in effect prior to such amendments) will be deemed to have given to the Secretary the notice specified in section 221(a)(1) of such Act as amended by this section, in lieu of continuing such agreement in effect after the effective date of such amendments. Thereafter, a State may notify the Secretary in writing that it no longer wishes to make disability determinations, effective not less than 180 days after the notification is given."

Section 311(b) of Pub. L. 96–265 provided that: "The amendment made by subsection (a) [amending this section] shall become effective on January 1, 1982."
The Effective Date of 1968 Amendment

Amendment by Pub. L. 90–248 applicable with respect to application 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.

Election Under Subsection (c)(1) by Current Recipients

Section 10106(a)(2) of Pub. L. 91–230 provided that: “Not later than July 1, 1969, the Secretary of Health and Human Services shall provide every individual receiving benefits under title II of the Social Security Act [this subchapter] on the basis of disability by reason of blindness an opportunity to make an election under section 221(c)(1) of such Act [subsec. (c)(1) of this section] (as added by paragraph (1)) .”

Moratorium on Mental Impairment Reviews

Section 5 of Pub. L. 98–460 provided that:

“(a) The Secretary of Health and Human Services (hereafter in this section referred to as the ‘Secretary’) shall revise the criteria embodied under the category ‘Mental Disorders’ in the ‘Listing of Impairments’ in effect on the date of the enactment of this Act [Oct. 9, 1984] under appendix P of part 404 of title 20 of the Code of Federal Regulations. The revised criteria and listings, alone and in combination with assessments of the residual functional capacity of the individuals involved, shall be designed to realistically evaluate the ability of a mentally impaired individual to engage in substantial gainful activity in a competitive workplace environment. Regulations establishing such revised criteria and listings shall be published no later than 180 days after the date of the enactment of this Act.

“(b)(1) Until such time as revised criteria have been established by regulation in accordance with subsection (a), no continuing eligibility review shall be carried out under section 221(i) of the Social Security Act [subsec. (i) of this section], or under the corresponding requirements established for disability determinations and reviews under title XVI of such Act [subchapter XVI of this chapter], with respect to any individual previously determined to be under a disability by reason of a mental impairment, if—

“(A) no initial decision on such review has been rendered with respect to such individual prior to the date of the enactment of this Act; or

“(B) an initial decision on such review was rendered with respect to such individual prior to the date of the enactment of this Act but a timely appeal from such decision was filed or was pending on or after June 7, 1983.

For purposes of this paragraph and subsection (c)(1) the term ‘continuing eligibility review’, when used to refer to a review of a previous determination of disability, includes any reconsideration of or hearing on the initial decision rendered in such review as well as such initial decision itself, and any review by the Appeals Council of the hearing decision.

“(2) Paragraph (1) shall not apply in any case where the Secretary determines that fraud was involved in the prior determination, or WHERE AN INDIVIDUAL ENGAGED IN SUBSTANTIAL GAINFUL ACTIVITY (OR Gainful activity, in the case of a widow, surviving divorced wife, widower, or surviving divorced husband for purposes of section 202(e) and (f) of such Act [section 402(e), (f) of this title],

“(c)(1) Any initial determination that an individual is not under a disability by reason of a mental impairment and any determination that an individual is not under a disability by reason of a mental impairment in a reconsideration of or hearing on an initial disability determination, made or held under title II or XVI of the Social Security Act [this subchapter or subchapter XVI of this chapter] after the date of the enactment of this Act [Oct. 9, 1984] and prior to the date on which revised criteria are established by regulation in accordance with subsection (a), and any determination that an individual is not under a disability by reason of a mental impairment made under or in accordance with title II or XVI of such Act in a reconsideration of, hearing on, review by the Appeals Council of, or judicial review of a decision rendered in any continuing eligibility review to which subsection (b)(1) applies, shall be redetermined by the Secretary as soon as feasible after the date on which such criteria are so established, applying such revised criteria.

“(2) In the case of a redetermination under paragraph (1) of a prior action which found that an individual was not under a disability, if such individual is found on re-determination to be under a disability, such redetermination shall be applied as though it had been made at the time of such prior action.

“(3) Any individual with a mental impairment who was found to be not disabled pursuant to an initial disability determination or a continuing eligibility review between March 1, 1981, and the date of the enactment of this Act [Oct. 9, 1984], and who reapplies for benefits under title II or XVI of the Social Security Act, may be determined to be under a disability during the period considered in the most recent prior determination. Any reaplication under this paragraph must be filed within one year after the date of the enactment of this Act, and benefits payable as a result of the preceding sentence shall be paid only on the basis of the re-application.”

Institution of Notification System

Section 6(c) of Pub. L. 98–460 provided that: “The Secretary shall institute a system of notification required by the amendments made by subsections (a) and (b) of this section and section 1303 of this title as soon as is practicable after the date of the enactment of this Act [Oct. 9, 1984].”

Demonstration Projects: Opportunity for Personal Appearance Prior to Disability Determinations; Report to Congressional Committees

Pub. L. 98–460, §6(d), (e), Oct. 9, 1984, 98 Stat. 1802, 1803, required the Secretary of Health and Human Services, as soon as practicable after Oct. 9, 1984, to implement demonstration projects in at least five States in which the opportunity for a personal appearance prior to a determination of ineligibility for disability benefits under 42 U.S.C. 422(i) or prior to initial disability determinations under 42 U.S.C. 422(a), (c), (e) and title XVI of the Social Security Act (42 U.S.C. 1382c) was substituted for the face to face evidentiary hearing required by 42 U.S.C. 405(b)(2), and to report to the appropriate committees of Congress by Dec. 31, 1986.

Promulgation of Regulations

Section 9(a)(2) of Pub. L. 98–460 provided that: “The Secretary of Health and Human Services shall promulgate final regulations, within 180 days after the date of the enactment of this Act [Oct. 9, 1984], which establish the standards to be used by the Secretary in determining the frequency of reviews under section 221(i) of the Social Security Act [subsec. (j) of this section]. Until such regulations have been issued as final regulations, no in-
Travel Expenses for Medical Examinations, Reconsideration Interviews, and Proceedings Before Administrative Law Judges

Provisions authorizing payment of travel expenses either on an actual cost or commuted basis, to an individual for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsider interviews and to proceedings before administrative law judges under subchapters II, XVI, and XVIII of this chapter were contained in the following appropriation acts:


Review of Decisions Rendered by Administrative Law Judges as Result of Disability Hearings; Report to Congress

Section 304(g) of Pub. L. 96–265 provided that: "The Secretary of Health and Human Services shall implement a program of reviewing, on his own motion, decisions rendered by administrative law judges as a result of hearings under section 221(d) of the Social Security Act (subsec. (d) of this section), and shall report to the Congress by January 1, 1982, on his progress."

Assumption by Secretary of Functions and Operations of State Disability Determination Units

Section 304(i) of Pub. L. 96–265 directed Secretary of Health and Human Services to submit to Congress by July 1, 1980, a detailed plan on how he intended to assume functions and operations of a State disability determination unit when this became necessary under amendments made by this section (amending this section), and how he intended to meet requirements of section 221(b)(3) of Social Security Act (subsec. (b)(3) of this section). Such plan was to assume the uninterrupted operation of disability determination function and utilization of best qualified personnel to carry out such function, and was to include recommendations for any amendment of Federal law or regulation required to carry out such plan.

Relocation of Determination Work

(1) The term "period of trial work", with respect to an individual entitled to benefits under section 423, 402(d), 402(e), or 402(f) of this title, means a period of months beginning and ending as provided in paragraphs (3) and (4).

(2) For purposes of sections 416(i) and 423 of this title, any services rendered by an individual during a period of trial work shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. Purposes of this subsection the term "services" means activity (whether legal or illegal) which is performed for remuneration or gain or is determined by the Commissioner of Social Security to be of a type normally performed for remuneration or gain.

(3) A period of trial work for any individual shall begin with the month in which he becomes entitled to disability insurance benefits, or, in the case of an individual entitled to benefits under section 402(d) of this title who has attained the age of eighteen, with the month in which he becomes entitled to such benefits or the month in which he attains the age of eighteen, whichever is later, or, in the case of an individual entitled to widow’s or widower’s insurance benefits under section 402(e) or (f) of this title who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled. Notwithstanding the preceding sentence, no period of trial work may begin for any individual prior to the beginning of the month following September 1960; and no such period may begin for an individual in a period of disability of such individual in which he had a previous period of trial work.

(4) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

(A) the ninth month, in any period of 60 consecutive months, in which the individual renders services (whether or not such nine months are consecutive); or

(B) the month in which his disability (as defined in section 423(d) of this title) ceases (as determined after application of paragraph (2) of this subsection). (5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

(B) receiving disability insurance benefits under this subchapter while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized.

No benefit shall be payable to such individual under this subchapter with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this subchapter as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which
such individual is liable as overpayments by reason of such concealment.

(d) Cost of rehabilitation services from trust funds

(1) For purposes of making vocational rehabilitation services more readily available to disabled individuals who are—
   (A) entitled to disability insurance benefits under section 423 of this title,
   (B) entitled to child’s insurance benefits under section 402(d) of this title after having attained age 18 (and are under a disability),
   (C) entitled to widow’s insurance benefits under section 402(e) of this title prior to attaining age 60, or
   (D) entitled to widower’s insurance benefits under section 402(f) of this title prior to attaining age 60.

to the end that savings will accrue to the Trust Funds as a result of rehabilitating such individuals, there are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to enable the Commissioner of Social Security to reimburse the State for the reasonable and necessary costs of vocational rehabilitation services furnished such individuals (including services during their waiting periods), under a State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 [29 U.S.C. 720 et seq.], (i) in cases where the furnishing of such services results in the performance by such individuals of substantial gainful activity for a continuous period of nine months, (ii) in cases where such individuals receive benefits as a result of section 425(b) of this title (except that no reimbursement under this paragraph shall be made for services furnished to any individual receiving such benefits for any period after the close of such individual’s ninth consecutive month of substantial gainful activity or the close of the month in which his or her entitlement to such benefits ceases, whichever first occurs), and (iii) in cases where such individuals, without good cause, refuse to continue to accept vocational rehabilitation services or fail to cooperate in such a manner as to preclude their successful rehabilitation. The determination that the vocational rehabilitation services contributed to the successful return of an individual to substantial gainful activity, the determination that an individual, without good cause, refused to continue to accept vocational rehabilitation services or failed to cooperate in such a manner as to preclude successful rehabilitation, and the determination of the amount of costs to be reimbursed under this subsection shall be made by the Commissioner of Social Security in accordance with criteria formulated by the Commissioner.

(2) In the case of any State which is unwilling to participate or does not have a plan which meets the requirements of paragraph (1), the Commissioner of Social Security may provide such services in such State by agreement or contract with other public or private agencies, organizations, institutions, or individuals. The provision of such services shall be subject to the same conditions as otherwise apply under paragraph (1).

(3) Payments under this subsection shall be made in advance or by way of reimbursement, with necessary adjustments for overpayments and underpayments.

(4) Money paid from the Trust Funds under this subsection for the reimbursement of the costs of providing services to individuals who are entitled to benefits under section 423 of this title (including services during their waiting periods), or who are entitled to benefits under section 402(d) of this title on the basis of the wages and self-employment income of such individuals, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this subsection shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Commissioner of Social Security shall determine according to such methods and procedures as the Commissioner may deem appropriate—
   (A) the total amount to be reimbursed for the cost of services under this subsection, and
   (B) subject to the provisions of the preceding sentence, the amount which should be charged to each of the Trust Funds.

(5) For purposes of this subsection the term “vocational rehabilitation services” shall have the meaning assigned to it in title I of the Rehabilitation Act of 1973 [29 U.S.C. 720 et seq.], except that such services may be limited in type, scope, or amount in accordance with regulations of the Commissioner of Social Security designed to achieve the purpose of this subsection.

(e) Treatment referrals for individuals with alcoholism or drug addiction condition

In the case of any individual whose benefits under this subchapter are paid to a representative payee pursuant to section 405(j)(1)(B) of this title, the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).
REFERENCEs IN TEXT

The Public Health Service Act, referred to in subsec. (e), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended.

Subpart II of part B of title XIX of the Act is classified generally to subpart II (§300x–21 et seq.) of part B of subchapter XVII of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

AMENDMENTS
1999—Subsec. (a). Pub. L. 106–170, §101(b)(1)(B), struck out heading and text of subsec. (a). Text read as follows: "It is declared to be the policy of the Congress that disabled individuals applying for a determination of disability, and disabled individuals who are entitled to child's insurance benefits, widow's insurance benefits, or widower's insurance benefits, shall be promptly referred to the State agency or agencies administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973 for necessary vocational rehabilitation services, to the end that the maximum number of such individuals may be rehabilitated into productive activity."
Subsec. (b). Pub. L. 106–170, §101(b)(1)(C), struck out heading and text of subsec. (b), which authorized deductions from payments under this subchapter up to amount of benefits on account of refusal without good cause to accept rehabilitation services, and authorized deductions from payments to husbands, wives, or children of individuals who refuse to accept such services with exception for children between 18 and 22 who are full-time students.
Subsec. (c)(2). Pub. L. 103–296, §203(a)(4)(R), inserted "(whether legal or illegal)" after "activity".
Pub. L. 103–296, §207(a)(4), substituted "Commissioner of Social Security" for "Secretary".
Subsec. (d)(1). Pub. L. 103–296, §207(a)(4), in closing provisions substituted "Commissioner of Social Security to reimburse" for "Secretary to reimburse".
Pub. L. 103–296, §207(a)(4), which directed the amendment of this subchapter by substituting "Commissioner for him" wherever word referred to the Commissioner of Health and Human Services, was executed in closing provisions by substituting "the Commissioner" for "him" where referring to the Commissioner of Social Security, to reflect the probable intent of Congress.
Subsec. (d)(4). Pub. L. 103–296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" and "the Commissioner may" for "he may".
Subsec. (e). Pub. L. 103–296, §107(a)(4), substituted "in any period of 60 consecutive months" for "beginning on or after the first day of such period".
Subsec. (c)(5). Pub. L. 101–508, §512(a)(2), struck out par. (5) which read as follows: "In the case of an individual who becomes entitled to benefits under section 423 of this title for any month as provided in clause (ii) of subsection (a)(1) of such section, the preceding provisions of this subsection and this section, the preceding provisions of this subsection shall apply with respect to services in any month beginning with the first month for which he is so entitled and ending with the first month thereafter for which he is not entitled to benefits under section 423 of this title."
Subsec. (b)(2). Pub. L. 98–369, §2663(a)(15)(B), substituted "equals" for "equal".
Subsec. (b)(3). Pub. L. 98–369, §2663(a)(15)(C), substituted "full-time elementary or secondary school student" for "full-time student".
Subsec. (d)(1). Pub. L. 98–369, §11(a), in provisions following subpar. (D) struck out "into substantial gainful activity" after "rehabilitating such individuals", designated existing provisions as cl. (i), added cls. (ii) and (iii), and substituted "of an individual to substantial gainful activity, the determination that an individual, without good cause, refused to continue to accept vocational rehabilitation services or failed to cooperate in such a manner as to preclude successful rehabilitation," for "of individuals to substantial gainful activity" after cl. (iii).
1983—Subsec. (b)(1). Pub. L. 98–21, §309(l), substituted ", surviving divorced wife, or surviving divorced husband" for "or surviving divorced wife".
Subsec. (b)(2). Pub. L. 98–21, §309(m), inserted "or father's" after "mother's" wherever appearing.
Subsec. (b)(3). Pub. L. 98–21, §309(n), inserted "divorced husband," after "husband,".
1981—Subsec. (d). Pub. L. 97–35 substituted provisions authorizing the transfer of funds as may be necessary to enable the Secretary to reimburse the State for the reasonable and necessary costs of vocational rehabilitation, under a State plan approved under title I of the Rehabilitation Act of 1973, which results in performance of substantial gainful activity for a continuous period of nine months, with the determination that the vocational rehabilitation services contributed to the successful return to substantial gainful activity and the amount of costs to be reimbursed made by the Commissioner of Social Security for provisions authorizing the transfer of funds as may be necessary to enable the Secretary to pay the cost of vocational rehabilitation services, restricting the amount of such cost that may be expended in any one fiscal year, establishing specific criteria which a State plan must meet, and providing that the selection of individuals to receive services be made in conformance with criteria formulated by the Secretary.
1980—Subsec. (c)(1). Pub. L. 96–265, §903(a)(1), inserted references to sections 402(e) and 402(f) of this title.
Subsec. (c)(3). Pub. L. 96–265, §903(a)(2), inserted reference to individuals entitled to widow's or widower's insurance benefits under section 402(e) or (f) of this title who became entitled to such benefits prior to attaining age 60.
1972—Subsec. (b)(1). Pub. L. 92–683, §107(b)(3), substituted "a widow, widower or surviving divorced wife who has not attained age 60" or "a widow or surviving divorced wife who has not attained age 60, a widower who has not attained age 62".
Subsec. (d)(1). Pub. L. 92–683, §§107(b)(4), 131, substituted "age 60" for "age 62", and inserted provisions increasing applicable percentages so that the total amount made available pursuant to subsec. (d) may not exceed 1.25 percent, in fiscal year ending June 30, 1973, and 1.5 percent, in fiscal year ending June 30, 1974, and thereafter, of the total of the benefits under section 402(d) of this title for children who have attained age 18 and are under a disability.
Subsec. (b)(1). Pub. L. 90–238, §104(d)(3)(B), substituted "child's insurance benefits, a widow or surviving divorced wife who has not attained age 60, a widower who has not attained age 62, or" for "child's insurance benefits or."
Subsec. (c)(4)(B). Pub. L. 90–238, §158(c)(5), substituted reference to "423(d)" for "423(c)(2)".


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Subsec. (d)(1). Pub. L. 90–248, §104(d)(4), added subpars. (C) and (D), and inserted “the benefits under section 402(e) of this title for widows and surviving divorced wives who have not attained age 60 and are under a disability, the benefits under section 402(f) of this title for widowers who have not attained age 62,” after “disability,” in text following subpar. (D).


1960—Subsec. (c). Pub. L. 86–778 amended subsection generally by substituting provisions relating to period of trial work for provisions which related to services performed pursuant to a State-approved rehabilitation program.

1958—Subsec. (b). Pub. L. 85–840 designated existing provisions thereof as par. (1) and added pars. (2) and (3).

1956—Subsec. (a). Act Aug. 1, 1956, designated existing provisions as subsec. (a), authorized referral of disabled individuals who are entitled to child’s insurance benefits, and substituted “rehabilitated into productive activity” for “restored to productive activity”.

Subsecs. (b), (c). Act Aug. 1, 1956, added subsecs. (b) and (c).

Effective Date of 2004 Amendment
Pub. L. 108–203, title II, §208(b), Mar. 2, 2004, 118 Stat. 513, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to work activity performed after the date of the enactment of this Act [Mar. 2, 2004].”

Effective Date of 1999 Amendment
Amendment by Pub. L. 106–170 effective with the first month following one year after Dec. 17, 1999, subject to section 1320b–19 of this title.

Effective Date of 1996 Amendment
Amendment by Pub. L. 104–121 effective July 1, 1996, with respect to any individual whose claim for benefits is finally adjudicated on or after Mar. 29, 1996, or whose entitlement to benefits is based upon an entitlement redetermination made pursuant to section 105(a)(4)(C) of Pub. L. 104–121, see section 105(a)(5) of Pub. L. 104–121, as amended, set out as a note under section 405 of this title.

Effective Date of 1994 Amendment

Section 203(a)(4)(C) of Pub. L. 103–296 provided that: “The amendments made by this paragraph [amending this section and section 423 of this title] shall take effect on the date of the enactment of this Act [Aug. 16, 1994].”

Effective Date of 1990 Amendment
Section 512(b) of Pub. L. 101–508 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1992.”

Effective Date of 1984 Amendments
Section 11(c) of Pub. L. 98–469 provided that: “The amendments made by this section [amending this section and section 1382d of this title] shall apply with respect to individuals who receive benefits as a result of section 225(b) or section 1631(a)(6) of the Social Security Act [section 225(b) or 1631(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 the month in which this Act is enacted [October 1984].”

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 286a(b) of Pub. L. 98–369, set out as a note under section 401 of this title.

Effective Date of 1983 Amendment
Amendment by Pub. L. 98–21 applicable only with respect to monthly payments payable under this subchapter for months after April, 1983, see section 319 of Pub. L. 98–21, set out as a note under section 402 of this title.

Effective Date of 1981 Amendment
Section 2209(b) of Pub. L. 97–35 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to services rendered on or after October 1, 1981.”

Effective Date of 1980 Amendment
Amendment by Pub. L. 96–265 effective on first day of sixth month which begins after June 9, 1980, and applicable to any individual whose disability has not been determined to have ceased prior to such first day, see section 303(d) of Pub. L. 96–265, set out as a note under section 402 of this title.

Effective Date of 1972 Amendment
Amendment by Pub. L. 92–663 applicable with respect to monthly benefits under this subchapter for months after Dec. 1972, with specified exceptions, see section 107(c) of Pub. L. 92–663, set out as a note under section 402 of this title.

Effective Date of 1968 Amendment
Amendment by section 104(d)(3), (4) 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)(5) 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 1965 Amendment
Amendment by section 308(d)(11) of Pub. L. 89–97 applicable with respect to monthly insurance benefits under this subchapter beginning with the second month following July 1965, but, in the case of an individual who was not entitled to a monthly insurance benefit under section 402 of this title for the first month following July 1965, only on the basis of an application filed in or after July 1965, see section 308(e) of Pub. L. 89–97, set out as a note under section 402 of this title.

Effective Date of 1960 Amendment
Section 403(e) of Pub. L. 86–778 provided that:

“(1) The amendment made by subsection (a) [amending this section] shall be effective only with respect to months beginning after the month in which this Act is enacted [September 1960].

“(2) The amendments made by subsections (b) and (d) [amending sections 423 and 402 of this title] shall apply only with respect to benefits under section 225(a) or 202(d) of the Social Security Act [section 423(a) or 422(d) of this title] for months after the month in which this Act is enacted in the case of individuals who, without regard to such amendments, would have been entitled to such benefits for the month in which this Act is enacted or for any succeeding month.

“(3) The amendment made by subsection (c) [amending section 416 of this title] shall apply only in the case of individuals who have a period of disability (as defined in section 216(i) of the Social Security Act [sec-
tion 416(i) of this title)) beginning on or after the date of the enactment of this Act (Sept. 13, 1960), or beginning before such date and continuing, without regard to such amendment, beyond the end of the month in which this Act is enacted."

**Effective Date of 1958 Amendment**
Amendment by section 205(n) 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 August 28, 1958, see section 207(a) of Pub. L. 85–840, set out as a note under section 416 of this title.

Section 207(h)(3) of Pub. L. 85–840 provided that: "The amendments made by subsection (g) [amending this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months, occurring after the month in which this Act is enacted (Aug. 1958), in which a deduction is incurred under paragraph (1) of section 222(b) of the Social Security Act [subsec. (b)(1) of this section]."

§ 423. Disability insurance benefit payments
(a) Disability insurance benefits

(1) Every individual who—
(A) is insured for disability insurance benefits (as determined under subsection (c)(1) of this section),
(B) has not attained retirement age (as defined in section 416(i) of this title),
(C) is not a United States citizen or national—
(i) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (II) of section 405(c)(2)(B)(i) of this title; or
(ii) at the time any quarters of coverage are earned—
(I) is described in subparagraph (B) or (D) of section 1101(a)(15) of title 8,
(II) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and
(III) the business engaged in or service as a crewman performed is within the scope of the terms of such individual’s admission to the United States.1
(D) has filed application for disability insurance benefits, and
(E) is under a disability (as defined in subsection (d) of this section)
shall be entitled to a disability insurance benefit (i) for each month beginning with the first month after his waiting period (as defined in subsection (c)(2) of this section) in which he becomes so entitled to such insurance benefits, or (ii) for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability insurance benefits which terminated, or had a period of disability (as defined in section 416(i) of this title) which ceased, within the 60-month period preceding the first month in which he is under such disability, and ending with the month preceding whichever of the following months is the earliest: the month in which he dies, the month in which he attains retirement age (as defined in section 416(i) of this title), or, subject to subsection (e) of this section, the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 422(c)(4)(A) of this title, the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 36 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity. No payment under this paragraph may be made to an individual who would not meet the definition of disability in subsection (d) of this section except for paragraph (1)(B) thereof for any month in which he engages in substantial gainful activity, and no payment may be made for such month under subsection (b), (c), or (d) of section 402 of this title to any person on the basis of the wages and self-employment income of such individual. In the case of a deceased individual, the requirement of subparagraph (C) may be satisfied by an application for benefits filed with respect to such individual within 3 months after the month in which he died.

(2) Except as provided in section 402(q) of this title and section 415(b)(2)(A)(ii) of this title, such individual’s disability insurance benefit for any month shall be equal to his primary insurance amount for such month determined under section 415 of this title as though he had attained age 62 in—
(A) the first month of his waiting period, or
(B) in any case in which clause (ii) of paragraph (1) of this subsection is applicable, the first month for which he becomes entitled to such disability insurance benefits, and
and as though he had become entitled to old-age insurance benefits in the month in which the application for disability insurance benefits was filed and he was entitled to an old-age insurance benefit for each month for which (pursuant to subsection (b) of this section) he was entitled to a disability insurance benefit. For the purposes of the preceding sentence, in the case of an individual who attained age 62 in or before the first month referred to in subparagraph (A) or (B) of such sentence, as the case may be, the elapsed years referred to in section 415(b)(5) of this title shall not include the year in which he attained age 62, or any year thereafter.

(b) Filing application
An application for disability insurance benefits filed before the first month in which the applicant satisfies the requirements for such benefits (as prescribed in subsection (a)(1) of this sec-

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1 So in original. The period probably should be a comma.
(c) Definitions; insured status; waiting period

For purposes of this section—

(1) An individual shall be insured for disability insurance benefits in any month if—

(A) he would have been a fully insured individual (as defined in section 414 of this title) had he attained age 62 and filed application for benefits under section 402(a) of this title on the first day of such month, and

(B)(i) he had not less than 20 quarters of coverage during the 40-quarter period which ends with the quarter in which such month occurred, or

(ii) if such month ends before the quarter in which he attains (or would attain) age 31, not less than one-half (and not less than 6) of the quarters during the period ending with the quarter in which such month occurred and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage, or

(iii) in the case of an individual (not otherwise insured under clause (i)) who, by reason of section 416(i)(3)(B)(ii) of this title, had a prior period of disability that began during a period before the quarter in which he or she attained age 31, not less than one-half of the quarters beginning after such individual attained age 21 and ending with the quarter in which such month occurs are quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage; except that the provisions of subparagraph (B) of this paragraph shall not apply in the case of an individual who is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title). For purposes of subparagraph (B) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a period of disability unless such quarter was a quarter of coverage.

(2) The term “waiting period” means, in the case of any application for disability insurance benefits, the earliest period of five consecutive calendar months—

(A) throughout which the individual with respect to whom such application is filed has been under a disability, and

(B)(i) which begins not earlier than with the first day of the seventeenth month before the month in which such application is filed if such individual is insured for disability insurance benefits in such seventh month, or (ii) if he is not so insured in such month, which begins not earlier than with the first day of the first month after such seventeenth month in which he is so insured.

Notwithstanding the preceding provisions of this paragraph, no waiting period may begin for any individual before January 1, 1957.

(d) “Disability” defined

(1) The term “disability” means—

(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

(B) in the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

(2) For purposes of paragraph (1)(A)—

(A) An individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), “work which exists in the national economy” means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(B) In determining whether an individual’s physical or mental impairment or impairments are of a sufficient medical severity that such impairment or impairments could be the basis of eligibility under this section, the Commissioner of Social Security shall consider the combined effect of all of the individual’s impairments without regard to whether any such impairment, if considered separately, would be of such severity. If the Commissioner of Social Security does find a medically severe combination of impairments, the combined impact of the impairments shall be considered throughout the disability determination process.
(C) An individual shall not be considered to be disabled for purposes of this subchapter if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner’s determination that the individual is disabled.

(3) For purposes of this subsection, a “physical or mental impairment” is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(4)(A) The Commissioner of Social Security shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual’s ability to engage in substantial gainful activity. No individual who is blind shall be regarded as having demonstrated an ability to engage in substantial gainful activity on the basis of earnings that do not exceed an amount equal to the exempt amount which would be applicable under section 403(f)(8) of this title, to individuals described in subparagraph (D) thereof, if section 102 of the Senior Citizens’ Right to Work Act of 1996 had not been enacted. Notwithstanding the provisions of paragraph (2), an individual whose services or earnings meet such criteria shall, except for purposes of section 422(c) of this title, be found not to be disabled. In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Commissioner of Social Security in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Commissioner of Social Security may prescribe.

(B) In determining under subparagraph (A) when services performed or earnings derived from services demonstrate an individual’s ability to engage in substantial gainful activity, the Commissioner of Social Security shall apply the criteria described in subparagraph (A) with respect to services performed by any individual without regard to the legality of such services.

(5)(A) An individual shall not be considered to be under a disability unless he furnishes such medical and other evidence of the existence thereof as the Commissioner of Social Security may require. An individual’s statement as to pain or other symptoms shall not alone be conclusive evidence of disability as defined in this section; there must be medical signs and findings, established by medically acceptable clinical or laboratory diagnostic techniques, which show the existence of a medical impairment that results from anatomical, physiological, or psychological abnormalities which could reasonably be expected to produce the pain or other symptoms alleged and which, when considered with all evidence required to be furnished under this paragraph (including statements of the individual or his physician as to the intensity and persistence of such pain or other symptoms which may reasonably be accepted as consistent with the medical signs and findings), would lead to a conclusion that the individual is under a disability. Objective medical evidence of pain or other symptoms established by medically acceptable clinical or laboratory techniques (for example, deteriorating nerve or muscle tissue) must be considered in reaching a conclusion as to whether the individual is under a disability. Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required and requested by the Commissioner of Social Security under this paragraph shall be entitled to payment from the Commissioner of Social Security for the reasonable cost of providing such evidence.

(B) In making any determination with respect to whether an individual is under a disability or continues to be under a disability, the Commissioner of Social Security shall consider all evidence available in such individual’s case record, and shall develop a complete medical history of at least the preceding twelve months for any case in which a determination is made that the individual is not under a disability. In making any determination the Commissioner of Social Security shall make every reasonable effort to obtain from the individual’s treating physician (or other treating health care provider) all medical evidence, including diagnostic tests, necessary in order to properly make such determination, prior to evaluating medical evidence obtained from any other source on a consultative basis.

(6)(A) Notwithstanding any other provision of this subchapter, any physical or mental impairment which arises in connection with the commission by an individual (after October 19, 1980) of an offense which constitutes a felony under applicable law and for which such individual is subsequently convicted, or which is aggravated in connection with such an offense (but only to the extent so aggravated), shall not be considered in determining whether an individual is under a disability.

(B) Notwithstanding any other provision of this subchapter, any physical or mental impairment which arises in connection with an individual’s confinement in a jail, prison, or other penal institution or correctional facility pursuant to such individual’s conviction of an offense (committed after October 19, 1980) constituting a felony under applicable law, or which is aggravated in connection with such a confinement (but only to the extent so aggravated), shall not be considered in determining whether such individual is under a disability for purposes of benefits payable for any month during which such individual is so confined.

(e) Engaging in substantial gainful activity:

(1) No benefit shall be payable under subsection (d)(1)(B)(ii), (d)(6)(A)(ii), (d)(6)(B),
Nothing in this subsection shall be construed to require a determination that a recipient of benefits under this subchapter or subchapter XVIII of this chapter based on an individual’s disability is entitled to such benefits if the prior determination was fraudulent or if the individual engaged in substantial gainful activity, cannot be located, or fails, without good cause, to cooperate in a review of the entitlement to such benefits or to follow prescribed treatment which would be expected to restore his or her ability to engage in substantial gainful activity. In making for purposes of the preceding sentence any determination relating to fraudulent behavior by any individual or failure by any individual without good cause to cooperate or to take any required action, the Commissioner of Social Security shall specifically take into account any physical, mental, educational, or linguistic limitation such individual may have (including any lack of facility with the English language). Any determination under this section shall be made on the basis of all the evidence available in the individual’s case file, including new evidence concerning the individual’s prior or current condition which is presented by the individual or secured by the Commissioner of Social Security. Any determination made under this section shall be made on the basis of the weight of the evidence and on a neutral basis with regard to the individual’s condition, without any initial inference as to the presence or absence of disability being drawn from the fact that the individual has previously been determined to be disabled. For purposes of this subsection, a benefit under this subchapter is based on an individual’s disability if it is a disability insurance benefit, a child’s, widow’s, or widower’s insurance benefit based on disability, or a mother’s or father’s insurance benefit based on the disability of the mother’s or father’s child who has attained age 16.

(g) Continued payment of disability benefits during appeal

(1) In any case where—
(A) an individual is a recipient of disability insurance benefits, or of child’s, widow’s, or widower’s insurance benefits based on disability,
(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits, and
(C) a timely request for a hearing under section 423(d) of this title, or for an administrative review prior to such hearing, is pending with respect to the determination that he is not so entitled,

such individual may elect (in such manner and form and within such time as the Commissioner of Social Security shall by regulations prescribe) to have the payment of such benefits, the payment of any other benefits under this subchapter based on such individual’s wages and self-employment income, the payment of mother’s or father’s insurance benefits to such individual’s mother or father based on the disability of such individual as a child who has attained...
age 16, and the payment of benefits under sub-
chapter XVIII of this chapter based on such indi-
vidual’s disability, continued for an additional
period beginning with the first month beginning
after January 12, 1983, for which (under such de-
termination) such benefits are no longer other-
wise payable, and ending with the earlier of (i)
the month preceding the month in which a deci-
sion is made after such a hearing, or (ii) the
month preceding the month in which no such re-
quest for a hearing or an administrative review is
being.
(2)(A) If an individual elects to have the pay-
ment of his benefits continued for an additional
period under paragraph (1), and the final deci-
sion of the Commissioner of Social Security af-
irms the determination that he is not entitled
to such benefits, any benefits paid under this
subchapter pursuant to such election (for months
in such additional period) shall be con-
sidered overpayments for all purposes of this
subchapter, except as otherwise provided in sub-
paragraph (B).
(B) If the Commissioner of Social Security de-
determines that the individual’s appeal of his ter-
mination of benefits was made in good faith, all
of the benefits paid pursuant to such individu-
al’s election under paragraph (1) shall be sub-
ject to waiver consideration under the provi-
sions of section 404 of this title. In making for
purposes of this subparagraph any determina-
tion of whether any individual’s appeal is made
in good faith, the Commissioner of Social Secu-
ritv shall specifically take into account any
physical, mental, educational, or linguistic limi-
tation such individual may have (including any
lack of facility with the English language).

(h) Interim benefits in cases of delayed final de-
cisions
(1) In any case in which an administrative law
judge has determined after a hearing as provided
under section 405(b) of this title that an individu-
al is entitled to disability insurance benefits or
child’s, widow’s, or widower’s insurance benefits
based on disability and the Commissioner of So-
cial Security has not issued the Commissioner’s
final decision in such case within 110 days after
the date of the administrative law judge’s deter-
mination, such benefits shall be currently paid
for the months during the period beginning with
the month preceding the month in which such
110-day period expires and ending with the
month preceding the month in which such final
decision is issued.
(2) For purposes of paragraph (1), in determin-
ing whether the 110-day period referred to in
paragraph (1) has elapsed, any period of time for
which the action or inaction of such individual
or such individual’s representative without good
cause results in the delay in the issuance of the
Commissioner’s final decision shall not be taken
into account to the extent that such period of
time exceeds 20 calendar days.
(3) Any benefits currently paid under this sub-
chapter pursuant to this subsection (for the
months described in paragraph (1)) shall not be
considered overpayments for any purpose of this
subchapter (unless payment of such benefits was
fraudulently obtained), and such benefits shall
not be treated as past-due benefits for purposes
of section 406(b)(1) of this title.

(i) Reinstatement of entitlement
(1)(A) Entitlement to benefits described in
subparagraph (B)(i)(I) shall be reinstated in any
case where the Commissioner determines that
an individual described in subparagraph (B) has
filed a request for reinstatement meeting the re-
quirements of paragraph (2)(A) during the period
prescribed in subparagraph (C). Reinstatement
of such entitlement shall be in accordance with
the terms of this subsection.
(B) An individual is described in this subpara-
graph if—
(i) prior to the month in which the individ-
ual files a request for reinstatement—
(I) the individual was entitled to benefits
under this section or section 402 of this title
on the basis of disability pursuant to an ap-
lication filed therefor; and
(II) such entitlement terminated due to
the performance of substantial gainful act-
ivity;
(ii) the individual is under a disability and
the physical or mental impairment that is the
basis for the finding of disability is the same
as (or related to) the physical or mental im-
pairment that gave rise to the entitlement de-
scribed in clause (i); and
(iii) the individual’s disability renders the
individual unable to perform substantial gain-
ful activity.
(C)(i) Except as provided in clause (ii), the pe-
riod prescribed in this subparagraph with re-
spect to an individual is 60 consecutive months
beginning with the month following the most re-
cent month for which the individual was enti-
tled to a benefit described in subparagraph (B)(i)(I) prior to the entitlement termination de-
scribed in subparagraph (B)(i)(II).
(ii) In the case of an individual who fails to
file a reinstatement request within the period
prescribed in clause (i), the Commissioner may
extend the period if the Commissioner deter-
mines that the individual had good cause for the
failure to so file.
(2)(A)(i) A request for reinstatement shall be
filed in such form, and containing such informa-
tion, as the Commissioner may prescribe.
(ii) A request for reinstatement shall include
express declarations by the individual that the
individual meets the requirements specified in
clauses (ii) and (iii) of paragraph (1)(B).
(B) A request for reinstatement filed in ac-
cordance with subparagraph (A) may constitute
an application for benefits in the case of any in-
dividual who the Commissioner determines is
not entitled to reinstated benefits under this
subsection.
(3) In determining whether an individual
meets the requirements of paragraph (1)(B), the
provisions of subsection (f) of this section
shall apply.
(4)(A)(i) Subject to clause (ii), entitlement to
benefits reinstated under this subsection shall
commence with the benefit payable for the
month in which a request for reinstatement is
filed.
(ii) An individual whose entitlement to a bene-
fit for any month would have been reinstated
under this subsection had the individual filed a
request for reinstatement before the end of such month shall be entitled to such benefit for such month if such request for reinstatement is filed before the end of the twelfth month immediately preceding such month.

(B) Subject to clauses (ii) and (iii), the amount of the benefit payable for any month pursuant to the reinstatement of entitlement under this subsection shall be determined in accordance with the provisions of this subchapter.

(ii) For purposes of computing the primary insurance amount of an individual whose entitlement to benefits under this section is reinstated under this subsection, the date of onset of the individual’s disability shall be the date of onset used in determining the individual’s most recent period of disability arising in connection with such benefits payable on the basis of an application.

(iii) Benefits under this section or section 402 of this title payable for any month pursuant to a request for reinstatement filed in accordance with paragraph (2) shall be reduced by the amount of any provisional benefit paid to such individual for such month under paragraph (7).

(C) No benefit shall be payable pursuant to an entitlement reinstated under this subsection to an individual for any month in which the individual engages in substantial gainful activity.

(D) The entitlement of any individual that is reinstated under this subsection shall end with the benefits payable for the month preceding whichever of the following months is the earliest:

(1) The month in which the individual dies.

(2) The month in which the individual attains retirement age.

(3) The third month following the month in which the individual’s disability ceases.

(4) Whenever an individual’s entitlement to benefits under this section is reinstated under this subsection, entitlement to benefits payable on the basis of such individual’s wages and self-employment income may be reinstated with respect to any person previously entitled to such benefits on the basis of an application if the Commissioner determines that such person satisfies all the requirements for entitlement to such benefits except requirements related to the filing of an application. The provisions of paragraph (4) shall apply to the reinstated entitlement of any such person to the same extent that they apply to the reinstated entitlement of such individual.

(E) An individual to whom benefits are payable under this section or section 402 of this title pursuant to a reinstatement of entitlement under this subsection for 24 months (whether or not consecutive) shall, with respect to benefits so payable after such twenty-fourth month, be deemed for purposes of paragraph (1)(B)(i)(I) and the determination, if appropriate, of the termination month in accordance with subsection (a)(1) of this section, or subsection (d)(1), (e)(1), or (f)(1) of section 402 of this title, to be entitled to such benefits on the basis of an application filed therefor.

(7)(A) An individual described in paragraph (1)(B) who files a request for reinstatement in accordance with the provisions of paragraph (2)(A) shall be entitled to provisional benefits payable in accordance with this paragraph, unless the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual’s declaration under paragraph (2)(A)(ii) is false. Any such determination by the Commissioner shall be final and not subject to review under subsection (b) or (g) of section 405 of this title.

(B) The amount of a provisional benefit for a month shall equal the amount of the last monthly benefit payable to the individual under this subchapter on the basis of an application increased by an amount equal to the amount, if any, by which such last monthly benefit would have been increased as a result of the operation of section 415 of this title.

(C)(i) Provisional benefits shall begin with the month in which a request for reinstatement is filed in accordance with paragraph (2)(A).

(ii) Provisional benefits shall end with the earliest of—

(I) the month in which the Commissioner makes a determination regarding the individual’s entitlement to reinstated benefits;

(II) the fifth month following the month described in clause (i);

(III) the month in which the individual performs substantial gainful activity; or

(IV) the month in which the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual’s declaration made in accordance with paragraph (2)(A)(ii) is false.

(D) In any case in which the Commissioner determines that an individual is not entitled to reinstated benefits, any provisional benefits paid to the individual under this paragraph shall not be subject to recovery as an overpayment unless the Commissioner determines that the individual knew or should have known that the individual did not meet the requirements of paragraph (1)(B).

(j) Limitation on payments to prisoners

For provisions relating to limitation on payments to prisoners, see section 402(x) of this title.

REFERENCES IN TEXT


AMENDMENTS

2004—Subsec. (a)(1)(C) to (E). Pub. L. 108-203 added subpar. (C) and redesignated former subpars. (C) and (D) as (E) and (D), respectively.


1990—Subsec. (d)(2)(A). Pub. L. 101-508, § 1503(a), struck out "except a widow, surviving divorced wife, widower, or surviving divorced husband for purposes of section 402(e) or (f) of this title" after "an individual".

Subsec. (d)(2)(B). (C). Pub. L. 101-508, § 5108(a)(2), (3), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: "A widow, surviving divorced wife, widower, or surviving divorced husband shall not be determined to be under a disability (for purposes of section 402(e) or (f) of this title) unless his or her physical or mental impairment or impairments are of a level of severity which under regulations prescribed by the Secretary is deemed to be sufficient to preclude an individual from engaging in any gainful activity."

Subsec. (e). Pub. L. 101-508, § 5118(a), designated existing provision as par. (1) and added par. (2).

Subsec. (f). Pub. L. 101-508, § 5108(b)(5), struck out "(or gainful activity in the case of a widow, surviving divorced wife, widower, or surviving divorced husband)" after "gainful activity" in two places in first sentence following par. (4).

Subsec. (f)(1)(B). Pub. L. 101-508, § 5103(b)(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "(B)(i) the individual is now able to engage in substantial gainful activity, or

"(ii) if the individual is a widow or surviving divorced wife under section 402(e) of this title or a widower or surviving divorced husband under section 402(f) of this title, the severity of his or her impairment or impairments is no longer deemed, under regulations prescribed by the Secretary, sufficient to preclude the individual from engaging in gainful activity; or"


"(ii) if the individual is able to engage in substantial gainful activity, or"

"(II) if the individual is a widow or surviving divorced wife under section 402(e) of this title or a widower or surviving divorced husband under section 402(f) of this title, the severity of his or her impairment or impairments is no longer deemed under regulations prescribed by the Secretary sufficient to preclude the individual from engaging in gainful activity; or"

Subsec. (g)(1). Pub. L. 101-508, § 5102(1), inserted "or" before "(ii)" and substituted "pending" for "pending, or (iii) June 1991" before period at end.

Subsec. (g)(3). Pub. L. 101-508, § 5102(2), struck out par. (3) which read as follows: "The provisions of paragraphs (1) and (2) shall apply with respect to determinations (that individuals are not entitled to benefits) which are made—" (A) on or after January 1, 1983, or prior to such date but only on the basis of a timely request for a hearing under section 421(d) of this title, or for an administrative review prior to such hearing, and

"(B) prior to January 1, 1994."

1989—Subsec. (f). Pub. L. 101-239, § 13035(c), inserted after first sentence of concluding provisions "in making for purposes of the preceding sentence any determinations relating to fraudulent behavior by any individual or failure by any individual without good cause to cooperate or to take any required action, the Sec-
The term "individual" shall specifically take into account any physical, mental, educational, or linguistic limitation such individual may have (including any lack of facility with the English language)." Subsec. (g)(1)(ii). Pub. L. 101-239, § 10101(1), substituted "1991" for "1990". Subsec. (g)(2)(B). Pub. L. 101-239, § 10305(d), inserted at end referring to purposes of this subparagraph any determination of whether any individual's appeal is made in good faith, the Secretary shall specifically take into account any physical, mental, educational, or linguistic limitation such individual may have (including any lack of facility with the English language)."


Subsec. (g)(3)(B). Pub. L. 100-167, § 8006(1), added subsec. (h) and redesignated former subsec. (h) as (i).

1987—Subsec. (a)(1). Pub. L. 100-203, § 9010(a), substituted "36 months" for "15 months".

Subsec. (e). Pub. L. 100-203, § 9010(e)(2), substituted "36-month period" for "15-month period".

Subsec. (g)(1). Pub. L. 100-203, § 9009(a), substituted "June 1989" for "June 1988" in cl. (iii) at end.


Subsec. (g)(1). Pub. L. 99-514 struck out second comma after "payment of such benefits" in provisions following subpar. (C).


Subsec. (c)(1)(B). Pub. L. 98-365, § 2662(c)(2), substituted "retirement age (as defined in section 416(i) of this title)" for "the age of sixty-five".


Subsec. (d)(2). Pub. L. 98-21, § 330(c), substituted "widower, or surviving divorced husband" for "or widower" wherever appearing.


Subsec. (g). Pub. L. 97-455 added subsec. (g).


1980—Subsec. (a)(1). Pub. L. 96-460, § 7(a)(2), substituted "Except as provided in section 402(q) and section 415(b)(2)(A)(ii) of this title" for "Except as provided in section 402(q) of this title".

Subsec. (b). Pub. L. 96-265, § 306(c), inserted provisions relating to limitations on the prospective effect of applications.


Subsec. (d)(5). Pub. L. 96-265, § 309(a), inserted provisions relating to payment for existing medical evidence.


Subsec. (a)(2). Pub. L. 92-603, §§ 104(c), 118(a)(2), struck out "(if a woman) or age 65 (if a man)" after "attained age 62" and substituted "an individual" for "a woman", in which he attained age 62" for "in which she attained age 62", and "the application for disability insurance benefits was filed and he was" for "he filed his application for disability insurance benefits and was".

Subsec. (b). Pub. L. 92-603, §§ 118(a)(3), substituted "if such application is filed" for "if he files such application".

Subsec. (c)(1). Pub. L. 92-603, §§ 104(d), 117(b), struck out "(if a woman) or age 65 (if a man)" after "attained age 62" in subpar. (A) and in provisions following subpar. (B) inserted provisions eliminating the disability insured status requirement of substantial recent covered work in the case of individuals who are blind.

Subsec. (c)(2). Pub. L. 92-603, § 118(a)(4), substituted "five consecutive calendar months" for "six consecutive calendar months" in provisions preceding subpar. (A), substituted "with respect to whom such application is filed" for "who files such application" in subpar. (A), and substituted "seventeenth" for "eightheenth" in subpar. (B).

1968—Subsec. (a)(1). Pub. L. 90-248, § 158(c)(6)(B), substituted in subpar. (D) reference to "subsection (d)" for "subsection (c)(2)" in text of first sentence following subpar. (D) reference to "subsection (c)(2)" for "subsection (c)(3)" and in last sentence following subpar. (D) reference to "subsection (d) except for paragraph (1)(B) thereof" for "subsection (c)(2) except for subparagraph (B) thereof", respectively.

Subsec. (c). Pub. L. 90-248, § 158(a), restricted heading to definitions of "insured status" and "waiting period", struck out former par. (2) defining "disability" and requiring medical and other evidence of disability, now incorporated in subsec. (d)(1)(A), (5) of this section, and redesignated former par. (3) subpar. (A).

Subsec. (c)(1)(B)(ii). Pub. L. 90-248, § 105(b), substituted in cl. (i) "before the quarter in which he at-
tains” for “before he attains” and struck out “and he is under a disability by reason of blindness (as defined in section 416(i)(1) of this title)” after “age 31”.

Subsec. (c). Pub. L. 90–248, § 154(b), redesignated former first sentence of former subsec. (c)(2), comprising subpars. (A) and (B), as par. (1)(A), (B), added paras. (2) to (4), and redesignated former second sentence of former subsec. (c)(2) as par. (5).

1965—Subsec. (a)(1). Pub. L. 89–97, §§ 3303(b)(3), 344(c), struck out from subpar. (D) “at the time such application is filed, after parenthetical provision and from provisions following subpar. (D) “the first month for which he is entitled to old-age insurance benefits” after “age 65,”; and prohibit payment to an individual who would not meet the definition of disability in subsec. (c)(2) except for subpar. (B) thereof for any month in which he engages in substantial gainful activity, and payment for such month under subsec. (b), (c), or (d) of section 402 of this title to any person on the basis of the wages and self-employment income of such individual, respectively.

Subsec. (a)(2). Pub. L. 89–97, §§ 3302(c), 3404(m), inserted in first sentence “and was entitled to an old-age insurance benefit for each month for which (pursuant to subsection (b) of this section) he was entitled to a disability insurance benefit” and “Except as provided in section (c)(2)(B) of this title” and in last sentence substituted “shall not include the year” for “shall not include the first year” and struck out “both was fully insured and had” before “attained age 62 in two places, respectively.

Subsec. (a)(3). Pub. L. 89–97, § 304(m), repealed par. (3) which prohibited an individual from becoming entitled to disability insurance benefits if he is entitled to a widow’s, widower’s, or parent’s insurance benefit, or an old-age, wife’s or husband’s insurance benefit.

Subsec. (b). Pub. L. 89–97, §§ 3303(c), 328(c), struck out from last sentence “after June 1957” after “for any months” and substituted “before” for “prior to” where first appearing and “if he files such application before the end of the 12th month immediately succeeding such month” for “if he is continuously under a disability after such month and until he files application therefor and he files said application prior to the end of the twelfth month immediately succeeding such month”; and substituted provisions calling for an application for benefits filed before the first month in which the applicant satisfies the requirements for such benefits to be deemed a valid application only if the applicant satisfies the requirements before the Secretary makes a final decision on the application and for the application to be deemed filed in the first month if the applicant is found to satisfy the requirements for providing an outer limit in the time prior to entitlement during which an application would be deemed filed during the first prior month to entitlement, respectively.

Subsec. (c)(1). Pub. L. 89–97, § 344(b), removed from existing subpar. (B) provision prohibiting the inclusion, as part of such 40-quarter period, of any quarter any part of which was included in a prior period of disability unless such quarter was a quarter of coverage, and designated such subpar., as so amended as subpar. (B)(i), added subpar. (B)(ii), and added the material following subpar. (B)(ii) prohibiting inclusion of any quarter as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage and calling for reduction by one of the number of quarters in any period whenever such number of quarters is an odd number.

Subsec. (c)(2)(A). Pub. L. 89–97, § 303(a)(2), designated existing provisions as subpar. (A) and substituted “which has lasted or can be expected to last for a continuous period of not less than 12 months; or for “to be of long-continued and indefinite duration”.


Subsec. (c)(3)(A). Pub. L. 89–97, § 303(b)(4), struck out “which continues until such application is filed” after “disability”.

1961—Subsec. (a)(1). Pub. L. 87–64, § 102(b)(2)(C), substituted “‘the month in which he attains age 65, the first month for which he is entitled to old-age insurance benefits’” for “‘the month in which he attains the age of sixty-five’”.

Subsec. (a)(2). Pub. L. 87–64, § 102(c)(2)(C), (3)(D), substituted “‘as though he had attained age 62 (if a woman), age 65 (if a man)” for “‘as though he had attained retirement age’, and ‘fully insured and had attained age 62’ for ‘fully insured and had attained retirement age’, in two places.


Subsec. (c)(1)(A). Pub. L. 87–64, § 102(c)(3)(E), substituted “attained age 62 (if a woman) or age 65 (if a man)” for “attained retirement age”.

1960—Subsec. (a)(1). Pub. L. 86–778, §§ 401(a), 402(a), 403(b), struck out provisions from cl. (B) which required an individual to have attained the age of 50, inserted provisions authorizing payment of benefits to an individual for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability insurance benefits which terminated, or had a period of disability which ceased, within the 60-month period preceding the first month for which such disability and substituted provisions requiring benefits to end with the month preceding whichever of the following is the earliest: the month in which he dies, the month in which he attains the age of 65, or the third month following the month in which his disability ceases for provisions which required the benefits to end with the month preceding the first month in which any of the following occurs: his disability ceases, he dies, or he attains the age of 65.

Subsec. (a)(2). Pub. L. 86–778, § 303(f), amended generally subsec. (a)(2), as amended by section 402(b) of Pub. L. 86–778 which read as follows: “Such individual’s disability insurance benefit for any month shall be equal to his primary insurance amount for such month determined under section 415 of this title as though he became entitled to old-age insurance benefits in—

‘‘(A) the first month of his waiting period, or “(B) in any case in which clause (ii) of paragraph (1) of this subsection is applicable, the first month for which he becomes so entitled to such disability insurance benefits.”

Pub. L. 86–778, § 402(b), amended subsec. (a)(2) generally. Prior to amendment, subsec. (a)(2) read as follows: “Such individual’s disability insurance benefit for any month shall be equal to his primary insurance amount for such month determined under section 415 of this title as though he became entitled to old-age insurance benefits in the first month of his waiting period.”

Subsec. (b). Pub. L. 86–778, § 402(c), (d), prohibited acceptance of an application, in any case in which cl. (i) of par. (1) of subsec. (a) of this section is applicable, if it is filed more than six months before the first month for which the applicant becomes entitled to benefits, inserted provisions requiring any application filed within the nine months’ period or six months’ period, as the case may be, to be deemed to have been filed in such first month, and substituted “if he is continuously under a disability after such month and until he files application therefor, and he files such application thereafter” for “if he files application therefor”.

Subsec. (c)(3). Pub. L. 86–778, § 401(b), struck out provisions which prohibited a waiting period for any individual beginning the first day of the third month after the month in which he attains the age of 60.

1958—Subsec. (b). Pub. L. 85–640, § 202(a), provided that individuals who would have been entitled to disability insurance benefits for any month after June 1957 had they filed application therefor prior to the end of such month shall be entitled to disability benefits for such month if they file application therefor prior to the end of the twelfth month immediately succeeding such month.

Subsec. (c)(3). Pub. L. 85–840, §202(b), inserted "which continues until such application is filed" after "under a disability" in cl. (A), and substituted "eighteenth month" for "sixth month" in three instances in cl. (B).


effective Date of 2004 Amendment
Amendment by Pub. L. 108–203 applicable to benefit applications based on social security account numbers issued on or after Jan. 1, 2004, see section 211(c) of Pub. L. 108–203, set out as a note under section 414 of this title.

Effective Date of 1999 Amendment
Pub. L. 106–170, title I, §112(c), Dec. 17, 1999, 113 Stat. 1886, provided that:

"(1) In General.—The amendments made by this section [amending this section and section 1383 of this title] shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act [Dec. 17, 1999]."

"(2) Limitation.—No benefit shall be payable under the title or subchapter of the Social Security Act, subchapter II or XVI of this chapter) on the basis of a request for reinstatement filed under section 223(i) or 1631(p) of the Social Security Act (42 U.S.C. 423(i), 1383(p)) before the effective date described in paragraph (1)."

Effective Date of 1996 Amendment
Amendment by section 102(b)(2) of Pub. L. 104–121 applicable with respect to taxable years ending after 1995, see section 102(c) of Pub. L. 104–121, set out as a note under section 405 of this title.

Subsec. (a)(1). Pub. L. 104–121 applicable to individual who applied, and whose claim is finally adjudicated with respect to benefits under this subchapter based on disability on or after March 29, 1996, with special rule for any individual who applied, and whose claim has been finally adjudicated, before March 29, 1996, see section 104(a)(5) of Pub. L. 104–121, set out as a note under section 405 of this title.

Effective Date of 1994 Amendment
Amendment by section 107(a)(4) of Pub. L. 103–266 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–266, set out as a note under section 401 of this title.

Section 321(f)(3) of Pub. L. 103–266 effective or if included in the provisions of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508, to which such amendment relates, see section 321(f)(5) of Pub. L. 103–266, set out as a note under section 405 of this title.

Section 5103(b) of Pub. L. 101–508 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to benefits for months after the date of the enactment of this Act [Nov. 9, 1989]."

Effective Date of 1990 Amendment
Amendment by section 1092(a), (b)(2)–(5) of Pub. L. 101–508 applicable with respect to monthly insurance benefits for months after December 1990 for which applications are filed on or after Jan. 1, 1991, or are pending on such date, see section 1092(e) of Pub. L. 101–508, set out as a note under section 402 of this title.

Section 5103(b) of Pub. L. 101–508 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to benefits for months after the date of the enactment of this Act [Nov. 9, 1989]."

Effective Date of 1989 Amendment
Amendment by section 10305(c), (d) of Pub. L. 101–239 applicable with respect to determinations made on or after July 1, 1990, see section 10305(f) of Pub. L. 101–239, set out as a note under section 403 of this title.

Effective Date of 1988 Amendment
Section 8001(c) of Pub. L. 100–647 provided that: "The amendments made by this section [amending this section and section 1383 of this title] shall apply to determinations by administrative law judges of entitlement to benefits made after 180 days after the date of the enactment of this Act [Nov. 10, 1988]."

Effective Date of 1987 Amendment
Amendment by section 9010(a), (e)(2) of Pub. L. 100–203 effective Jan. 1, 1988, and applicable with respect to individuals entitled to benefits under specific provisions of this section and section 402 of this title for any month after December 1987, and individuals entitled to benefits payable under specific provisions of this section and section 402 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(c) 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 Dec. 1, 1980, and applicable with respect to any individual who is under a disability (as defined in subsection (d) of this section) on or after that date, see section 12207(c) of Pub. L. 99–272, set out as a note under section 402 of this title.

Effective Date of 1984 Amendments
Section 3(d) of Pub. L. 98–460 provided that:

"(1) The amendments made by this section [amending this section and sections 416 and 1382c of this title and enacting provisions set out as notes under this section] shall apply only as provided in this subsection.

"(2) The amendments made by this section shall apply to—

"(A) determinations made by the Secretary on or after the date of the enactment of this Act [Oct. 9, 1984];

"(B) determinations with respect to which a final decision of the Secretary has not yet been made as of the date of the enactment of this Act [Oct. 9, 1984] and with respect to which a request for administrative review is made in conformity with the time limits, exhaustion requirements, and other provisions of section 205 of the Social Security Act [section 405 of this title] and regulations of the Secretary;

"(C) determinations with respect to which a request for judicial review was pending on September 19, 1984, and which involve an individual litigant or a member of a class in a class action who is identified by name in such pending action on such date; and

"(D) determinations with respect to which a timely request for judicial review is or has been made by an individual litigant or a member of a class in a class action who is not identified by name in such pending action on such date.

In the case of determinations described in subparagraph (C) and (D) in actions relating to medical improvement, the court shall remand such cases to the Secretary for review in accordance with the provisions of the Social Security Act as amended by this section.

"(3) In the case of a recipient of benefits under title II, XVI, or XVIII of the Social Security Act [this subchapter or subchapter XVI or XVIII of this chapter]—

"(A) who has been determined not to be entitled to such benefits on the basis of a finding that the physical or mental impairment on the basis of which such benefits were provided has ceased, does not exist, or is not disabling, and

"(B) who was a member of a class certified on or before September 19, 1984, in a class action relating to medical improvement pending on September 19, 1984, but was not identified by name as a member of the class on such date, the court shall remand such case to the Secretary. The Secretary shall notify such individual by certified mail that he may request a review of the determination described in subparagraph (A) based on the provisions of this section and the provisions of the Social Security Act as amended by this section. Such notification shall
specify that the individual must request such review within 120 days after the date on which such notification is received. If such request is made in a timely manner, the Secretary shall apply with respect to such review, and the determination described in subparagraph (A) (and any redetermination resulting from such review) shall be subject to further administrative and judicial review, only if such request is made in a timely manner.

"(4) The decision by the Secretary on a case remanded by a court pursuant to this subsection shall be regarded as a new decision on the individual's claim for benefits, which supersedes the final decision of the Secretary. The new decision shall be subject to further administrative review and to judicial review only in conformity with the time limits, exhaustion requirements, and other provisions of section 205 of the Social Security Act [section 405 of this title] and regulations issued by the Secretary in conformity with such section.

"(5) No claim in a class action relating to medical improvement may be certified after September 19, 1984, if the class action seeks judicial review of a decision terminating entitlement (or a period of disability) made by the Secretary of Health and Human Services prior to September 19, 1984.

"(6) For purposes of this subsection, the term "action relating to medical improvement" means an action raising the issue of whether an individual who has had his entitlement to benefits under title II, XVI, or XVIII of the Social Security Act (this subchapter or subchapter XVI or XVIII of this chapter) based on disability terminated (or period of disability ended) should not have had such entitlement terminated (or period of disability ended) without consideration of whether there has been medical improvement in the condition of such individual (or another individual on whose disability such entitlement is based) since the time of a prior determination that the individual was under a disability."

Section 3(a)(3) of Pub. L. 98–460 provided that: "The amendments made by paragraphs (1) and (2) [amending this section and section 1323c of this title] shall apply to determinations made prior to January 1, 1987."

Section 4(c) of Pub. L. 98–460 provided that: "The amendments made by this section [amending this section and sections 416 and 1323c of this title] shall apply with respect to determinations made on or after the first day of the first month beginning after 30 days after the date of the enactment of this Act [Oct. 9, 1984]."

Section 9(b)(2) of Pub. L. 98–460 provided that: "The amendments made by this subsection [amending this section] shall apply to determinations made on or after the date of enactment of this Act [Oct. 9, 1984]."

Amendment by sections 2661(m) and 2662(c)(1), (1) of Pub. L. 98–365 effective as though included in the enactment of the Social Security Amendments of 1983, Pub. L. 98–21, see section 309(a) of Pub. L. 98–365, set out as a note under section 401 of this title.

Amendment by section 2663(a)(16) of Pub. L. 98–365 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. 98–365, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT
Amendment by section 309(a) 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.

Amendment by section 323(b) of Pub. L. 98–21 effective with respect to applications for disability insurance benefits under this section filed after Apr. 20, 1983, except that no monthly benefits under this subchapter shall be payable or increased by reason of such amendment for months before the month following April, 1983, see section 332(c) of Pub. L. 98–21, set out as a note under section 416 of this title.

Amendment by section 339(b) of Pub. L. 98–21 applicable with respect to monthly benefits payable for months beginning on or after Apr. 20, 1983, see section 339(c) of Pub. L. 98–21, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS
Amendment by Pub. L. 96–473 effective with respect to benefits payable for months beginning on or after Oct. 1, 1980, see section 3(d) of Pub. L. 96–473, set out as a note under section 402 of this title.

For effective date of amendment by section 323(b) of Pub. L. 96–265, see section 323(c) of Pub. L. 96–265, set out as a note under section 415 of this title.

Section 323(c) of Pub. L. 96–265 provided that: "The amendments made by this section [amending this section and sections 1323a and 1323c of this title] shall apply with respect to expenses incurred on or after the first day of the sixth month which begins after the date of the enactment of this Act [June 9, 1980]."

For effective date of amendment by section 303(b)(1)(A), (2)(A) of Pub. L. 96–265, see section 303(d) of Pub. L. 96–265, set out as a note under section 402 of this title.

Amendment by section 306(c) of Pub. L. 96–265 applicable to applications filed after June 1980, see section 306(d) of Pub. L. 96–265, set out as a note under section 402 of this title.

Section 309(b) of Pub. L. 96–265 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to evidence requested on or after the first day of the sixth month which begins after the date of the enactment of this Act [June 9, 1980]."

EFFECTIVE DATE OF 1972 AMENDMENT
Amendment by section 104(c), (d) of Pub. L. 92–603 applicable only in the case of a man who attains (or would attain) age 62 after Dec. 1974, with the figure "64" in subsec. (c)(1)(A) of this section to be deemed to read "64" in the case of a man who attains age 62 in 1973, and deemed to read "63" in the case of a man who attains age 62 in 1974, see section 104(j) of Pub. L. 92–603, set out as an Effective Date of 1972 Amendment note under section 416 of this title.

Section 116(e) of Pub. L. 92–603 provided that: "The amendments made by this section [amending this section and sections 421 and 416 of this title] shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act [this section], applications for widow's and widower's insurance benefits based on disability under section 202 of such Act [section 402 of this title], and applications for disability determinations under section 1421 of such Act (section 416 of this title), filed—

"(1) in or after the month in which this Act is enacted [October 1972], or

"(2) before the month in which this Act is enacted, if—

"(A) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month, or

"(B) the notice referred to in subparagraph (A) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act [section 406(g) of this title] (whether before, in, or after such month) and the decision in such civil action has not become final before such month except that no monthly benefits under title II of the Social Security Act [this subchapter] shall be payable or increased by reason of the amendments made by this section for any month before January 1973.

Section 117(c) of Pub. L. 92–603 provided that: "The amendments made by this section [amending this sec-
tion and section 416 of this title] shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act [this section], and for disability determinations under section 216(i) of such Act [section 416(i) of this title], filed—

"(1) in or after the month in which this Act is enacted, or
"(2) before the month in which this Act is enacted if—

"(A) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month; or
"(B) the notice referred to in subparagraph (A) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act [section 406(g) of this title] (whether before, in, or after such month) and the decision in such civil action has not become final before such month;

except that no monthly benefits under title II of the Social Security Act [this subchapter] shall be payable or increased by reason of the amendments made by this section for months before January 1973.

Amendment by section 118(a) of Pub. L. 92–603 applicable in the case of deaths occurring after Dec. 31, 1969, with any applications with respect to an individual whose death occurred after Dec. 31, 1969, but before Oct. 30, 1969, to be deemed to have been filed in the month in which death occurred if filed in or within three months after Oct. 1972, see section 118(c) of Pub. L. 92–603, set out as a note under section 416 of this title.

**Effective Date of 1968 Amendment**

Amendment by section 105(b) of Pub. L. 90–248 applicable with respect to monthly benefits under this subchapter for months after January 1968, but only on the basis of applications for such benefits filed in or after January 1968, see section 105(c) of Pub. L. 90–248, set out as a note under section 416 of this title.

Section 138(e) of Pub. L. 90–248 provided that: 'The amendments made by this section [amending this section and sections 402, 416, 421, 422, and 425 of this title] shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act [this section], and for disability determinations under section 216(i) of such Act [section 416(i) of this title], filed—

"(1) in or after the month in which this Act is enacted [January 1968], or
"(2) before the month in which this Act is enacted if the applicant has not died before such month and if—

"(A) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month; or
"(B) the notice referred to in subparagraph (A) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act [section 406(g) of this title] (whether before, in, or after such month) and the decision in such civil action has not become final before such month.'

**Effective Date of 1965 Amendment**

Amendment by section 328(e) of Pub. L. 89–97 applicable in the case of individuals who become entitled to disability insurance benefits under this section after December 1965, see section 328(f)(3) of Pub. L. 89–97, set out as a note under section 415 of this title.

Section 303(f)(1) of Pub. L. 89–97 provided that: 'The amendments made by subsection (a) [amending this section and section 416 of this title], paragraphs (3) and (4) of subsection (b) [amending this section], and subsections (c) and (d) [amending this section and section 402 of this title], and the provisions of subparagraphs (B) and (E) of section 216(i)(2) of the Social Security Act [section 416(i)(2) of this title] (as amended by subsection (b)(1) of this section), shall be effective with respect to applications for disability insurance benefits under section 223 [this section], and for disability determinations under section 216(i), of the Social Security Act filed—

"(A) in or after the month in which this Act is enacted [July 1965], or
"(B) before the month in which this Act is enacted, if the applicant has not died before such month and if—

"(1) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month; or
"(ii) the notice referred to in subparagraph (i) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act [section 406(g) of this title] (whether before, in, or after such month) and the decision in such civil action has not become final before such month;

except that no monthly insurance benefits under title II of the Social Security Act [this subchapter] shall be payable or increased by reason of the amendments made by subsections (a) and (b) [amending this section and section 416 of this title] for months after January 1968, but only on the basis of applications filed in or after July 1965, see section 344(e) of Pub. L. 89–97, set out as a note under section 416 of this title.

Amendment by section 344(b)–(d) of Pub. L. 89–97 applicable with respect to monthly insurance benefits under this subchapter for and after the second month following July 1965 but only on the basis of applications filed in or after July 1965, see section 344(e) of Pub. L. 89–97, set out as a note under section 416 of this title.

Amendment by section 328(c) of Pub. L. 89–97 applicable with respect to applications filed on or after July 30, 1965, applications as to which the Secretary has not made a final decision before July 30, 1965, and, if a civil action with respect to a final decision of the Secretary has been commenced under section 406(g) of this title before July 30, 1965, applications as to which there has been no final judicial decision before July 30, 1965, see section 328(d) of Pub. L. 89–97, set out as a note under section 416 of this title.

Amendment by section 344(b)–(d) of Pub. L. 89–97 applicable only with respect to monthly benefits under subchapter II of this chapter for months after August 1965 on the basis of applications for such benefits filed in or after July 1965, see section 344(e) of Pub. L. 89–97, set out as a note under section 416 of this title.

**Effective Date of 1961 Amendment**

Amendment by section 102(b)(2)(B), (C) of Pub. L. 87–64 effective Aug. 1, 1961, and amendment by section 102(c)(2)(C), (3)(D), (E) of Pub. L. 87–64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961, based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(c)(4), (6) and 109 of Pub. L. 87–64, set out as notes under section 402 of this title.

**Effective Date of 1960 Amendment**

Section 303(f) of Pub. L. 86–778 provided that the amendment made by such section 303(f) is effective with respect to monthly payments made to individuals which became entitled to benefits under this section after December 1960.
who did not attain the age of fifty in or prior to the month following the month in which this Act is enacted, but only where applications for such benefits are filed in or after the month in which this Act is enacted."

Section 462(f) of Pub. L. 85–778 provided that: "The amendments made by subsections (a) and (b) [amending this section] shall apply only with respect to benefits under section 223 of the Social Security Act [this section] for the month in which this Act is enacted [Sept. 1960] and subsequent months. The amendment made by subsection (c) [amending this section] shall apply only in the case of applications for benefits under such section 223 filed after the seventh month before the month in which this Act is enacted. The amendment made by subsection (d) [amending this section] shall apply only in the case of applications for benefits under such section 223 filed in or after the month in which this Act is enacted. The amendment made by subsection (e) [amending section 416 of this title] shall apply only in the case of individuals who become entitled to benefits under such section 223 in or after the month in which this Act is enacted."

Amendment by section 463(b) of Pub. L. 85–778 applicable only with respect to benefits under this section for months after September 1960, in the case of individuals who, without regard to such amendment, would have been entitled to such benefits for September 1960, or for any succeeding month, see section 463(e) of Pub. L. 85–778, set out as a note under section 422 of this title.

Effective Date of 1958 Amendment
Amendment by section 202 of Pub. L. 85–840 applicable with respect to applications for disability insurance benefits under this section filed after December 1957, see section 207(a) of Pub. L. 85–840, set out as a note under section 416 of this title. For applicability of amendment by section 204(b) of Pub. L. 85–840, see section 207(a) of Pub. L. 85–840, set out as a note under section 416 of this title.

Effective Date
Section 1963(d) of act Aug. 1, 1956, provided that: "(1) The amendment made by subsection (a) [enacting this section and sections 424 and 425 of this title] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after June 1957."

"(2) For purposes of determining entitlement to a disability insurance benefit for any month after June 1957 and before December 1957, an application for disability insurance benefits filed by any individual after July 1957 and before January 1958 shall be deemed to have been filed during the first month after June 1957 for which such individual would (without regard to this paragraph) have been entitled to a disability insurance benefit had he filed application before the end of such month."

Election of Payments
Section 2(e) of Pub. L. 89–460 provided that: "Any individual whose case is remanded to the Secretary pursuant to subsection (d) [set out as a note above] or whose request for a review is made in a timely manner pursuant to subsection (d), may elect, in accordance with section 223(g) or 1631(a)(7) of the Social Security Act [subsection (g) of this section or section 1383(a)(7) of this title], to have payments made beginning with the month in which he makes such election, and ending as under such section 223(g) or 1631(a)(7). Notwithstanding such section 223(g) or 1631(a)(7), such payments (if elected)—"

"(1) shall be made at least until an initial redetermination is made by the Secretary; and"

"(2) shall begin with the payment for the month in which such individual makes such election."

Retroactive Benefits
Section 2(f) of Pub. L. 89–460 provided that: "In the case of any individual who is found to be under a disability after a review required under this section, such individual shall be entitled to retroactive benefits beginning with benefits payable for the first month to which the most recent termination of benefits applies."

Promulgation of Regulations
Section 2(g) of Pub. L. 88–659 provided that: "The Secretary of Health and Human Services shall prescribe regulations necessary to implement the amendments made by this section [amending this section and sections 416 and 1982 of this title] and enacting provisions so set out as notes under this sectional Advisory Panel within 180 days after the date of the enactment of this Act [Oct. 9, 1984]."

Commission on Evaluation of Pain
Section 3(b) of Pub. L. 89–460 provided that:

"(1) The Secretary of Health and Human Services shall appoint a Commission on the Evaluation of Pain (hereinafter in this section referred to as the 'Commission') to conduct a study concerning the evaluation of pain in determining under titles II and XVI of the Social Security Act [sections 401 et seq., 1381 et seq. of this title] whether an individual is under a disability. Such study shall be conducted in consultation with the National Academy of Sciences."

"(2) The Commission shall consist of at least twelve experts, including a significant representation from the field of medicine who are involved in the study of pain, and representation from the fields of law, administration of disability insurance programs, and other appropriate fields of expertise.

"(3) The Commission shall be appointed by the Secretary of Health and Human Services (without regard to the requirements of the Federal Advisory Committee Act [Pub. L. 92–463, set out in the Appendix to Title 5, Government Organization and Employees]) within 60 days after the date of the enactment of this Act [Oct. 9, 1984]. The Secretary shall from time to time appoint one of the members to serve as Chairman. The Commission shall meet as often as the Secretary deems necessary.

"(4) Members of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Members who are not employees of the United States, while attending meetings of the Commission or otherwise serving on the business of the Commission, shall be paid at a rate equal to the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day, including traveltime, during which they are engaged in the actual performance of duties vested in the Commission. While engaged in the performance of such duties away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(5) The Commission may engage such technical assistance from individuals skilled in medical and other aspects of pain as may be necessary to carry out its functions. The Secretary shall make available to the Commission such secretarial, clerical, and other assistance and any pertinent data prepared by the Department of Health and Human Services as the Commission may require to carry out its functions.

"(6) The Secretary shall submit the results of the study under paragraph (1), together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than December 31, 1985.
The Commission shall terminate at the time such results are submitted."

**STUDY AND REPORT TO CONGRESSIONAL COMMITTEES ON EFFECT OF CONTINUED PAYMENT OF DISABILITY BENEFITS DURING APPEAL ON TRUST FUND EXPENDITURES AND THE RATE OF APPEALS**

Section 7(c) of Pub. L. 98–460 provided that:

"(1) The Secretary of Health and Human Services shall, as soon as practicable after the date of the enactment of this Act [Oct. 9, 1984], conduct a study concerning the effect which the enactment and continued operation of section 226(b) of the Social Security Act [subsec. (g) of this section] has on expenditures from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund, and the rate of appeals to administrative law judges of unfavorable determinations relating to disability or periods of disability.

"(2) The Secretary shall submit the results of the study under paragraph (1), together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1986."

**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.

**LUMP-SUM PAYMENT OF DISABILITY INSURANCE BENEFITS FOR PERIOD BEGINNING AFTER 1959 AND ENDING PRIOR TO 1964: FILING OF APPLICATION**

Section 133 of Pub. L. 92–603 provided that:

"(a) If an individual would (upon the timely filing of an application for a disability determination under section 216(i) of the Social Security Act [section 416(i) of this title]) and of an application for disability insurance benefits under section 223 of such Act (this section) have been entitled to disability insurance benefits under such section 223 for a period which began after 1959 and ended prior to 1964, such individual shall, upon filing application for disability insurance benefits under such section 223 with respect to such period not later than 6 months after the date of enactment of this section [Oct. 30, 1972], be entitled, notwithstanding any other provision of title II of the Social Security Act [this subchapter], to receive in a lump sum as disability insurance benefits payable under section 223, an amount equal to the total amounts of disability insurance benefits which would have been payable to him for such period if he had timely filed such an application for a disability determination and such an application for disability insurance benefits with respect to such period; but only if—

"(1) prior to the date of enactment of this section and after the date of enactment of the Social Security Amendments of 1967 [Jan. 2, 1968] such period was determined (under section 216(i) of the Social Security Act [section 416(i) of this title]) to be a period of disability as to such individual; and

"(2) the application giving rise to the determination (under such section 216(i)) that such period is a period of disability as to such individual would not have been accepted as an application for such a determination except for the provisions of section 216(i)(2)(F).

"(b) No payment shall be made to any individual by reason of the provisions of subsection (a) except upon the basis of an application filed after the date of enactment of this section."

**SPECIAL INSURED STATUS TEST IN CERTAIN CASES FOR DISABILITY PURPOSES**

Individuals not insured for disability benefits as determined under subsec. (c)(1) of this section with respect to any month in a quarter deemed to have met such requirements in certain cases, see section 404 of Pub. L. 86–778, set out as a note under section 416 of this title.


**EFFECTIVE DATE OF REPEAL**

Repeal applicable with respect to monthly benefits under this subchapter for August 1958 and succeeding months, see section 207(a) of Pub. L. 85–840, set out as an Effective Date of 1958 Amendment note under section 416 of this title.

§ 424a. Reduction of disability benefits

(a) Conditions for reduction; computation

If for any month prior to the month in which an individual attains the age of 65—

(1) such individual is entitled to benefits under section 423 of this title, and

(2) such individual is entitled for such month to—

(A) periodic benefits on account of his or her total or partial disability (whether or not permanent) under a workmen's compensation law or plan of the United States or a State, or

(B) periodic benefits on account of his or her total or partial disability (whether or not permanent) under any other law or plan of the United States, a State, a political subdivision (as that term is used in section 418(b)(2) of this title), or an instrumentality of two or more States (as that term is used in section 418(g) of this title), other than (1) benefits payable under title 38, (2) benefits payable under a program of assistance which is based on need, (iii) benefits based on service all or substantially all of which was included under an agreement entered into by a State and the Commissioner of Social Security under title 418 of this title, and (iv) benefits under a law or plan of the United States based on service all or substantially all of which is employment as defined in section 410 of this title, the total of his benefits under section 423 of this title for such month and of any benefits under section 402 of this title for such month based on his wages and self-employment income shall be reduced (but not below zero) by the amount by which the sum of—

(3) such total of benefits under sections 423 and 402 of this title for such month, and

(4) such periodic benefits payable (and actually paid) for such month to such individual under such laws or plans,

exceeds the higher of—

(5) 80 per centum of his "average current earnings", or

(6) the total of such individual's disability insurance benefits under section 423 of this
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§ 403 of this title, but before deduction under this section, and any benefits under section 423 of this title to any individual for any month and of any benefits under section 402 of this title for such month based on such individual’s wages and self-employment income, that such individual certify (i) whether he has filed or intends to file any claim for such periodic benefits, and (ii) if he has so filed, whether there has been a decision on such claim. The Commissioner of Social Security may, in the absence of evidence to the contrary, rely upon such a certification by such individual that he has not filed and does not intend to file such a claim, or that he has so filed and no final decision thereon has been made, in certifying benefits for payment pursuant to section 405(i) of this title.

(f) Redetermination of reduction

(1) In the second calendar year after the year in which reduction under this section in the total of an individual’s benefits under section 423 of this title and any benefits under section 402 of this title based on his wages and self-employment income was first required (in a continuous period of months), and in each third year thereafter, the Commissioner of Social Security shall redetermine the amount of such benefits which are still subject to reduction under this section; but such redetermination shall not result in any decrease in the total amount of benefits payable under this subchapter on the basis of such individual’s wages and self-employment income. Such redetermined benefit shall be determined as of, and shall become effective with, the January following the year in which such redetermination was made.

(2) In making the redetermination required by paragraph (1), the individual’s average current earnings (as defined in subsection (a) of this section) shall be deemed to be the product of—

(A) his average current earnings as initially determined under subsection (a) of this section; and

(B) the ratio of (i) the national average wage index (as defined in section 409(k)(1) of this title) for the calendar year before the year in which such redetermination is made to (ii) the national average wage index (as so defined) for the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability).

(d) Exception

The reduction of benefits required by this section shall not be made if the law or plan described in subsection (a)(2) of this section under which a periodic benefit is payable provides for the reduction thereof when anyone is entitled to benefits under this subchapter on the basis of the wages and self-employment income of a person entitled to benefits under section 423 of this title, and such law or plan so provided on February 18, 1981.

(e) Conditions for payment

If it appears to the Commissioner of Social Security that an individual may be eligible for periodic benefits under a law or plan which would give rise to reduction under this section, the Commissioner may require, as a condition of certification for payment of any benefits under section 423 of this title to any individual for any month and of any benefits under section 402 of this title for such month based on such individual’s wages and self-employment income, that such individual certify (i) whether he has filed or intends to file any claim for such periodic benefits, and (ii) if he has so filed, whether there has been a decision on such claim. The Commissioner of Social Security may, in the absence of evidence to the contrary, rely upon such a certification by such individual that he has not filed and does not intend to file such a claim, or that he has so filed and no final decision thereon has been made, in certifying benefits for payment pursuant to section 405(i) of this title.

(b) Reduction where benefits payable on other than monthly basis

If any periodic benefit for a total or partial disability under a law or plan described in subsection (a)(2) of this section is payable on other than a monthly basis (excluding a benefit payable as a lump sum except to the extent that it is a commutation of, or a substitute for, periodic payments), the reduction under this section shall be made at such time or times and in such amounts as the Commissioner of Social Security finds will approximate as nearly as practicable the reduction prescribed by subsection (a) of this section.

(c) Reductions and deductions under other provisions

Reduction of benefits under this section shall be made after any reduction under subsection (a) of section 403 of this title, but before deductions under such section and under section 422(b) of this title.

1 See References in Text note below.
Any amount determined under this paragraph which is not a multiple of $1 shall be reduced to the next lower multiple of $1.

(g) Proportionate reduction; application of excess

Whenever a reduction in the total of benefits for any month based on an individual's wages and self-employment income is made under this section, each benefit, except the disability insurance benefit, shall first be proportionately decreased, and any excess of such reduction over the sum of all such benefits other than the disability insurance benefits shall then be applied to such disability insurance benefit.

(h) Furnishing of information

(1) Notwithstanding any other provision of

law, the head of any Federal agency shall pro-

vide such information within its possession as

the Commissioner of Social Security may re-

quire for purposes of making a timely deter-

mination of the amount of the reduction, if any, 

required by this section in benefits payable

under this subchapter, or verifying other infor-

mation necessary in carrying out the provisions

of this section.

(2) The Commissioner of Social Security is au-

thorized to enter into agreements with States, 

political subdivisions, and other organizations 

that administer a law or plan subject to the pro-

visions of this section, in order to obtain such 

information as the Commissioner may require 

to carry out the provisions of this section.

amended Pub. L. 90-248, title I, § 159(a), Jan. 2, 
1968, 81 Stat. 686; Pub. L. 92-603, title I, § 119(a), 
(b), Oct. 30, 1972, 86 Stat. 1352; Pub. L. 94-202, 
§ 8(j), Jan. 2, 1976, 89 Stat. 1140; Pub. L. 95-216, 
title II, § 205(d), title III, § 353(c), Dec. 20, 1977, 91 
Stat. 1529, 1553; Pub. L. 97-35, title XXII, § 2208(a), 
Aug. 13, 1981, 95 Stat. 839; Pub. L. 99-272, title XII, 
§ 12109(a), Apr. 7, 1986, 100 Stat. 286; Pub. L. 
286; Pub. L. 101-239, title X, § 10208(d)(2)(A), (C), 
XXII, § 12109(a), Apr. 7, 1990, 104 Stat. 1540.)

REFERENCES IN TEXT

Section 423(b) of this title, referred to in subsec. (c), 
was repealed by Pub. L. 106-170, title I, § 101(b)(1)(C), 

PRIOR PROVISIONS

A prior section 423 of act Aug. 14, 1935, was classified 
to section 424 of this title prior to repeal by Pub. L. 

AMENDMENTS

1994—Subsecs. (a)(2)(B), (b), (c), (f)(1). Pub. L. 103-296, 
§ 107(a)(4), substituted “Commissioner of Social Security” 
for “Secretary” wherever appearing and “the Commissioner may require” for “he may require” in

subsec. (e)

“and” at end of subpar. (A), added subpar. (B), and 
struck out former subpars. (B) and (C) which read as

follows:

“(B) the ratio of (i) the deemed average total wages 
(as defined in section 409(k)(1) of this title) for the cal-

endar year before the year in which such redetermina-
tion is made to (ii) the average of the total wages 
(as defined in regulations of the Secretary and com-
puted without regard to the limitations specified in 
section 409(a)(1) of this title) reported to the Secretary 
of the Treasury or his delegate for calendar year 1977 or, if later, the calendar year before the year in which 
the reduction was first computed but not counting any 
reduction made in benefits for a previous period of dis-
ability, if such calendar year is before 1991, or (II) the 
deemed average total wages (as defined in section 
409(k)(1) of this title) for the calendar year before the 
year in which the reduction was first computed (but 
not counting any reduction made in benefits for a pre-
vious period of disability), if such calendar year is after 
1990; and

“(C) in any case in which the reduction was first 
computed before 1978, the ratio of (i) the average of the tax-
bable wages reported to the Secretary for the first cal-
endar quarter of 1977 to (ii) the average of the taxable 
wages reported to the Secretary for the first calendar 
quarter of the calendar year before the year in which 
the reduction was first computed (but not counting any 
reduction made in benefits for a previous period of dis-
ability),”

substituted “Commissioner of Social Security” for “Secretary” in pars. (1) and (2) and “the Commissioner may” for “he may” in par. (2).

substituted “the deemed average total wages (as de-

fined in section 409(k)(1) of this title)” for “the average of the total wages (as defined in regulations of the Sec-

retary and computed without regard to the limitations 
specified in section 409(a)(1) of this title)” reported to 
the Secretary of the Treasury or his delegate”.

“409(a)(1)” for “409(a)”.

inserted “(I)” after “(II)”, substituted “(as defined in reg-
ulations of the Secretary and computed without regard 
to the limitations specified in section 409(a)(1) of this 
title)” for “(as so defined and computed)” and inserted 
“, if such calendar year is before 1991, or (II) the 
deemed average total wages (as defined in section 
409(k)(1) of this title) for the calendar year before the 
year in which the reduction was first computed (but 
not counting any reduction made in benefits for a pre-
vious period of disability), if such calendar year is after 
1990” before “; and” at end.

1986—Subsec. (a)(2). Pub. L. 99-272, § 12109(a)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “such individual is entitled for such month to periodic benefits on account of such individual’s total or partial disability (whether or not perman-
ent) under—

“(A) a workmen’s compensation law or plan of the United States or a State, or

“(B) any other law or plan of the United States, a State, a political subdivision (as that term is used in section 418(b)(2) of this title), or an instrumentality of two or more States (as that term is used in section 418(k) of this title), other than benefits payable under title 38, benefits payable under a program of assistance which is based on need, benefits based on service all, or substantially all, of which was included under an agreement entered into by a State and the Secretary under section 418 of this 
title, and benefits under a law or plan of the United States based on service all or part of which is employ-
ment as defined in section 410 of this title.”

418(g)” for “section 418(k)”.

Pub. L. 99-272, § 12109(a)(2), substituted “all or sub-
stantially all of which” for “all or part of which” in cl. (iv).

provision preceding par. (1) substituted “age of 65” for 

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"age of 62", in par. (2) inserted provisions including periodic benefits under any other law or plan of the United States, a State, a political subdivision, or an institution of higher education in two or more States and excluding any specified benefits and struck out provision requiring that the Secretary receive notice, in a prior month, of the entitlement for such month, and in par. (4) substituted "such laws or plans" for "the workmen's compensation law or plan".

Subsec. (b). Pub. L. 97–35, § 2208(a)(6), substituted "for a total or partial disability under a law or plan described in subsection (a)(2) of this section" for "for a workmen's compensation law or plan".

Subsec. (d). Pub. L. 97–35, § 2208(a)(6), substituted "law or plan described in subsection (a)(2) of this section" for "workmen's compensation law or plan" and "section 423 of this title, and such law or plan so provided on February 18, 1981" for "section 423 of this title".

Subsec. (e). Pub. L. 97–35, § 2208(a)(7), struck out "workmen's compensation" after "periodic benefits under a".


1977—Subsec. (a). Pub. L. 95–216, §§ 205(d), 333(c)(1), struck out provisions following par. (6) under which the Secretary, in cases where an individual's wages and self-employment income reported to the Secretary for a calendar year reached the limitations specified in section 409(a) and 411(b)(1) of this title, was required to estimate the total of such wages and self-employment income on the basis of such information as might be available to him indicating the extent (if any) by which the wages and self-employment income exceeded limitations, and, effective with respect to monthly benefits under this subchapter payable for months after Dec. 1978, inserted "(determined under section 415(b) of this title as in effect prior to January 1979)" after "(A) the average monthly wage" in provisions following par. (8).

Subsec. (b). Pub. L. 95–216, §§ 205(d), 333(c)(1)(A), and subpar. (C), and in subpar. (B) so redesignated substituted "(i) the average of the total wages (as defined in regulations prescribed by the Social Security Administration) and the self-employment income for the calendar year in which he became disabled and the five years preceding that year." for "(i) the average of the taxable wages of all persons for whom taxable wages were reported to the Secretary for the first calendar quarter of the calendar year in which he became disabled and the five years preceding that year." in par. (8).

Subsec. (c). Pub. L. 95–216, §§ 205(d), 333(c)(1)(B), struck par. (c) and redesignated par. (d) as (c) and in par. (d) so redesignated substituted "(ii) the average of the total wages (as defined in regulations prescribed by the Social Security Administration) and the self-employment income for the calendar year in which he became disabled and the five years preceding that year." for "(ii) the average of the total wages (as so defined and computed) reported to the Secretary for the calendar year in which he became disabled and the five years preceding that year." in par. (8).

Subsec. (d). Pub. L. 95–216, §§ 205(d), 333(c)(1)(C), struck par. (d) and redesignated par. (e) as (d) and in par. (e) so redesignated added subpar. (A) and redesignated subpar. (B) as (A) and in subpar. (A) so redesignated redesignated subpars. (a) and (b) as (a) and (b) and in subpar. (b) so redesignated substituted "(i) the average of the total wages (as defined in regulations prescribed by the Social Security Administration) and the self-employment income for the calendar year in which he became disabled and the five years preceding that year." for "(i) the average of the taxable wages of all persons for whom taxable wages were reported to the Secretary for the first calendar quarter of the calendar year in which he became disabled and the five years preceding that year." and "(ii) the average of the total wages (as defined in regulations prescribed by the Social Security Administration) and the self-employment income for the calendar year in which he became disabled and the five years preceding that year." for "(ii) the average of the total wages (as so defined and computed) reported to the Secretary for the calendar year in which he became disabled and the five years preceding that year." in par. (8).

1971—Subsec. (1). Pub. L. 92–603 added cl. (C) in provisions for the determination of an individual's average current earnings so as to introduce into the formula a factor of one-twelfth of the total wages and self-employment income for the calendar year in which he had the highest such wages and income during the year in which he became disabled and the five years preceding that year.

1968—Subsec. (a). Pub. L. 90–248 inserted in cl. (B) of first sentence following par. (8) "(computed without regard to the limitations specified in sections 409(a) and 411(b)(1) of this title)" before "for the five", and inserted last sentence authorizing the Secretary, in certain cases, to estimate the total of wages and self-employment income for purposes of cl. (B) indicating the extent such earnings exceed the limitations in sections 409(a) and 411(b)(1) of this title.

Effective Date of 1994 Amendment


Effective Date of 1989 Amendment

Amendment by section 10208(b)(2)(A), (C) of Pub. L. 101–239 applicable with respect to computation of average total wage amounts (under amended provisions) for calendar years after 1990, see section 10208(c) of Pub. L. 101–239, set out as a note under section 430 of this title.

Effective Date of 1986 Amendments

Amendment by Pub. L. 99–509 effective with respect to payments due with respect to wages paid after Dec. 31, 1986, including wages paid after such date by a State (or political subdivision thereof) that modified its agreement pursuant to section 418(e)(2) of this title prior to Oct. 21, 1986, with certain exceptions, see section 9002(d) of Pub. L. 99–509 set out as a note under section 418 of this title.

Section 12199(b) of Pub. L. 99–272 provided that:

"(1) The amendment made by subsection (a)(1) [amending this section] shall be effective as though it had been included or reflected in the amendment made by section 223(a)(3) of the Omnibus Budget Reconciliation Act of 1981 [Pub. L. 97–35, amending this section].

"(2) The amendment made by subsection (a)(2) [amending this section] shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of individuals who became disabled (within the meaning of section 223(d) of the Social Security Act [section 423(d) of this title]) after the month in which this Act is enacted [April 1986]."

Effective Date of 1981 Amendment

Section 2208(b) of Pub. L. 97–35 provided that: "The amendments made by subsection (a) [amending this section] shall be effective with respect to individuals who first become entitled to benefits under section 223(a) of the Social Security Act [section 423(a) of this title] for months beginning after the month in which this Act is enacted [August 1981]."

Effective Date of 1977 Amendment

Amendment by section 205(d) of Pub. L. 95–216 effective with respect to monthly benefits under this subchapter payable for months after December 1978 and with respect to lump-sum death payments with respect to deaths occurring after December 1978, see section 205 of Pub. L. 95–216, set out as a note under section 426 of this title.

Section 333(c)(1) of Pub. L. 95–216 provided that the amendment made by that section is effective with respect to the estimates for calendar years beginning after Dec. 31, 1977.

Amendment by section 333(c)(2) of Pub. L. 95–216 effective Jan. 1, 1979, see section 333(g) of Pub. L. 95–216, set out as a note under section 418 of this title.

Effective Date of 1972 Amendment

Section 119(c) of Pub. L. 92–603 provided that: "The amendments made by subsections (a) and (b) [amending this section] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1972."

Effective Date of 1968 Amendments: Determination of Average Current Earnings Upon Redetermination of Benefits Subject to Reduction

Section 159(b) of Pub. L. 90–248 provided that:

"(1) The amendments made by subsection (a) [amending this section] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after January 1968."
“(2) For purposes of any redetermination which is made under section 224(f) of the Social Security Act [subsec. (f) of this section] in the case of benefits subject to termination under section 424 of such Act, where such reduction as first computed was effective with respect to benefits for the month in which this Act is enacted [January 1968] or a prior month, the amendments made by subsection (a) of this section [amending subsec. (a) of this section] shall also be deemed to have applied in the initial determination of the ‘average current earnings’ of the individual whose wages and self-employment income are involved.”

**Effective Date**

Section 335 of Pub. L. 89–97 provided that this section is effective with respect to benefits under this subchapter for months after December 1965 based on the wages and self-employment income of individuals entitled to benefits under section 423 of this title whose period of disability (as defined in this subchapter) began after June 1, 1965.

§ 425. Additional rules relating to benefits based on disability

(a) Suspension of benefits

If the Commissioner of Social Security, on the basis of information obtained by or submitted to the Commissioner, believes that an individual entitled to benefits under section 423 of this title, or that a child who has attained the age of eighteen and is entitled to benefits under section 402(d) of this title, or that a widow or surviving divorced wife who has not attained age 60 and is entitled to benefits under section 402(e) of this title, or that a widower or surviving divorced husband who has not attained age 60 and is entitled to benefits under section 402(f) of this title, may have ceased to be under a disability, the Commissioner of Social Security may suspend the payment of benefits under such section 402(d), 402(e), 402(f), or 423 of this title until it is determined (as provided in section 421 of this title) whether or not such individual’s disability has ceased or until the Commissioner of Social Security believes that such disability has not ceased. In the case of any individual whose disability is subject to determination under an agreement with a State under section 421(b) of title II, the Commissioner of Social Security shall promptly notify the appropriate State of the Commissioner’s action under this subsection and shall request a prompt determination of whether such individual’s disability has ceased. For purposes of this subsection, the term “disability” has the meaning assigned to such term in section 423(d) of this title. Whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the benefits of any individual entitled thereto under subsection (b), (c), or (d) of section 402 of this title, on the basis of the wages and self-employment income of such individual, shall be suspended for such month. The first sentence of this subsection shall not apply to any child entitled to benefits under section 402(d) of this title, if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 402(d) of this title).

(b) Continued payments during rehabilitation program

Notwithstanding any other provision of this subchapter, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a) of this section) shall not be terminated or suspended because the physical or mental impairment, on which the individual’s entitlement to such benefits is based, has or may have ceased, if—

1. such individual is participating in a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1320–19 of this title or another program of vocational rehabilitation services, employment services, or other support services approved by the Commissioner of Social Security, and

2. the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.


**Amendments**

1999—Subsec. (b)(1). Pub. L. 106–170 substituted “a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1320–19 of this title or another program of vocational rehabilitation services, employment services, or other support services” for “a program of vocational rehabilitation services”.

1996—Subsec. (c). Pub. L. 104–121 struck out subsec. (c) which related to nonpayment or termination of benefits where entitlement involved alcoholism or drug addiction.


Pub. L. 103–296, § 107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing, “to the Commissioner” for “to him”, and “the Commissioner’s” for “his”.


Pub. L. 103–296, § 107(a)(4), substituted “Commissioner of Social Security” for “Secretary” in pars. (1) and (2).


Pub. L. 103–296, § 107(a)(4), in subsec. (c) as added by Pub. L. 103–296, § 201(a)(3)(A)(iii), substituted “Commissioner of Social Security” for “Secretary” wherever appearing and “Commissioner’s” for “Secretary’s” wherever appearing.

1990—Subsec. (b)(1). Pub. L. 101–508, § 5113(a)(1), added par. (1) and struck out former par. (1) which read as follows: “such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and”.


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1983—Subsec. (a). Pub. L. 98–21 inserted "or surviving divorced husband" after "widower".
1980—Pub. L. 96–265 designated existing provisions as subsec. (a), made conforming amendments in subsec. (a) as so designated, and added subsec. (b).
1972—Pub. L. 92–603 substituted "age 60" for "age 62".
1965—Pub. L. 89–797 inserted "The first sentence of this section shall not apply to any child entitled to benefits under section 402(d) of this title, if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 402(d) of this title)."
1958—Pub. L. 85–840 provided that whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the benefits of any individual entitled thereto under subsection (b), (c), or (d) of section 402 of this title, on the basis of the wages and self-employment income of such individual, shall be suspended for such month.

**Effective Date of 1999 Amendment**
Amendment by Pub. L. 106–170 effective with the first month following one year after Dec. 17, 1999, subject to section 101(a) of Pub. L. 106–170, see section 101(c) of Pub. L. 106–170, set out as an Effective Date note under section 1320b–19 of this title.

**Effective Date of 1996 Amendment**
Amendment by Pub. L. 104–121 applicable to any individual who applies for, or whose claim is finally adjudicated with respect to, benefits under this subchapter for months after December 1992, 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 1994 Amendment; Sunset Provision**
Amendment by section 104(a)(4) of Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of this title. Section 201(a)(3)(C), (E) of Pub. L. 103–296 provided that:

"(C) SUNSET OF 12-MONTH RULE.—Section 225(c)(7) of the Social Security Act [subsec. (c)(7) of this section] (added by subsection (a)) shall cease to be effective with respect to benefits for months after September 2004.

"(E) EFFECTIVE DATE.—

"(i) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this paragraph [amending this section and sections 426 and 428–1 of this title] shall apply with respect to benefits based on disability (as defined in section 422(c)(9) of the Social Security Act [section 225(c)(9) of this section], added by this section) which are otherwise payable in months beginning after December 1992 and after the date of the enactment of this Act [Aug. 15, 1994]. The Secretary of Health and Human Services shall issue regulations necessary to carry out the amendments made by this paragraph not later than 180 days after the date of the enactment of this Act.

"(ii) REFERRAL AND MONITORING AGENCIES.—Section 225(c)(5) of the Social Security Act [subsec. (c)(5) of this section] (added by this subsection) shall take effect 180 days after the date of the enactment of this Act.

"(iii) TERMINATION AFTER 36 MONTHS.—Section 225(c)(7) of the Social Security Act [subsec. (c)(7) of this section] (added by this subsection) shall apply with respect to benefits based on disability (as so defined) for months beginning after 180 days after the date of the enactment of this Act.

**Effective Date of 1990 Amendment**
Section 5113(c) of Pub. L. 101–508 provided that: "The amendments made by this section [amending this section and section 1383 of this title] shall become effective with respect to benefits payable for months after the eleventh month following the month in which this Act is enacted [Nov. 19, 1990] and shall apply only with respect to individuals whose blindness or disability has or may have ceased after such eleventh month."

**Effective Date of 1983 Amendment**
Amendment by 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.

**Effective Date of 1980 Amendment**
Section 301(c) of Pub. L. 96–265 provided that: "The amendments made by this section [amending this section and section 1383 of this title] 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 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.

**Effective Date of 1958 Amendment**
Amendment by section 158(c)(9) of Pub. L. 90–248 applicable with respect to applications for disability insurance benefits under section 422 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**
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 253 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
TITLE 42—THE PUBLIC HEALTH AND WELFARE § 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 423 of this title,

shall be entitled to hospital insurance benefits under part A of subchapter XVIII of this chapter, whether or not he is currently under treatment. In any case in which the individual is entitled to benefits before the month in which such individual is first entitled to benefits under this paragraph and before the date of the enactment of this Act, such individual is therefore entitled to monthly insurance benefits under part A of subchapter XVIII of this chapter, whether or not such individual is currently under treatment.

(b) Individuals under 65 years

Every individual who—

(1)(A) has not attained age 65, and

(2)(A) is entitled to monthly insurance benefits under section 423 of this title,

shall be entitled to hospital insurance benefits under part A of subchapter XVIII of this chapter, whether or not he is currently under treatment. In any case in which the individual is entitled to benefits before the month in which such individual is first entitled to benefits under this paragraph and before the date of the enactment of this Act, such individual is therefore entitled to monthly insurance benefits under part A of subchapter XVIII of this chapter, whether or not such individual is currently under treatment.
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) was treated as though it read "15 months".
(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, 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 231(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 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.
(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)(i) thereof—
(i) the term "age 60" in sections 402(e)(1)(B)(i), 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 1982(e)(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 1382(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 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)(i) 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)(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 condition of entitlement under subsection (b)(2)(C) of this section, giving particular attention to individuals who apply for an annuity under chapter 83 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) 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.


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

2See References in Text note below.

REFERENCES IN TEXT
Section 212 of Public Law 93–66, referred to in subsec. (e)(3), is section 212 of Pub. L. 93–66 which is set out as a note under section 1382 of this title.

Section 423(a) of this title shall be applied as though the term "twenty-four calendar months" (in such second sentence) read '15 months.''

Section 423(a) of this title shall be applied as though the term "the twenty-fifth month" for "the twenty-fifth consecutive month" with regards to applying first sentence of this subsection to individuals described in par. (2)(C).

Subsec. (d), Pub. L. 98-96, substituted "part D" for "part C", and added subpar. (D).

Subsec. (a), Pub. L. 98-96, substituted "or post-hospital home health services" for "or post-hospital home health care".

Subsec. (b), Pub. L. 98-96, substituted "home health services" for "and post-hospital home health services" and struck out "or post-hospital home health services" before "unless the diagnosis"></transitive-apply-applied-terms". 

Subsecs. (f), (g), Pub. L. 98-96, substituted (f) and redesignated former subsec. (f) as (g).

directly related to the physical or mental impairment which served as the basis for disability in such previous period".


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".


Subsec. (e)(3). Pub. L. 98-21, §109(q)(1), amended par. (3) generally, inserting provisions relating to any disabled widow and striking out provision that a disabled widower, upon furnishing proof of such disability 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. 97-246, §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. 97-246, §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.",


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)(9)(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 diagnosis"></transitive-apply-applied-terms". 

Subsec. (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 redesignated subsec. (h) as (e) and, in subsec. (e) as so redesignated, inserted a technical error resulting from the 1973 amendment of pars. (2) and (3) by Pub. L. 93–233 which was intended to correct the reference to ‘‘subparagraph (C) of section 423 of this title, and the term ‘employment’ as defined in this chapter’’.

Subsec. (f). Pub. L. 95–292, §1(b)(1), (2), redesignated subsec. (i) as (f). Former subsec. (i), relating to the duration of hospital insurance benefits pursuant to subsec. (b) of this section which had been included without the required parentheses, was stricken 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 transplant and kidney treatment. See section 3865f of this title.

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


Subsec. (a)(1)(1). Pub. L. 93–233, §18(f)(1)(C), redesignated subcls. (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’’.

Subsec. (b)(2)(D). Pub. L. 93–445, §303(e)(5), redesignated subpar. (D) of section 402(e)(5) for ‘‘and an annuity under the Railroad Retirement Act of 1937 as ‘‘this subchapter’’’.

Subsec. (c)(2). Pub. L. 93–445, §303(f)(5), redesignated subpar. (C) of section 402(e)(5) for ‘‘the term ‘employment’ as defined in this chapter after ‘fully or currently insured’; and in item (2)(D) ‘‘or annuity under the Railroad Retirement Act of 1937 after ‘this subchapter’’’.

Subsec. (e)(2). Pub. L. 93–233, §18(f)(1)(C), redesignated subsec. (i) 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 ‘employment’ as defined in this chapter’’.

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. 95–292 and redesignated as subsec. (i) by section 201(b)(5) of Pub. L. 92–603, and redesignated provisions of former subsec. (a) and subsec. (a)(1), and redesignated pars. (1) and (2) as subs. (A) and (B).

Subsec. (b). Pub. L. 92–603, §201(b)(1), added subsec. (b). Former subsec. (b) redesignated subsec. (e). 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 benefits pursuant to subsec. (b) of this section. Former subsec. (c) redesignated subsec. (d).

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


Former subsec. (d) redesignated subsec. (i).


1968—Subsec. (b)(1). Pub. L. 90–248 struck out patient 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 423(c)(9) of this title) which are otherwise payable in months beginning after Oct. 1, 2004, see section 418(c) 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. 100–203, 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)(4) 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 403(b), formerly section 403(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 901(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 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, 1994, 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 months after April 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 2664(b) of Pub. L. 98–369, set out as a note under section 410 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 319 of Pub. L. 98–92, 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: "(A) In general.—The amendments made by subsection (b) [amending this section and sections 410, 426–1, and 1385c 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 employer) 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 1385c 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 1385c 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 1385c et seq. of this title].

"(2) Appropriations.—There are appropriated to be 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 1385 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

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 131(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 231 of Title 45, Railroads] shall apply with respect to hospital insurance or supplementary medical insurance benefits for services performed 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. 96–263 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, 1395d, 1395f, 1395h, 1395k, and 1395mm of this title] shall become effective with respect to services provided on and after July 1, 1973.

"(a) The provisions of this Act [amending this section and sections 1395c, 1395d, 1395f, 1395h, 1395k, 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 1973 Amendment** Section 4(a) of Pub. L. 93–58 provided that: "The provisions of this Act [amending this section and sections 226c and 226o 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 Jan. 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] 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, §222(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 the 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. 96–21 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 such hospital insurance benefits as if such individual had been entitled to such hospital insurance benefits 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 enti-
tied 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 228c 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 6, 1973), may, upon filing application for an annuity under the Railroad Retirement Act (section 228a et seq. of Title 45) 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(c)(1)(ii) of the Railroad Retirement Act [section 228e(c)(1)(i)].

§ 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

(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.] 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) is entitled to monthly insurance benefits 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.

(c) Individuals participating in self-care dialysis training programs; kidney transplant failures; resumption of previously terminated regular course of dialysis

Notwithstanding the provisions of subsection (b) of this section—

(1) in the case of any individual who participates in a self-care dialysis training program prior to the third month after the month in which such individual initiates a regular course of renal dialysis in a renal dialysis facility or provider of services meeting the requirements of section 1395rr(b) of this title, entitlement to benefits under part A and eligibility to enroll under part B of subchapter XVIII of this chapter shall begin with the month in which such regular course of renal dialysis is initiated;

(2) in any case in which a kidney transplant fails (whether during or after the thirty-six month period specified in subsection (b)(2) of this section) and as a result the individual who received such transplant initiates or resumes a regular course of renal dialysis, entitlement to benefits under part A and eligibility to enroll under part B of subchapter XVIII of this chapter shall begin with the month in which such course is initiated or resumed; and

(3) in any case in which a regular course of renal dialysis is resumed subsequent to the termination of an earlier course, entitlement to benefits under part A and eligibility to enroll under part B of subchapter XVIII of this chapter shall begin with the month in which such regular course of renal dialysis is resumed.

1 So in original. Probably should be “(d)”. 
is terminated or is otherwise not payable solely by reason of paragraph (1) or (7) of section 425(c) of this title shall be treated as entitled to such benefit for such month.


REFERENCES IN TEXT


Section 425(c) of this title, referred to in subsec. (c), was repealed by Pub. L. 104–121, title I, §105(a)(4), Mar. 16, 1996, 106 Stat. 1403.

AMENDMENTS


1982—Subsec. (a)(1)(A). Pub. L. 97–248 designated existing provisions as cl. (i), substituted “within the meaning of the term ‘employment’ for purposes of this subsection” for “in the term ‘employment’ as defined in this chapter”, and added cl. (ii).

Subsec. (a)(2)(B). Pub. L. 97–248 designated “is entitled to monthly insurance benefits under this subchapter” as cl. (i), substituted “(ii) is entitled to an annuity under the Railroad Retirement Act of 1974” for “(ii) is entitled to an annuity under the Railroad Retirement Act of 1974”, and added cl. (iii).

Subsec. (a)(1)(C), (D). Pub. L. 97–248 combined former subpars. (C) and (D) into subpar. (C) and substituted a reference to individuals described in subpar. (A) or (B) for a more detailed definition of such individuals.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 applicable with respect to benefits based on disability (as defined in section 423(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)(ii) of Pub. L. 103–296, set out as a note under section 425 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 after 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 1983 AMENDMENT

Section 309(c)(2) of Pub. L. 97–448 provided that: “Any amendment to the Social Security Act [this chapter] made by this section [amending this section and sections 410, 1320c–2, 1320c–3, 1395i, 1395f, 1395r, 1395y, 1395cc, 1395mm, 1395ww, 1396b, 1396o, and 1396p of this title] shall be effective as if it had been originally included as a part of that provision of the Social Security Act to which it relates, as such provision of such Act was amended or added by the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 324].”

EFFECTIVE DATE OF 1982 AMENDMENT


EFFECTIVE DATE

Section effective with respect to services, supplies, and equipment furnished after the third calendar month beginning after June 13, 1978, except that provisions for the implementation of an incentive reimbursement system for dialysis services furnished in facilities and providers to become effective with respect to a facility’s or provider’s first accounting period beginning after the last day of the twelfth month following the month of June 1978, except that provisions for reimbursement rates for home dialysis to become effective on Apr. 1, 1979, see section 6 of Pub. L. 95–292, set out as an Effective Date of 1978 Amendment note under section 426 of this title.

$426a. Transitional provision on eligibility of uninsured individuals for hospital insurance benefits

(a) Entitlement to benefits

Anyone who—

(1) has attained the age of 65,

(2)(A) attained such age before 1968, or (B) has not less than 3 quarters of coverage (as defined in this subchapter or section 228(e)(1) of title 45), whenever acquired, for each calendar year preceding and before the year in which he attained such age,

(3) is not, and upon filing application for monthly insurance benefits under section 402 of this title would not be, entitled to hospital insurance benefits under section 426 of this title, and is not certifiable as a qualified railroad retirement beneficiary under section 228s–2 of title 45,

(4) is a resident of the United States (as defined in section 410(i)(1) of this title), and is (A) a citizen of the United States or (B) an alien lawfully admitted for permanent residence who has resided in the United States (as so defined) continuously during the 5 years immediately preceding the month in which he files application under this section, and

(5) has filed an application under this section in such manner and in accordance with such other requirements as may be prescribed in regulations of the Secretary,

shall (subject to the limitations in this section) be deemed, solely for purposes of section 426 of this title, to be entitled to monthly insurance benefits under such section 426 for each month, beginning with the first month in which he meets the requirements of this subsection and ending with the month in which he dies, or, if earlier, the month before the month in which he becomes (or upon filing application for monthly insurance benefits under section 402 of this title would become) entitled to hospital insurance benefits under section 426 of this title or be-
comes certifiable as a qualified railroad retirement beneficiary. An individual who would have met the preceding requirements of this subsection in any month had he filed application under paragraph (5) hereof before the end of such month shall be deemed to have met such requirements in such month if he files such application before the end of the twelfth month following such month. No application under this section which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraphs (1), (2), (3), and (4) shall be accepted as an application for purposes of this section.

(b) Persons ineligible

The provisions of subsection (a) of this section shall not apply to any individual who—

(1) is, at the beginning of the first month in which he meets the requirements of subsection (a), a member of any organization referred to in section 410(a)(17) of this title,

(2) was, prior to the beginning of such first month, been convicted of any offense listed in section 402(u) of this title, or

(3)(A) at the beginning of such first month is covered by an enrollment in a health benefits plan under chapter 89 of title 5, or

(B) so covered on February 16, 1965, or could have been so covered for such first month if he or some other person had availed himself of opportunities to enroll in a health benefits plan under such chapter and to continue such enrollment (but this subparagraph shall not apply unless he or such other person was a Federal employee at any time after February 15, 1965).

Paragraph (3) shall not apply in the case of any individual for the month (or any month thereafter) in which coverage under such a health benefits plan ceases (or would have ceased if he had had such coverage) by reason of his or some other person’s separation from Federal service, if he or such other person was not (or would not have been) eligible to continue such coverage after such separation.

(c) Authorization of appropriations

There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund (established by section 1395i of this title) from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

(1) payments made or to be made during such fiscal year from such Trust Fund under part A of subchapter XVIII of this chapter with respect to individuals who are entitled to hospital insurance benefits under section 426 of this title solely by reason of this section.

(2) the additional administrative expenses resulting expected to result therefrom, and

(3) any loss in interest to such Trust Fund resulting from the payment of such amounts, in order to place such Trust Fund in the same position at the end of such fiscal year in which it would have been if the preceding subsections of this section had not been enacted.


References in Text

Sections 228e(l) and 228s–2 of title 45, referred to in subsec. (a)(2), (3), and (4) of section 414(a) of this title, substituted “1966” for “1965”.

Subsec. (b)(3)(A), (C). Pub. L. 90–248, § 403(h)(1), (2), substituted “chapter 89 of title 5” and “such chapter” for “the Federal Employees Health Benefits Act of 1959” and “such Act” in subpars. (A) and (C), respectively.

§ 427. Transitional insured status for purposes of old-age and survivors benefits

(a) Determination of entitlement to benefits under section 402(a) to (c) of this title

In the case of any individual who attains the age of 72 before 1969 but who does not meet the requirements of section 414(a) of this title, the 6 quarters of coverage referred to in paragraph (1) of section 414(a) of this title shall, instead, be 3 quarters of coverage for purposes of determining entitlement of such individual to benefits under section 402(a) of this title, and of the spouse to benefits under section 402(b) or section 402(c) of this title, but, in the case of such spouse, only if he or she attains the age of 72 before 1969 and only with respect to spouse’s insurance benefits under section 402(b) or section 402(c) of this title for and after the month in which he or she attains such age. For each month before the month in which any such individual meets the requirements of section 414(a) of this title, the amount of the old-age insurance benefit shall, notwithstanding the provisions of section 402(a) of this title, be the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title.

(b) Determination of entitlement to surviving spouse’s benefits under section 402(e) or (f) of this title

In the case of any individual who has died, who does not meet the requirements of section 414(a) of this title, and whose surviving spouse attains age 72 before 1969, the 6 quarters of coverage referred to in paragraph (3) of section 414(a) of this title and in paragraph (1) thereof shall, for purposes of determining the entitlement to surviving spouse’s insurance benefits under section 402(e) or section 402(f) of this title, instead be—

(1) 3 quarters of coverage if such surviving spouse attains the age of 72 in or before 1966,
(2) 4 quarters of coverage if such surviving spouse attains the age of 72 in 1967, or
(3) 5 quarters of coverage if such surviving spouse attains the age of 72 in 1968.

The amount of the surviving spouse’s insurance benefit for each month shall, notwithstanding the provisions of section 402(e) or section 402(f) of this title (and section 402(m) of this title), be the larger of $64.40 or the amount most recently established in lieu thereof under section 415(1) of this title.

(c) Deceased individual entitled to benefits by reason of subsection (a) deemed to meet requirements of subsection (b)

In the case of any individual who becomes, or upon filing application therefor would become, entitled to benefits under section 402(a) of this title by reason of the application of subsection (a) of this section, who dies, and whose surviving spouse attains the age of 72 before 1969, such deceased individual shall be deemed to meet the requirements of subsection (b) of this section for purposes of determining entitlement of such surviving spouse to surviving spouse’s insurance benefits under section 402(e) or section 402(f) of this title.


REFERENCES IN TEXT

Section 402(m) of this title, referred to in subsec. (b), was repealed by Pub. L. 93–88–21, April 20, 1983, 97 Stat. 112.

AMENDMENTS


1972—Subsec. (a). Pub. L. 92–336, § 202(1)(A), substituted “paragraph (1) of section 414(a) of this title” for “so much of paragraph (1) of section 414(a) of this title as follows clause (C)”.


1See References in Text note below.
§ 428. Benefits at age 72 for certain uninsured individuals

(a) Eligibility

Every individual who—

(1) has attained the age of 72,

(2)(A) attained such age before 1968, or (B)(i) attained such age after 1967, and (ii) has not less than 3 quarters of coverage, whenever acquired, for each calendar year beginning after 1966 and before the year in which he or she attained such age,

(3) is a resident of the United States (as defined in subsection (e) of this section), and is (A) a citizen of the United States or (B) an alien lawfully admitted for permanent residence who has resided in the United States (as defined in section 410(i) of this title) continuously during the 5 years immediately preceding the month in which he or she files application under this section, and

(4) has filed application for benefits under this section,

shall (subject to the limitations in this section) be entitled to a benefit under this section for each month beginning with the first month after September 1966 in which he or she becomes so entitled to such benefits and ending with the month preceding the month in which he or she dies. No application under this section which is filed by an individual more than 3 months before the month for which the determination of eligibility is being made.

(b) Amount of benefits

The benefit amount to which an individual is entitled under this section for any month shall be the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title.

(c) Reduction for government pension system benefits

(1) The benefit amount of any individual under this section for any month shall be reduced (but not below zero) by the amount of any periodic benefit under a governmental pension system for which he or she is eligible for such month.

(2) In the case of a husband and wife both of whom are entitled to benefits under this section for any month, the benefit amount of each spouse, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the spouse who is not entitled to benefits under this section is eligible for such month, over (B) the benefit amount as determined without regard to this subsection.

(3) In the case of a husband or wife only one of whom is entitled to benefits under this section for any month, the benefit amount of each spouse, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the other spouse is eligible for such month, over (B) the benefit amount of such other spouse as determined without regard to this subsection.

(4) For purposes of this subsection, in determining whether an individual is eligible for periodic benefits under a governmental pension system—

(A) such individual shall be deemed to have filed application for such benefits,

(B) to the extent that entitlement depends on an application by such individual’s spouse, such spouse shall be deemed to have filed application, and

(C) to the extent that entitlement depends on such individual or his or her spouse having retired, such individual and his or her spouse shall be deemed to have retired before the month for which the determination of eligibility is being made.

(5) For purposes of this subsection, if any periodic benefit is payable on any basis other than a calendar month, the Commissioner of Social Security shall allocate the amount of such benefit to the appropriate calendar months.

(6) If, under the foregoing provisions of this section, the amount payable for any month would be less than $1, such amount shall be reduced to zero. In the case of a husband and wife both of whom are entitled to benefits under this section for any month, the preceding sentence shall be applied with respect to the aggregate amount so payable for such month.

(7) If any benefit amount computed under the foregoing provisions of this section is not a multiple of $0.10, it shall be raised to the next higher multiple of $0.10.

(8) Under regulations prescribed by the Commissioner of Social Security, benefit payments under this section to an individual (or aggregate benefit payments under this section in the case of a husband and wife) of less than $5 may be accumulated until they equal or exceed $5.

(d) Suspension for months in which cash payments are made under public assistance or in which supplemental security income benefits are payable

The benefit to which any individual is entitled under this section for any month shall not be paid for such month if—

(1) such individual receives aid or assistance in the form of money payments in such month...
under a State plan approved under subchapter I, X, XIV, or XVI of this chapter, or under a State program funded under part A of subchapter IV of this chapter, or

(2) such individual’s husband or wife receives supplemental security income benefits under such plan the needs of such individual were taken into account in determining eligibility for (or amount of) such aid or assistance,

unless the State agency administering or supervising the administration of such plan notifies the Commissioner of Social Security, at such time and in such manner as may be prescribed in accordance with regulations of the Commissioner of Social Security, that such payments to such individual (or such individual’s husband or wife) under such plan are being terminated with the payment or payments made in such month and such individual is not an individual with respect to whom supplemental security income benefits are payable pursuant to subchapter XVI of this chapter or section 211 of Public Law 93–66 for the following month, nor shall such benefit be paid for such month if such individual is an individual with respect to whom supplemental security income benefits are payable pursuant to subchapter XVI of this chapter or section 211 of Public Law 93–66 for such month, unless the Commissioner of Social Security determines that such benefits are not payable with respect to such individual for the month following such month.

(e) Suspension where individual is residing outside United States

The benefit to which any individual is entitled under this section for any month shall not be paid if, during such month, such individual is not a resident of the United States. For purposes of this subsection, the term ‘‘United States’’ means the 50 States and the District of Columbia.

(f) Treatment as monthly insurance benefits

For purposes of subsections (t) and (u) of section 402 of this title, and of section 1395s of this title, a monthly benefit under this section shall be treated as a monthly insurance benefit payable under section 402 of this title.

(g) Annual reimbursement of Federal Old-Age and Survivors Insurance Trust Fund

There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for the fiscal year ending June 30, 1969, and for each fiscal year thereafter, such sums as the Commissioner of Social Security deems necessary on account of—

(1) payments made under this section during the second preceding fiscal year and all fiscal years prior thereto to individuals who, as of the beginning of the calendar year in which falls the month for which payment was made, had less than 3 quarters of coverage,

(2) the additional administrative expenses resulting from the payments described in paragraph (1), and

(3) any loss in interest to such Trust Fund resulting from such payments and expenses,

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 such payments had not been made.

(h) Definitions

For purposes of this section—

(1) The term ‘‘quarter of coverage’’ includes a quarter of coverage as defined in section 228e(f) of title 45.

(2) The term ‘‘governmental pension system’’ means the insurance system established by this subchapter or any other system or fund established by the United States, a State, any political subdivision of a State, or any wholly owned instrumentality of any one or more of the foregoing which provides for payment of (A) pensions, (B) retirement or retired pay, or (C) annuities or similar amounts payable on account of personal services performed by any individual (not including any payment under any workmen’s compensation law or any payment by the Secretary of Veterans Affairs as compensation for service-connected disability or death).

(3) The term ‘‘periodic benefit’’ includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(4) The determination of whether an individual is a husband or wife for any month shall be made under subsection (b) of section 416 of this title without regard to subsections (b) and (f) of section 416 of this title.


REFERENCES IN TEXT

Section 211 of Pub. L. 93–66, referred to in subsec. (d), is set out as a note under section 1382 of this title.

Section 228e(i) of title 45, referred to in subsec. (b)(1), is a reference to section 5(i) of the Railroad Retirement Act of 1937. That Act was amended in its entirety and completely by Pub. L. 93–446, Oct. 16, 1974, 88 Stat. 1305. The Act, as thus amended and revised, was redesignated the Railroad Retirement Act of 1974, and is classified generally to subchapter IV of title 45 (§231 et seq.) of chapter 9 of Title 45, Railroads. Section 228e of title 45 is covered by section 251(e) of Title 45.

AMENDMENTS

1996—Subsec. (d)(1). Pub. L. 104–193 inserted “under a State program funded under” before “part A of subchapter IV of this chapter”.

1994—Subsecs. (c)(5), (8), (d), (g). Pub. L. 103–296 substituted “Commissioner of Social Security” for “Secretary” wherever appearing.

1991—Subsec. (h)(2). Pub. L. 102–54 substituted “Secretary of Veterans Affairs” for “Veterans Administration”.

1984—Pub. L. 98–21 inserted “(3) The term ‘periodic benefit’ includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.” in text.
1990—Subsec. (a)(2). Pub. L. 101–508 substituted ‘‘(B)(i) attained such age after April 1967 and before 1972, and (ii)’’ for ‘‘(B).’’


Subsec. (b). Pub. L. 98–21, § 305(a), substituted ‘‘The’’ for ‘‘(1) Except as provided in paragraph (2), the’’ and struck out par. (2), which had provided that if both husband and wife were entitled or would have been entitled upon application to benefits under this section for any month, the amount of the husband’s benefit for such month would be the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title, and the amount of the wife’s benefit for such month the larger of $32.20 or the amount most recently established in lieu thereof under section 415(i) of this title.

Subsec. (c)(1). Pub. L. 98–21, § 305(d)(1), substituted ‘‘the larger of $64.40 or the amount most recently established in lieu thereof under section 415(i) of this title’’ for ‘‘the larger of $58.00’’ in par. (3), subpar. (A) and ‘‘the larger of $32.20’’ for ‘‘$29.00’’.

Subsec. (c)(2). Pub. L. 98–21, § 102(b)(3), substituted ‘‘$40’’ for ‘‘$35’’.


Subsec. (d)(1). Pub. L. 98–208, § 242(a), struck out ‘‘IV,’’ after ‘‘I,’’ and inserted ‘‘or part A of subchapter IV of this chapter,’’ after ‘‘XVI of this chapter,’’.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuity in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT


EFFECTIVE DATE OF 1990 AMENDMENT

Section 511(b) of Pub. L. 101–506 provided that: ‘‘The amendment made by subsection (a) [amending this section] shall apply with respect to monthly payments payable under this subchapter for months after April 1990, for the reasons which existed (under the provisions of law in effect on April 1, 1990) prior to the enactment of this Act [Nov. 5, 1990].’’

EFFECTIVE DATE OF 1984 AMENDMENT


Amendment by section 2663(j)(3)(A)(iv) of 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 AMENDMENT

Amendment by 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 602 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 2(b)(1) of Pub. L. 93–233 provided that the amendment made by that section is effective June 1, 1974.
Amendment by section 2(b)(1) of Pub. L. 93–233 applicable with respect to monthly benefits under this subchapter for months after May 1974, and with respect to lump-sum death payments under section 402(i) of this title, see section 2(c) of Pub. L. 93–233, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT
Amendment by Pub. L. 92–336 applicable with respect to monthly benefits under subchapter II of this chapter for months after December 1970, see section 202(c) of Pub. L. 92–336, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT
Amendment by Pub. L. 92–5 applicable with respect to monthly benefits under subchapter II of this chapter for months after December 1970, see section 202(c) of Pub. L. 92–5, set out as a note under section 427 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT
Amendment by Pub. L. 91–172 applicable for months after December 1969, see section 1003(c) of Pub. L. 91–172, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT
Amendment by section 102(b) of Pub. L. 90–248 applicable with respect to monthly benefits under this subchapter for months after January 1968, see section 102(c) of Pub. L. 90–248, set out as a note under section 427 of this title.

REPEAL OF AMENDMENT OF SUBSECS. (b)(1), (2) AND (c)(3)(A). (B) PRIOR TO EFFECTIVE DATE
Section 302(a)(4) of Pub. L. 92–336, title II, July 1, 1972, 86 Stat. 416, which, effective Jan. 1, 1973, substituted ''the larger of $58.00 or the amount most recently established in lieu thereof under section 415(i) of this title'' for ''$58.00'' and ''the larger of $29.00 or the amount most recently established in lieu thereof under section 415(i) of this title'' for ''$29.00'', was repealed prior to its effective date by Pub. L. 93–233, § 2(b)(2), Dec. 31, 1973, 87 Stat. 952, applicable with respect to monthly benefits under this subchapter for months after May 1974, and with respect to lump-sum death payments under section 402(i) of this title. See section 2(c) of Pub. L. 93–233, set out as an Effective Date of 1973 Amendment note under section 415 of this title.

APPLICATION TO NORTHERN MARIANA ISLANDS
For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 21, 1977, 42 F.R. 56595, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

INCREASES TO TAKE INTO ACCOUNT GENERAL BENEFIT INCREASES
Section 305(e) of Pub. L. 98–21 provided that: "The Secretary shall increase the amounts specified in section 228 of the Social Security Act [this section], as amended by this section, to take into account any general benefit increases (as referred to in section 215(i)(3) of such Act [section 415(i)(3) of this title]), and any increases under section 215(i) of such Act, which have occurred after June 1974 or may hereafter occur."

SPECIAL $50 PAYMENT UNDER TAX REDUCTION ACT OF 1975
Special payment of $50 as soon as practicable after Mar. 29, 1975, by Secretary of the Treasury to each individual who, for 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.

APPLICABLE PROVISIONS
For transitional coverage of uninsurance individuals for hospital insurance benefits, see section 362(b) of Pub. L. 89–366 provided that: "For purposes of paragraph (4) of section 228(a) of the Social Security Act [subsec. (a)(4) of this section] (added by subsection (a) of this section), an application filed under section 103 of the Social Security Amendments of 1965 [set out as a note under section 428 of this title] before July 1966 shall be regarded as an application under such section 228 [this section] and shall, for purposes of such paragraph and of the last sentence of such section 228(a), be deemed to have been filed in July 1966, unless the person by whom or on whose behalf such application was filed notifies the Secretary that he does not want such application so regarded."

§ 429. Benefits in case of members of uniformed services
For purposes of determining entitlement to and the amount of any monthly benefit for any month after December 1972, or entitlement to and the amount of any lump-sum death payment in case of a death after such month, under this subchapter on the basis of the wages and self-employment income of any individual, and for purposes of section 416(i)(3) of this title, such individual, if he was paid wages for service as a member of a uniformed service (as defined in section 410(m) of this title) which was included in the term "employment" as defined in section 410(a) of this title as a result of the provisions of section 410(l)(1)(A) of this title, shall be deemed to have been paid—

(1) in each calendar quarter occurring after 1956 and before 1978 in which he was paid such wages, additional wages of $300, and

(2) in each calendar year occurring after 1977 and before 2002 in which he was paid such wages, additional wages of $100 for each $300 of such wages, up to a maximum of $1,200 of additional wages for any calendar year.


AMENDMENTS
2004—Pub. L. 108–203, § 420(b)(1), struck out subsec. (a) designation before "For purposes of" and struck out subsec. (b), which authorized to be appropriated to each of the Trust Funds, for transfer on July 1 of each calendar year to such Fund, an amount equal to the total of the additional amounts which would be appropriated to such Fund for the fiscal year ending Sept. 30 of such calendar year under section 401 or 1986 of this title if the amounts of the additional wages deemed to have been paid for such calendar year constituted remuneration for employment for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1986 and set forth provisions relating to direction of amounts authorized to be appropriated and adjustments to such amounts.
1984—Subsec. (b). Pub. L. 98–369 inserted at end "Additional adjustments may be made in the amounts so authorized to be appropriated to the extent that the amounts transferred in accordance with clauses (i) and (ii) of section 151(b)(3)(B) of the Social Security Amendments of 1983 with respect to wages deemed to have been paid in 1963 were in excess of or were less than the amount which the Secretary, on the basis of appropriate data, determines should have been so transferred." 
1983—Subsec. (b). Pub. L. 98–21 amended subsec. (b) generally, substituting provisions relating to authorization of appropriations to each of the Trust Funds for transfer on July 1 of each calendar year for provisions that had authorized appropriations to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund annually, as benefits under this subchapter and part A of subchapter XVIII of this chapter were paid after December 1967, such sums as the Secretary determined to be necessary to meet (1) the additional costs, resulting from subsec. (a), of such benefits (including lump-sum death payments), (2) the additional administrative expenses resulting therefrom, and (3) any loss in interest to such trust funds resulting from the payment of such amounts, and that such additional costs would be determined after any increases in such benefits arising from the application of section 417 of this title that had been made. 
1977—Subsec. (a). Pub. L. 95–216 substituted provisions relating to applicability of benefits for wages deemed to have been paid in each calendar quarter occurring after 1966 and before 1978 and provisions relating to applicability of benefits for wages deemed to have been paid in each calendar quarter occurring after 1977, for provisions relating to applicability of benefits for wages deemed to have been paid in each calendar quarter occurring after 1956. 
1972—Subsec. (a). Pub. L. 92–603 substituted "December 1972" for "December 1967" and "after 1967" for "after 1967" and struck out provisions limiting the wages deemed to have been paid an individual in addition to the wages actually paid him for his service to $100 if the wages actually paid to him in a quarter were $100 or less or to $200 if the wages actually paid to him in a quarter were more than $100 but not more than $200. 

**Effective Date of 1994 Amendment**
Amendment by section 107(a)(4) of Pub. L. 103–296 effective Mar. 31, 1995, see section 118(a) of Pub. L. 103–296, set out as a note under section 401 of this title. 

**Effective Date of 1987 Amendment**
Amendment by Pub. L. 100–203 applicable with respect to remuneration paid after Dec. 31, 1987, see section 9001(d) of Pub. L. 100–203, set out as a note under section 3012 of Title 26, Internal Revenue Code. 

**Effective Date of 1984 Amendment**

**Effective Date of 1983 Amendment**
Section 151(b)(2) of Pub. L. 98–21 provided that: "The amendment made by paragraph (1) [amending this section] shall be effective with respect to wages deemed to have been paid for calendar years after 1983."

**Effective Date of 1977 Amendment**
Amendment by Pub. L. 95–216 effective Jan. 1, 1978, see section 335(g) of Pub. L. 95–216, set out as a note under section 418 of this title. 

**Effective Date of 1972 Amendment**
Section 120(b) of Pub. L. 92–603 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1972 and with respect to lump-sum death payments under such title in the case of deaths occurring after December 1972 except that, in the case of any individual who is entitled, on the basis of the wages and self-employment income of any individual to whom section 229 of such Act [this section] applies, to monthly benefits under title II of such Act for the month in which this Act is enacted [October 1972], such amendments shall apply (1) only if a written request for a recalculation of such benefits (by reason of such amendments) under the provisions of section 215(b) and (d) of such Act [section 415(b) and (d) of this title], as in effect at the time such request is filed, is filed by such individual, or any other individual, entitled to benefits under such title II on the basis of such wages and self-employment income, and (2) only with respect to such benefits for months beginning with whichever of the following is later: January 1973 or the twelfth month before the month in which such request was filed. Recalculations of benefits as required to carry out the provisions of this section shall be made notwithstanding the provisions of section 215(f)(1) of the Social Security Act, and no such recalculation shall be regarded as a recomputation for purposes of section 215(f) of such Act." 

**Payment of Wages After 2001**
Pub. L. 107–117, div. A, title VIII, § 4134, Jan. 10, 2002, 115 Stat. 2278, provided that: "Notwithstanding section 229(a) of the Social Security Act [subsec. (a) of this section], no wages shall be deemed to have been paid to any individual pursuant to that section in any calendar year after 2001." 

**Compensatory Payments to Trust Funds**
Section 151(b)(3) of Pub. L. 98–21, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: "(A) Within thirty days after the date of the enactment of this Act [Apr. 20, 1983], the Secretary of Health and Human Services shall determine the additional amounts which would have been appropriated to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund under sections 201 and 1817 of the Social Security Act [sections 401 and 1395i of this title] if the additional wages deemed to have been paid in each calendar quarter occurring after 1977, for provisions relating to applicability of benefits for wages deemed to have been paid in each calendar quarter occurring after 1956. 

(B)(i) Within thirty days after the date of the enactment of this Act [Apr. 20, 1983], the Secretary of the Treasury shall transfer to each such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, an amount equal to the amount determined with respect to such Trust Fund under subparagraph (A), less any amount appropriated to such Trust Fund pursuant to the provisions of section 226(b) of the Social Security Act [subsec. (b) of this section] prior to the date of the determination made under subparagraph (A) with respect to wages deemed to have been paid for calendar years prior to 1984. 

(ii) The Secretary of Health and Human Services shall revise the amount determined under clause (i)
with respect to each such Trust Fund within one year after the date of the transfer made to such Trust Fund under clause (i), as determined appropriate by such Secretary from data which becomes available to him after the date of the transfer under clause (i). Within 30 days after any such revision, the Secretary of the Treasury shall transfer to such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, or from such Trust Fund to the general fund of the Treasury, such amounts as the Secretary of Health and Human Services certifies as necessary to take into account such revision."

§ 430. Adjustment of contribution and benefit base

(a) Determination and publication by Commissioner in Federal Register subsequent to cost-of-living benefit increase; effective date

Whenever the Commissioner of Social Security pursuant to section 415(k)(1) of this title increases benefits effective with the December following a cost-of-living computation quarter, the Commissioner shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs the contribution and benefit base determined under subsection (b) or (c) of this section which shall be effective with respect to remuneration paid after the calendar year in which such quarter occurs and taxable years beginning after such year.

(b) Determination of amount

The amount of such contribution and benefit base shall (subject to subsection (c) of this section) be the amount of the contribution and benefit base in effect in the year in which the determination is made or, if larger, the product of—

(1) $60,600, and

(2) the ratio of (A) the national average wage index (as defined in section 409(k)(1) of this title) for the calendar year before the calendar year in which the determination under subsection (a) of this section is made to (B) the national average wage index (as so defined) for 1992, with such product, if not a multiple of $300, being rounded to the next higher multiple of $300 where such product is a multiple of $150 but not of $300 and to the nearest multiple of $300 in any other case.

(c) Amount of base for period prior to initial cost-of-living benefit increase

For purposes of this section, and for purposes of determining wages and self-employment income under sections 409, 411, 413, and 415 of this title and sections 1402, 3121, 3122, 3125, 6413, and 6654 of the Internal Revenue Code of 1986, (1) the “contribution and benefit base” with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1973 and prior to the calendar year with the June of which the first increase in benefits pursuant to section 415(i) of this title becomes effective shall be $13,200 or (if applicable) such other amount as may be specified in a law enacted subsequent to the law which added this section, and (2) the “contribution and benefit base” with respect to remuneration paid (and taxable years beginning)—

(A) in 1978 shall be $17,700,

(B) in 1979 shall be $22,900,

(C) in 1980 shall be $25,900, and

(D) in 1981 shall be $29,700.

For purposes of determining under subsection (b) of this section the “contribution and benefit base” with respect to remuneration paid (and taxable years beginning) in 1982 and subsequent years, the dollar amounts specified in clause (2) of the preceding sentence shall be considered to have resulted from the application of such subsection (b) of this section and to be the amount determined (with respect to the years involved) under that subsection.

(d) Determinations for calendar years after 1976 for purposes of retirement benefit plans

Notwithstanding any other provision of law, the contribution and benefit base determined under this section for any calendar year after 1976 for purposes of section 1322(b)(3)(B) of title 29, with respect to any plan, shall be the contribution and benefit base that would have been determined for such year if this section did not otherwise apply. For purposes of this subsection (b) of such section 430 of this title as so in effect, the reference to the contribution and benefit base in paragraph (1) of such subsection (b) shall be deemed a reference to an amount equal to $45,000, each reference in paragraph (2) of such subsection (b) to the average of the wages of all employees as reported to the Secretary of the Treasury shall be deemed a reference to the national average wage index (as defined in section 409(k)(1) of this title), the reference to a preceding calendar year in paragraph (2)(A) of such subsection (b) shall be deemed a reference to the calendar year in which the determination under subsection (a) of such section 430 of this title is made, and the reference to a calendar year in paragraph (2)(B) of such subsection (b) shall be deemed a reference to 1992.

References in Text

The Internal Revenue Code of 1986, referred to in subsec. (c), is classified generally to Title 26, Internal Revenue Code. 

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” and “and the Commissioner shall” for “he shall”.

Subsec. (b)(1), (2). Pub. L. 103–296, §321(g)(1)(A), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

(1) the contribution and benefit base which is in effect with respect to remuneration paid in (and taxable years beginning in) the calendar year in which the determination under subsection (a) of this section is made, and

(2) the ratio of (A) the deemed average total wages (as defined in section 409(k)(1) of this title) for the calendar year before the calendar year in which the determination under subsection (a) of this section is made to (B) the deemed average total wages (as so defined) for the calendar year before the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a) of this section.”.


Subsec. (d). Pub. L. 103–296, §321(g)(1)(B), at end substituted parenthetical provisions beginning with “(except that” and ending with “reference to 1992)” for former parenthetical provisions which read as follows: “(except that, for purposes of subsection (b)(2)(A) of this section as so in effect, the reference therein to the average of the wages of all employees as reported to the Secretary of the Treasury for any calendar year shall be deemed a reference to the deemed average total wage (within the meaning of section 409(k)(1) of this title) for such calendar year).”

1989—Subsec. (b)(2)(A). Pub. L. 101–219, §10203(b)(1)(A), as amended by Pub. L. 103–296, §321(b)(2), substituted “the deemed average total wages (as defined in section 409(k)(1) of this title)” for “the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a)(1) of this title) reported to the Secretary of the Treasury or his delegate for the calendar year preceding the calendar year for which the contribution and benefit liability under section 3201(a) of such Code which resulted from the application of the 12.75 percent rate specified therein, and for purposes of computing average monthly compensation under section 321(b)(4) of title 45, except with respect to annuity amounts determined under section 321(b)(4) or (5)(f) of title 45, clause (2) and the preceding sentence of this subsection shall be disregarded.

Pub. L. 98–76, §211(d), temporarily substituted “12.75 percent” for “11.75 percent”. See Effective and Termination Dates of 1983 Amendments note below.

1981—Subsec. (c). Pub. L. 97–34 substituted in last sentence “employee and employer” for “employer”. “sections 3201(a) and 3221(a)” for “section 3221(a)”, and “11.75” for “9.5”.

1979—Subsec. (a). Pub. L. 95–216, §103(a)(1), substituted “determined under subsection (b) or (c) of this section” for “determined under subsection (b) of this section”. 

Subsec. (b)(1). Pub. L. 95–216, §333(e)(2), substituted “determination under subsection (a) of this section is made” for “determination under subsection (a) of this section with respect to such particular calendar year was made”.

Subsec. (b)(2). Pub. L. 95–216, §333(e)(3), substituted “(A) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a)(1) of this title) reported to the Secretary of the Treasury or his delegate for the calendar year in which the determination under subsection (a) of this section is made to (B) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year before” for “(A) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year in which the determination under subsection (a) of this section with respect to such particular calendar year was made to (B) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973 or, if later, the calendar year preceding”. 

Subsec. (b)(3). Pub. L. 95–216, §333(e)(4), redesignated existing provisions as introductory material and cl. (1) and added cl. (2) and closing material.


1976—Subsec. (b). Pub. L. 94–292 substituted “wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year” for “taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year”.

Subsec. (c). Pub. L. 95–216, §103(b), designated existing provisions as introductory material and cl. (1) and added cl. (2) and closing material.


1975—Subsec. (b). Pub. L. 94–292 added subsec. (b) and redesignated existing provisions as introductory material and cl. (1) and added cl. (2) and closing material.

Subsec. (c). Pub. L. 95–216, §333(e)(5), substituted “change (except that, for purposes of subsection (b)(2)(A) of this section as so in effect, the reference therein to the average of the wages of all employees as reported to the Secretary of the Treasury for any calendar year shall be deemed a reference to the deemed average total wage (within the meaning of section 409(k)(1) of this title) for such calendar year)” for “change”.

1984—Subsec. (c). Pub. L. 98–369, in last sentence which was repealed by Pub. L. 98–76, substituted “3(a) or (3)(c)” for “3(a) or (3)(f)” in the original, which had been translated as “section 321(a) or (3)(f) of title 45”.


Subsec. (c). Pub. L. 98–76, §255(a)(4), struck out proviso that for purposes of determining employee and employer tax liability under sections 3201(a) and 3221(a) of the Code of 1954, for purposes of determining the portion of the employee representative tax liability under section 3211(a) of such Code which resulted from the application of the 12.75 percent rate specified therein, and for purposes of computing average monthly compensation under section 321(b)(4) of title 45, except with respect to annuity amounts determined under section 321(b)(4) or (5)(f) of title 45, clause (2) and the preceding sentence of this subsection shall be disregarded.

Pub. L. 98–76, §211(d), temporarily substituted “12.75 percent” for “11.75 percent”. See Effective and Termination Dates of 1983 Amendments note below.

1981—Subsec. (c). Pub. L. 97–34 substituted in last sentence “employee and employer” for “employer”. “sections 3201(a) and 3221(a)” for “section 3221(a)”, and “11.75” for “9.5”.

1979—Subsec. (a). Pub. L. 95–216, §103(a)(1), substituted “determined under subsection (b) or (c) of this section” for “determined under subsection (b) of this section”. 

Subsec. (b)(1). Pub. L. 95–216, §333(e)(2), substituted “determination under subsection (a) of this section is made” for “determination under subsection (a) of this section with respect to such particular calendar year was made”.

Subsec. (b)(2). Pub. L. 95–216, §333(e)(3), substituted “(A) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a)(1) of this title) reported to the Secretary of the Treasury or his delegate for the calendar year in which the determination under subsection (a) of this section is made to (B) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year before” for “(A) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year in which the determination under subsection (a) of this section with respect to such particular calendar year was made to (B) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973 or, if later, the calendar year preceding”. 

Subsec. (b)(3). Pub. L. 95–216, §333(e)(4), redesignated existing provisions as introductory material and cl. (1) and added cl. (2) and closing material.

tion of such benefit increase as required by section 415(c)(2)(D) of this title)” after “such quarter occurs” and “(unless such increase in benefits is prevented from becoming effective by section 415(c)(2)(D) of this title)” after “shall be effective”, respectively.

Subsec. (c). Pub. L. 93–233, §§3(2)(X), 5(c), substituted “the June” for “the first month” and “$3,200” for “$3,000”, respectively.

Pub. L. 93–66 substituted “$12,600” for “$12,000”.


**Effective Date of 1994 Amendment**


Section 321(b)(2) of Pub. L. 103–296 provided that the amendment made by that section is effective as if included in section 10208(b)(1) of Pub. L. 101–239.

Amendment by Pub. L. 103–296 effective with respect to the determination of the contribution and benefit base for years after 1994, see section 321(g)(3)(A) of Pub. L. 103–296, set out as a note under section 415 of this title.

**Effective Date of 1989 Amendment**

Section 10208(c) of Pub. L. 101–239 provided that:

“(1) In general.—The amendments made by subsections (a) and (b) (amending this section and sections 403, 409, 413, 415, and 424A of this title) shall apply with respect to the computation of average total wage amounts (under the amended provisions) for calendar years after 1990.

“(2) Transitional rule.—For purposes of determining the contribution and benefit base for 1990, 1991, and 1992 under section 230(b) of the Social Security Act [subsec. (b) of this section] and section 230(b) of that Act as in effect immediately prior to enactment of the Social Security Amendments of 1977 [Pub. L. 95–216, approved Dec. 20, 1977]—

“(A) the average of total wages for 1988 shall be deemed to be equal to the amount which would have been determined without regard to this paragraph, plus 2 percent of the amount which has been determined to be the average of total wages for 1987, and

“(B) the average of total wages for 1989 shall be deemed to be equal to the amount which would have been determined without regard to this paragraph, plus 2 percent of the amount which would have been determined to be the average of total wages for 1988 without regard to subparagraph (A), and

“(C) the average of total wages reported to the Secretary of the Treasury for 1990 shall be deemed to be equal to the product of—

“(i) the SSA average wage index (as defined in section 215(i)(1)(G) of the Social Security Act [section 415(i)(1)(G) of this title] and promulgated by the Secretary) for 1989, and

“(ii) the quotient obtained by dividing—

“(I) the average of total wages (as defined in regulations of the Secretary and computed without regard to the limitations of section 209(a)(1) of the Social Security Act [section 409(a)(1) of this title] and by including deferred compensation amounts, within the meaning of section 209(k)(2) of such Act as added by this section) reported to the Secretary of the Treasury or his delegate for 1990, by

“(II) the average of total wages (as so defined and computed without regard to the limitations specified in such section 209(a)(1) and by excluding deferred compensation amounts within the meaning of such section 209(k)(2) reported to the Secretary of the Treasury or his delegate for 1989.

“(3) Determination of contribution and benefit base for 1991.—For purposes of determining the contribution and benefit base for 1993 under section 230(b) of the Social Security Act (and section 230(b) of such Act as in effect immediately prior to enactment of the Social Security Amendments of 1977), the average of total wages for 1990 shall be determined without regard to subparagraph (C) of paragraph (2).

“(4) Revised determination of contribution and benefit base for section 230 of the Social Security Act.—As soon as possible after the enactment of this Act [Dec. 19, 1989], the Secretary of Health and Human Services shall revise and publish, in accordance with the provisions of this Act [Pub. L. 101–239, see Tables for classification] and the amendments made thereby, the contribution and benefit base under section 230 of the Social Security Act with respect to remuneration paid after 1989 and taxable years beginning after calendar year 1989.”

**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 and Termination Dates of 1983 Amendments**


Amendment by section 225(a)(4) of Pub. L. 98–76 applicable to remuneration paid after Dec. 31, 1984, see section 227(a) of Pub. L. 98–76, set out as a note under section 2301 of Title 26.

Amendment by Pub. L. 98–21 applicable with respect to—

(a) cost-of-living increases determined under section 415(i) of this title for years after 1982, see section 111(a)(8) of Pub. L. 98–21, set out as an Effective Date of 1983 Amendment note under section 402 of this title.

**Effective Date of 1981 Amendment**

Amendment by Pub. L. 97–34 applicable to compensation paid for services rendered after Sept. 30, 1981, see section 741(e) of Pub. L. 97–34, set out as a note under section 2301 of Title 26, Internal Revenue Code.

**Effective Date of 1977 Amendment**

Amendment by section 103(a), (b) of Pub. L. 95–216 applicable with respect to remunerations paid or received, and taxable years beginning after, 1977, see section 104 of Pub. L. 95–216, set out as a note under section 1461 of Title 26, Internal Revenue Code.

Section 103(c)(2) of Pub. L. 95–216 provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to plan terminations occurring after the date of the enactment of this Act [Dec. 20, 1977].”

Amendment by section 333(e) of Pub. L. 95–216 effective Jan. 1, 1979, see section 333(g) of Pub. L. 95–216, set out as a note under section 418 of this title.

**Effective Date of 1973 Amendments**

Amendment by Pub. L. 93–233 applicable only with respect to remunerations paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93–233, set out as a note under section 409 of this title.

Amendment by Pub. L. 93–66 applicable only with respect to remunerations paid after, and taxable years beginning after, 1973, see section 263(e) of Pub. L. 93–66, set out as a note under section 409 of this title.

**Effective Date of 1972 Amendment**

Amendment by Pub. L. 92–603 effective in like manner as if such amendment had been included in title II of Pub. L. 92–336, see section 144(b) of Pub. L. 92–603, set out as a note under section 403 of this title.

**Social Security Contribution and Benefit Base**

2012—By notice of the Commissioner of Social Security, Oct. 24, 2011, 76 F.R. 66111, it was determined and
announced that the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 2012 is $110,100.

By notice of the Commissioner of Social Security, Oct. 26, 2010, 75 F.R. 65696, as corrected Nov. 30, 2010, 75 F.R. 74123, it was determined and announced that the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 2011 will remain $106,800.

2010—By notice of the Commissioner of Social Security, Oct. 29, 2009, 74 F.R. 52668, it was determined and announced that the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 2010 will remain $106,800.

2009—By notice of the Commissioner of Social Security, Oct. 21, 2008, 73 F.R. 66561, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 2009 is $106,800.

2008—By notice of the Commissioner of Social Security, Oct. 19, 2007, 72 F.R. 60703, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 2008 is $102,000.

2007—By notice of the Commissioner of Social Security, Oct. 19, 2006, 71 F.R. 62636, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 2007 is $97,500.

2006—By notice of the Commissioner of Social Security, Oct. 18, 2005, 70 F.R. 61677, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 2006 is $94,200.

2005—By notice of the Commissioner of Social Security, Oct. 26, 2004, 69 F.R. 62497, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 2005 is $90,000.

2004—By notice of the Commissioner of Social Security, Oct. 18, 2003, 68 F.R. 60837, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 2004 is $87,900.

2003—By notice of the Commissioner of Social Security, Oct. 18, 2002, 67 F.R. 65620, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 2003 is $87,000.

2002—By notice of the Commissioner of Social Security, Oct. 19, 2001, 66 F.R. 54947, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 2002 is $84,500.

2001—By notice of the Commissioner of Social Security, Oct. 18, 2000, 65 F.R. 63663, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 2001 is $80,400.

2000—By notice of the Commissioner of Social Security, Oct. 20, 1999, 64 F.R. 57600, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 2000 is $76,200.

1999—By notice of the Commissioner of Social Security, Oct. 21, 1998, 63 F.R. 58446, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1999 is $72,600.

1998—By notice of the Commissioner of Social Security, Oct. 22, 1997, 62 F.R. 58782, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1998 is $68,400.

1997—By notice of the Commissioner of Social Security, Oct. 18, 1996, 61 F.R. 55348, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1997 is $65,400.

1996—By notice of the Commissioner of Social Security, Oct. 18, 1995, 60 F.R. 54751, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1996 is $62,700.

1995—By notice of the Commissioner of Social Security, Oct. 17, 1994, 59 F.R. 54646, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1995 is $61,200.

1994—By notice of the Secretary of Health and Human Services, Oct. 28, 1993, 58 F.R. 58004, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1994 is $59,600.

1993—By notice of the Secretary of Health and Human Services, Oct. 20, 1992, 57 F.R. 48619, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1993 is $57,600.

1992—By notice of the Secretary of Health and Human Services, Oct. 21, 1991, 56 F.R. 55325, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1992 is $55,500.

1991—By notice of the Secretary of Health and Human Services, Oct. 27, 1990, 55 F.R. 45804, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1991 is $53,400.

1990—By notice of the Secretary of Health and Human Services, Oct. 26, 1989, 54 F.R. 45803, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1990 is $50,400.

1989—By notice of the Secretary of Health and Human Services, Oct. 27, 1988, 53 F.R. 43802, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1989 is $48,000.

1988—By notice of the Secretary of Health and Human Services, Oct. 19, 1987, 52 F.R. 41572, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1988 is $45,000.

1987—By notice of the Secretary of Health and Human Services, Oct. 31, 1986, 51 F.R. 40256, it was determined and announced that, pursuant to authority contained in this section, the contribution and benefit base for remuneration paid in, and for self-employment income earned in taxable years beginning in, 1987 is $43,800.
§ 431. Benefits for certain individuals interned by United States during World War II

(a) "Internee" defined

For the purposes of this section the term "internee" means an individual who was interned during any period of time from December 7, 1941, through December 31, 1946, at a place within the States operated by the Government of the United States for the internment of United States citizens of Japanese ancestry.

(b) Applicability in determining entitlement to and amount of monthly benefits and lump-sum death payments, and period of disability; effect of payment of benefits by other agency or instrumentality of United States

(1) For purposes of determining entitlement to and the amount of any monthly benefit for any month after December 1972, or entitlement to and the amount of any lump-sum death payment in the case of a death after such month, payable under this subchapter on the basis of the wages and self-employment income of any individual, and for purposes of section 416(i)(3) of this title, such individual shall be deemed to have been paid during any period after he attained age 18 and for which he was an internee, wages (in addition to any wages actually paid to him) at a weekly rate of basic pay during such period as follows—

(A) in the case such individual was not employed prior to the beginning of such period, 40 multiplied by the minimum hourly rate or rates in effect at any such time under section 206(a)(1) of title 29, for each full week during such period; and

(B) in the case such individual who was employed prior to the beginning of such period, 40 multiplied by the greater of (i) the highest hourly rate received during any such employment, or (ii) the minimum hourly rate or rates in effect at any such time under section 206(a)(1) of title 29, for each full week during such period.

(2) This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump-sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon interment during any period from December 7, 1941, through December 31, 1946, at a place within the United States operated by the Government of the United States for the internment of United States citizens of Japanese ancestry, is determined by any agency or wholly owned instrumentality of the United States to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) shall not apply in the case of any monthly benefit or lump-sum death payment under this subchapter if its application would reduce by $0.50 or less the primary insurance amount (as computed under section 410 of this title) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) shall also not apply for purposes of section 416(i)(3) of this title.

(3) Upon application for benefits, a recalculation of benefits (by reason of this section), or a lump-sum death payment on the basis of the wages and self-employment income of any individual who was an internee, the Commissioner of Social Security shall accept the certification of the Secretary of Defense or his designee concerning any period of time for which an internee was employed prior to the beginning of such period. The provisions of clause (B) shall not apply for purposes of section 416(i)(3) of this title.

§ 431. Benefits for certain individuals interned by United States during World War II

(a) "Internee" defined

For the purposes of this section the term "internee" means an individual who was interned during any period of time from December 7, 1941, through December 31, 1946, at a place within the United States operated by the Government of the United States for the internment of United States citizens of Japanese ancestry.

(b) Applicability in determining entitlement to and amount of monthly benefits and lump-sum death payments, and period of disability; effect of payment of benefits by other agency or instrumentality of United States

(1) For purposes of determining entitlement to and the amount of any monthly benefit for any month after December 1972, or entitlement to and the amount of any lump-sum death payment in the case of a death after such month, payable under this subchapter on the basis of the wages and self-employment income of any individual, and for purposes of section 416(i)(3) of this title, such individual shall be deemed to have been paid during any period after he attained age 18 and for which he was an internee, wages (in addition to any wages actually paid to him) at a weekly rate of basic pay during such period as follows—

(A) in the case such individual was not employed prior to the beginning of such period, 40 multiplied by the minimum hourly rate or rates in effect at any such time under section 206(a)(1) of title 29, for each full week during such period; and

(B) in the case such individual who was employed prior to the beginning of such period, 40 multiplied by the greater of (i) the highest hourly rate received during any such employment, or (ii) the minimum hourly rate or rates in effect at any such time under section 206(a)(1) of title 29, for each full week during such period.

(2) This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump-sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon interment during any period from December 7, 1941, through December 31, 1946, at a place within the United States operated by the Government of the United States for the internment of United States citizens of Japanese ancestry, is determined by any agency or wholly owned instrumentality of the United States to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) shall not apply in the case of any monthly benefit or lump-sum death payment under this subchapter if its application would reduce by $0.50 or less the primary insurance amount (as computed under section 410 of this title) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) shall also not apply for purposes of section 416(i)(3) of this title.

(3) Upon application for benefits, a recalculation of benefits (by reason of this section), or a lump-sum death payment on the basis of the wages and self-employment income of any individual who was an internee, the Commissioner of Social Security shall accept the certification of the Secretary of Defense or his designee concerning any period of time for which an internee was employed prior to the beginning of such period. The provisions of clause (B) shall not apply for purposes of section 416(i)(3) of this title.
by such agency or instrumentality to be payable by it. If the Commissioner of Social Security has not been so notified, the Commissioner shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (2) is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Commissioner of Social Security, and the Commissioner of Social Security shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by this section.

(4) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on any period for which any individual was an internee shall, at the request of the Commissioner of Social Security, certify to the Commissioner, with respect to any individual who was an internee, such information as the Commissioner of Social Security deems necessary to carry out the Commissioner’s functions under paragraph (3) of this subsection.

(c) Authorization of appropriations

There are authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund for the fiscal year ending June 30, 1978, such sums as the Commissioner of Social Security and the Federal Hospital Insurance Trust Fund in the position in which they would have been if the preceding provisions of this section had not been enacted. (Aug. 14, 1935, ch. 531, title II, § 231, as added Pub. L. 92–603, title I, § 142(a), Oct. 30, 1972, 86 Stat. 1367; amended Pub. L. 98–369, div. B, title VI, § 321(c)(6)(L), Aug. 15, 1994, 108 Stat. 1477, 1538.)

AMENDMENTS

1994—Subsec. (b)(3). Pub. L. 103–296, § 107(a)(1), (4), substituted “Commissioner of Social Security” for “Secretary of Health and Human Services” after “an internee, the”, after “If the”, and after “so notify the”, substituted “the Commissioner” for “he” before “has been notified” and before “shall then ascertain”, and substituted “Commissioner of Social Security” for “Secretary” before “shall certify no”.

Subsec. (b)(4). Pub. L. 103–296, § 107(a)(1), (4), substituted “Commissioner of Social Security, certify to the Commissioner, with respect to any individual who was an internee, such information as the Commissioner of Social Security deems necessary to carry out the Commissioner’s functions under paragraph (3) of this subsection” for “Secretary of Health and Human Services, certify to him, with respect to any individual who was an internee, such information as the Secretary deems necessary to carry out his functions under paragraph (3) of this subsection”.

Subsec. (c). Pub. L. 103–296, § 107(c), substituted “Commissioner of Social Security and the Secretary jointly determine” for “Secretary determines”.

1986—Subsec. (b)(3). Pub. L. 99–509 substituted “Secretary, except where appearing before “of the Secretary” and substituted “available to the Commissioner” for “available to him”.

AMENDMENT

§ 433. International agreements

(a) Purpose of agreement

The President is authorized (subject to the succeeding provisions of this section) to enter into agreements establishing totalization arrangements between the social security system established by this subchapter and the social security system of any foreign country, for the purposes of establishing entitlement to and the amount of old-age, survivors, disability, or derivative benefits based on a combination of an individual’s periods of coverage under the social security system established by this subchapter and the social security system of such foreign country.

(b) Definitions

For the purposes of this section—

(1) the term “social security system” means, with respect to a foreign country, a social insurance or pension system which is of general application in the country and under which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, death, or disability; and

(2) the term “period of coverage” means a period of payment of contributions or a period of earnings based on wages for employment or on self-employment income, or any similar periods recognized as equivalent thereto under this subchapter or under the social security system of a country which is a party to an agreement entered into under this section.

(c) Crediting periods of coverage; conditions of payment of benefits

(1) Any agreement establishing a totalization arrangement pursuant to this section shall provide:

(A) that in the case of an individual who has at least 6 quarters of coverage as defined in section 413 of this title and periods of coverage under the social security system of a foreign country which is a party to such agreement, periods of coverage of such individual under such social security system of such foreign country may be combined with periods of coverage under this subchapter and otherwise considered for the purposes of establishing entitlement to and the amount of old-age, survivors, and disability insurance benefits under this subchapter;

(B)(i) that employment or self-employment, or any service which is recognized as equivalent to employment or self-employment under this subchapter or the social security system of a foreign country which is a party to such agreement, shall, on or after the effective date of such agreement, result in a period of coverage under the system established under this subchapter or under the system established under the laws of such foreign country, but not under both, and (ii) the methods and conditions for determining under which system employment, self-employment, or other service shall result in a period of coverage; and

(C) that where an individual’s periods of coverage are combined, the benefit amount payable under this subchapter shall be based on the proportion of such individual’s periods of coverage which was completed under this subchapter.

(2) Any such agreement may provide that an individual who is entitled to cash benefits under this subchapter shall, notwithstanding the provisions of section 402(i) of this title, receive such benefits while he resides in a foreign country which is a party to such agreement.

(3) Section 426 of this title shall not apply in the case of any individual to whom it would not be applicable but for this section or any agreement or regulation under this section.

(4) Any such agreement may contain other provisions which are not inconsistent with the other provisions of this subchapter and which the President deems appropriate to carry out the purposes of this section.

(d) Regulations

The Commissioner of Social Security shall make rules and regulations and establish procedures which are reasonable and necessary to implement and administer any agreement which has been entered into in accordance with this section.

(e) Reports to Congress; effective date of agreements

(1) Any agreement to establish a totalization arrangement entered into pursuant to this section shall be transmitted by the President to the Congress together with a report on the estimated number of individuals who will be affected by the agreement and the effect of the agreement on the estimated income and expenditures of the programs established by this chapter.

(2) Such an agreement shall become effective on any date, provided in the agreement, which occurs after the expiration of the period (following the date on which the agreement is transmitted in accordance with paragraph (1)) during which at least one House of the Congress has been in session on each of 60 days; except that such agreement shall not become effective if, during such period, either House of the Congress adopts a resolution of disapproval of the agreement.


AMENDMENTS


1983—Subsec. (e)(2). Pub. L. 98–21 substituted “during which at least one House of the Congress has been in session on each of 60 days” for “during which each House of the Congress has been in session on each of 90 days”.

1981—Subsec. (c)(2). Pub. L. 97–35 struck out provision permitting the agreement to provide that if the benefit paid by the United States to an individual who legally
resides in the United States when added to the benefit paid by the foreign country is less than the benefit amount payable to such individual based on the first figure in, column IV of the table in section 415(a) of this title in the case of an individual becoming eligible before Jan. 1, 1979, or based on a primary insurance amount determined under section 415(a)(2)(B)(i)(I) of this title in the case of an individual becoming eligible for such benefit on or after such date, the benefit paid by the United States be increased so that the two benefits equal the benefit amount that would be payable.

Effective Date of 1984 Amendment
Amendment by Pub. L. 98-369 effective Mar. 31, 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 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 Amendment
Section 326(b) of Pub. L. 98-21 provided that: “The amendment made by subsection (a) [amending this section] shall be effective on the date of the enactment of this Act [Apr. 20, 1983].”

Effective Date of 1981 Amendment
Amendment by Pub. L. 97-35 applicable with respect to benefits for months after December 1981, with certain exceptions, see section 2(j)(2)-(4) of Pub. L. 98-369, set out as a note under section 401 of this title.

§ 434. Demonstration project authority
(a) Authority
(1) In general
The Commissioner of Social Security (in this section referred to as the “Commissioner”) shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of—
(A) various alternative methods of treating the work activity of individuals entitled to disability insurance benefits under section 423 of this title or to monthly insurance benefits under section 402 of this title based on such individual’s disability (as defined in section 423(d) of this title), including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of such individuals;
(B) altering other limitations and conditions applicable to such individuals (including lengthening the trial work period (as defined in section 422(c) of this title), altering the 24-month waiting period for hospital insurance benefits under section 422 of this title, altering the manner in which the program under this subchapter is administered, earlier referral of such individuals for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation); and
(C) implementing sliding scale benefit offsets using variations in—
(i) the amount of the offset as a proportion of earned income;
(ii) the duration of the offset period; and
(iii) the method of determining the amount of income earned by such individuals,
to the end that savings will accrue to the Trust Funds, or to otherwise promote the objectives or facilitate the administration of this subchapter.

(2) Authority for expansion of scope
The Commissioner may expand the scope of any such experiment or demonstration project to include any group of applicants for benefits under the program established under this subchapter with impairments that reasonably may be presumed to be disabling for purposes of such demonstration project, and may limit any such demonstration project to any such group of applicants, subject to the terms of such demonstration project which shall define the extent of any such presumption.

(b) Requirements
The experiments and demonstration projects developed under subsection (a) of this section shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program under this subchapter without committing such program to the adoption of any particular system either locally or nationally.

(c) Authority to waive compliance with benefits requirements
In the case of any experiment or demonstration project initiated under subsection (a) of this section on or before December 17, 2005, the Commissioner may waive compliance with the benefit requirements of this subchapter and the requirements of section 1320b–19 of this title as they relate to the program established under this subchapter, and the Secretary may (upon the request of the Commissioner) waive compliance with the benefits requirements of subchapter XVIII of this chapter, insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a) of this section.

(d) Reports
(1) Interim reports
On or before June 9 of each year, the Commissioner shall submit to the Committee on
Ways and Means of the House of Representatives and to the Committee on Finance of the Senate an annual interim report on the progress of the experiments and demonstration projects carried out under this subsection (a) together with any related data and materials that the Commissioner may consider appropriate.

(2) Termination and final report

The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2005. Not later than 90 days after the termination of any experiment or demonstration project carried out under this section, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a final report with respect to that experiment or demonstration project.


AMENDMENTS

2004—Subsec. (c). Pub. L. 108–203, §401(1), substituted "initiated under subsection (a) of this section on or before December 17, 2005" for "conducted under subsection (a) of this section".

Subsec. (d)(2). Pub. L. 108–203, §401(2), substituted "The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2005." for "The authority under the preceding provisions of this section (including any waiver granted pursuant to subsection (c) of this section) shall terminate 5 years after December 17, 1999."

DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS


"(a) AUTHORITY.—The Commissioner of Social Security shall conduct demonstration projects for the purpose of evaluating, through the collection of data, a program for title II disability beneficiaries (as defined in section 1148(k)(3) of the Social Security Act (section 1320b–19 of this title)) under which benefits payable under section 223 of such Act (section 423 of this title), or under section 202 of such Act (section 422 of this title) based on the beneficiary's disability, are reduced by $1 for each $2 of the beneficiary's earnings that is above a level to be determined by the Commissioner. Such projects shall be conducted at a number of localities which the Commissioner shall determine is sufficient to adequately evaluate the appropriateness of national implementation of such a program. Such projects shall identify reductions in Federal expenditures that may result from the permanent implementation of such a program.

"(b) SCOPE AND SCALE AND MATTERS TO BE DETERMINED.—

"(1) IN GENERAL.—The demonstration projects developed under subsection (a) shall be of sufficient duration, shall be of sufficient scope, and shall be carried out on a wide enough scale to permit a thorough evaluation of the project to determine—

"(A) the effects, if any, of induced entry into the project and reduced exit from the project;

"(B) the extent, if any, to which the project being tested is affected by whether it is in operation in a locality within an area under the administration of the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (section 1320b–19 of this title);

"(C) the savings that accrue to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and other Federal programs under the project being tested.

The Commissioner shall take into account advice provided by the Ticket to Work and Work Incentives Advisory Panel pursuant to section 101(f)(2)(B)(i) of this Act [set out as a note under section 1320b–19 of this title].

"(2) ADDITIONAL MATTERS.—The Commissioner shall also determine with respect to each project—

"(A) the annual cost (including net cost) of the project and the annual cost (including net cost) that would have been incurred in the absence of the project;

"(B) the determinants of return to work, including the characteristics of the beneficiaries who participate in the project; and

"(C) the employment outcomes, including wages, occupations, benefits, and hours worked, of beneficiaries who return to work as a result of participation in the project.

The Commissioner may include within the matters evaluated under the project the merits of trial work periods and periods of extended eligibility.

"(c) WAIVERS.—The Commissioner may waive compliance with the preceding provisions of title II of the Social Security Act (42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b–19) as they relate to the program established under title II of such Act, and the Secretary of Health and Human Services may waive compliance with the benefit requirements of title XVIII of such Act (42 U.S.C. 1395 et seq.), insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such project shall be actually placed in operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).

"(d) INTERIM REPORTS.—Not later than 2 years after the date of the enactment of this Act [Dec. 17, 1999], and annually thereafter, the Commissioner of Social Security shall submit to the Congress an interim report on the progress of the demonstration projects carried out under this subsection together with any related data and materials that the Commissioner of Social Security may consider appropriate.

"(e) FINAL REPORT.—The Commissioner of Social Security shall submit to the Congress a final report with respect to all demonstration projects carried out under this section not later than 1 year after their completion.

"(f) EXPENDITURES.—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II of such Act or XVIII of the Social Security Act [subchapters II and XVIII of this chapter], as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Unemployment Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the
Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII.”

**Study by General Accounting Office of the Impact of the Substantial Gainful Activity Limit on Return to Work**

Pub. L. 106–170, title III, §303(c), Dec. 17, 1999, 113 Stat. 1307, provided that, as soon as practicable after Dec. 17, 1999, the Comptroller General was to undertake a study of the substantial gainful activity level applicable as of that date to recipients of benefits under sections 402 and 423 of this title and the effect of such level as a disincentive for those recipients to return to work, to address the merits of increasing the substantial gainful activity level applicable to recipients and the rationale for not yearly indexing that level to inflation, and not later than 2 years after Dec. 17, 1999, to transmit to the appropriate congressional committees a written report presenting the results of the Comptroller General’s study conducted pursuant to this subsection and appropriate recommendations for legislative or administrative changes.

**Study by the Government Accountability Office of Social Security Administration’s Disability Insurance Program Demonstration Authority**

Pub. L. 106–170, title III, §303(e), Dec. 17, 1999, 113 Stat. 1307, provided that, as soon as practicable after Dec. 17, 1999, the Comptroller General of the United States was to undertake a study to assess the results of the Social Security Administration’s efforts to conduct disability demonstrations authorized under prior law as well as under 42 U.S.C. 434 and, not later than 5 years after Dec. 17, 1999, to transmit to the appropriate congressional committees a written report presenting the results of the Comptroller General’s study conducted pursuant to 42 U.S.C. 434 and a recommendation as to whether the demonstration authority authorized under 42 U.S.C. 434 should be made permanent.

**Subchapter III—Grants to States for Unemployment Compensation Administration**

§501. Use of available funds

The amounts made available pursuant to section 1101(c)(1)(A) of this title for the purpose of assisting the States in the administration of their unemployment compensation laws shall be used as hereinafter provided.


**Amendments**

1960—Pub. L. 86–778 struck out provisions prescribing specific sums for fiscal years 1936–1939 and for each fiscal year thereafter and inserted provisions relating to amounts made available pursuant to section 1101(c)(1)(A) of this title.

1939—Act Apr. 19, 1939, provided increased appropriation for fiscal year ending June 30, 1939, and for each fiscal year thereafter.

§502. Payments to States; computation of amounts

(a) Certification of amounts

The Secretary of Labor shall from time to time certify to the Secretary of the Treasury for payment to each State which has an unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act, such amounts as the Secretary of Labor determines to be necessary for the proper and efficient administration of such law during the fiscal year for which such payment is to be made, including 100 percent of so much of the reasonable expenditures of the State as are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1320b–7(d) of this title. The Secretary of Labor’s determination shall be based on (1) the population of the State; (2) an estimate of the number of persons covered by the State law and of the cost of proper and efficient administration of such law; and (3) such other factors as the Secretary of Labor finds relevant. The Secretary of Labor shall not certify for payment under this section in any fiscal year a total amount in excess of the amount appropriated therefor for such fiscal year.

(b) Payment of amounts

Out of the sums appropriated therefor, the Secretary of the Treasury shall, upon receiving a certification under subsection (a) of this section, pay, through the Fiscal Service of the Department of the Treasury prior to audit or settlement by the Government Accountability Office, to the State agency charged with the administration of such law the amount so certified.

(c) Mailing costs

No portion of the cost of mailing a statement under section 6050(b) of the Internal Revenue Code of 1986 (relating to unemployment compensation) shall be treated as not being a cost for the proper and efficient administration of the State unemployment compensation law by reason of including with such statement information about the earned income credit provided by section 32 of the Internal Revenue Code of 1986. The preceding sentence shall not apply if the inclusion of such information increases the postage required to mail such statement.


**References in Text**


For provisions deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1986 Code, see section 7863(b) of the 1986 Code. For table of comparisons of the 1939 Code to the 1986 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1986 is classified generally to Title 26.