

Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1981—Subsec. (h). Pub. L. 97-119, §104(b)(1), substituted "by section 9501 of title 26" for "in section 934a(a)(1) of this title".

Subsec. (i). Pub. L. 97-119, §205(b), added subsec. (i).

1978—Subsec. (b). Pub. L. 95-239, §2(a), substituted "a chronic dust disease of the lung and its sequelae, including respiratory and pulmonary impairments, arising out of coal mine employment" for "a chronic dust disease of the lung arising out of employment in a coal mine".

Subsec. (d). Pub. L. 95-239, §2(b), substituted "any individual who works or has worked in or around a coal mine or coal preparation facility in the extraction or preparation of coal" for "any individual who is or was employed in a coal mine" and inserted provisions that extended to definition of the term "miner" so as to include also an individual who works or has worked in coal mine construction or transportation in or around a coal mine, to the extent that such individual was exposed to coal dust as a result of such employment.

Subsec. (f). Pub. L. 95-239, §2(c), designated existing provisions as pars. (1)(A) and (1)(C), inserted references in the provisions preceding par. (1)(A) to regulations promulgated by the Secretary of Labor for claims under part C of this subchapter and to the relevant provisions of subsecs. (b) and (d) of section 923 of this title, and added pars. (1)(B), (1)(D), and (2).

Subsec. (h). Pub. L. 95-239, §2(d), added subsec. (h).

1972—Subsec. (a). Pub. L. 92-303, §1(c)(2), expanded definition of "dependent" to include children and wife without reference to section 8110 of title 5.

Subsecs. (b), (d). Pub. L. 92-303, §3(b), substituted "a coal mine" for "an underground coal mine".

Subsec. (e). Pub. L. 92-303, §1(c)(3), expanded definition of "widow" by reference to title 42 and provided procedure for the determination of the status.

Subsec. (f). Pub. L. 92-303, §4(a), expanded definition of "total disability" to include a miner prevented from engaging in gainful employment by pneumoconiosis.

Subsec. (g). Pub. L. 92-303, §1(c)(4), added subsec. (g).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in subsec. (f) pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-275, §4, Nov. 2, 2002, 116 Stat. 1928, provided that: "This Act [amending this section and sections 921 to 924, 925, 932a, and 936 of this title, repealing sections 904, 924a, and 945 of this title, and enacting provisions set out as notes under sections 801 and 921 of this title], and the amendments made by this Act, shall take effect 90 days after the date of enactment of this Act [Nov. 2, 2002]."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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 Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 205(b) of Pub. L. 97-119 effective Jan. 1, 1982, except as otherwise provided, see section 206(a) of Pub. L. 97-119, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 3(b) of Pub. L. 92-303 effective Dec. 30, 1969, see section 3(c) of Pub. L. 92-303, set out as a note under section 901 of this title.

Amendment by section 4(a) of Pub. L. 92-303 effective Dec. 30, 1969, see section 4(g) of Pub. L. 92-303, set out as a note under section 921 of this title.

§ 903. Field offices

(a) The Secretary of Labor shall establish and operate such field offices as may be necessary to assist miners and survivors of miners in the filing and processing of claims under this subchapter. Such field offices shall, to the extent feasible, be reasonably accessible to such miners and survivors. The Secretary, in connection with the establishment and operation of field offices, may enter into arrangements with other Federal departments and agencies, and with State agencies, for the use of existing facilities operated by such departments and agencies. Where the establishment of separate facilities is not feasible the Secretary may enter into such arrangements as he deems necessary with the heads of Federal departments, agencies, and instrumentalities and with State agencies for the use of existing facilities and personnel under their control.

(b) There are authorized to be appropriated for the purposes of subsection (a) such sums as may be necessary.

(Pub. L. 95-239, §18, Mar. 1, 1978, 92 Stat. 105.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Black Lung Benefits Reform Act of 1977, and not as part of the Federal Mine Safety and Health Act of 1977 which comprises this chapter or the Black Lung Benefits Act which comprises this subchapter.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as an Effective Date of 1978 Amendment note under section 901 of this title.

§ 904. Repealed. Pub. L. 107-275, §2(c)(2), Nov. 2, 2002, 116 Stat. 1926

Section, Pub. L. 95-239, §19, Mar. 1, 1978, 92 Stat. 106, related to providing information to potential beneficiaries of changes made by Black Lung Benefits Reform Act of 1977.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Nov. 2, 2002, see section 4 of Pub. L. 107-275, set out as an Effective Date of 2002 Amendment note under section 902 of this title.

PART B—CLAIMS FOR BENEFITS FILED ON OR BEFORE DECEMBER 31, 1973

§ 921. Regulations and presumptions

(a) Promulgation; payment of benefits

The Secretary shall, in accordance with the provisions of this part, and the regulations promulgated by him under this part, make pay-

ments of benefits in respect of total disability of any miner due to pneumoconiosis, and in respect of the death of any miner whose death was due to pneumoconiosis or, except with respect to a claim filed under part C of this subchapter on or after the effective date of the Black Lung Benefits Amendments of 1981, who at the time of his death was totally disabled by pneumoconiosis.

(b) Promulgation of standards determining total disability

The Secretary shall by regulation prescribe standards for determining for purposes of subsection (a) whether a miner is totally disabled due to pneumoconiosis and for determining whether the death of a miner was due to pneumoconiosis. Regulations required by this subsection shall be promulgated and published in the Federal Register at the earliest practicable date after December 30, 1969, and in no event later than the end of the third month following December 1969. Final regulations required for implementation of any amendments to this subchapter shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of such amendments, and in no event later than the end of the fourth month following the month in which such amendments are enacted. Such regulations may be modified or additional regulations promulgated from time to time thereafter.

(c) Presumptions

For purposes of this section—

(1) If a miner who is suffering or suffered from pneumoconiosis was employed for ten years or more in one or more coal mines there shall be a rebuttable presumption that his pneumoconiosis arose out of such employment.

(2) If a deceased miner was employed for ten years or more in one or more coal mines and died from a respirable disease there shall be a rebuttable presumption that his death was due to pneumoconiosis. The provisions of this paragraph shall not apply with respect to claims filed on or after the effective date of the Black Lung Benefits Amendments of 1981.

(3) If a miner is suffering or suffered from a chronic dust disease of the lung which (A) when diagnosed by chest roentgenogram, yields one or more large opacities (greater than one centimeter in diameter) and would be classified in category A, B, or C in the International Classification of Radiographs of the Pneumoconioses by the International Labor Organization, (B) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, or (C) when diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in clause (A) or (B) if diagnosis had been made in the manner prescribed in clause (A) or (B), then there shall be an irrebuttable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis, or that at the time of his death he was totally disabled by pneumoconiosis.¹ as the case may be.

¹ So in original. The period probably should be a comma.

(4) if² a miner was employed for fifteen years or more in one or more underground coal mines, and if there is a chest roentgenogram submitted in connection with such miner's, his widow's, his child's, his parent's, his brother's, his sister's, or his dependent's claim under this subchapter and it is interpreted as negative with respect to the requirements of paragraph (3) of this subsection, and if other evidence demonstrates the existence of a totally disabling respiratory or pulmonary impairment, then there shall be a rebuttable presumption that such miner is totally disabled due to pneumoconiosis, that his death was due to pneumoconiosis, or that at the time of his death he was totally disabled by pneumoconiosis. In the case of a living miner, a wife's affidavit may not be used by itself to establish the presumption. The Secretary shall not apply all or a portion of the requirement of this paragraph that the miner work in an underground mine where he determines that conditions of a miner's employment in a coal mine other than an underground mine were substantially similar to conditions in an underground mine. The Secretary may rebut such presumption only by establishing that (A) such miner does not, or did not, have pneumoconiosis, or that (B) his respiratory or pulmonary impairment did not arise out of, or in connection with, employment in a coal mine.

(5) In the case of a miner who dies on or before March 1, 1978, who was employed for 25 years or more in one or more coal mines before June 30, 1971, the eligible survivors of such miner shall be entitled to the payment of benefits, at the rate applicable under section 922(a)(2) of this title, unless it is established that at the time of his or her death such miner was not partially or totally disabled due to pneumoconiosis. Eligible survivors shall, upon request by the Secretary, furnish such evidence as is available with respect to the health of the miner at the time of his or her death. The provisions of this paragraph shall not apply with respect to claims filed on or after the day that is 180 days after the effective date of the Black Lung Benefits Amendments of 1981.

(d) Applicability of presumptions

Nothing in subsection (c) shall be deemed to affect the applicability of subsection (a) in the case of a claim where the presumptions provided for therein are inapplicable.

(Pub. L. 91-173, title IV, §411, Dec. 30, 1969, 83 Stat. 793; Pub. L. 92-303, §§3(a), 4(b)(1), (3), (c), (d), May 19, 1972, 86 Stat. 153, 154; Pub. L. 95-239, §3(a), Mar. 1, 1978, 92 Stat. 96; Pub. L. 97-119, title II, §§202(b), 203(a)(5), Dec. 29, 1981, 95 Stat. 1643, 1644; Pub. L. 103-296, title I, §108(i)(2), Aug. 15, 1994, 108 Stat. 1488; Pub. L. 107-275, §2(a), Nov. 2, 2002, 116 Stat. 1925; Pub. L. 111-148, title I, §1556(a), Mar. 23, 2010, 124 Stat. 260.)

Editorial Notes

REFERENCES IN TEXT

The effective date of the Black Lung Benefits Amendments of 1981, referred to in subsecs. (a) and (c)(2), (5),

² So in original. Probably should be capitalized.

is Jan. 1, 1982, except as otherwise provided. See section 206(a) of Pub. L. 97-119, set out as an Effective Date of 1981 Amendment note under section 901 of this title.

AMENDMENTS

2010—Subsec. (c)(4). Pub. L. 111-148 struck out at end “The provisions of this paragraph shall not apply with respect to claims filed on or after the effective date of the Black Lung Benefits Amendments of 1981.”

2002—Subsecs. (a), (b), (c)(4), (5). Pub. L. 107-275 substituted “Secretary” for “Commissioner of Social Security” wherever appearing.

1994—Subsecs. (a), (b), (c)(4), (5). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary” wherever appearing.

1981—Subsec. (a). Pub. L. 97-119, §203(a)(5), inserted “, except with respect to a claim filed under part C of this subchapter on or after the effective date of the Black Lung Benefits Amendments of 1981,” after “pneumoconiosis or”.

Subsec. (c)(2), (4). Pub. L. 97-119, §202(b)(1), inserted provision that this paragraph not apply with respect to claims filed on or after the effective date of the Black Lung Benefits Amendments of 1981.

Subsec. (c)(5). Pub. L. 97-119, §202(b)(2), inserted provision that this paragraph not apply with respect to claims filed on or after the day that is 180 days after the effective date of the Black Lung Benefits Amendments of 1981.

1978—Subsec. (c). Pub. L. 95-239 capitalized and repunctuated the existing paragraphs to change their construction from that of uncapitalized clauses to complete sentences, and added par. (5).

1972—Subsec. (a). Pub. L. 92-303, §4(b)(1), substituted “pneumoconiosis or who at the time of his death was totally disabled by pneumoconiosis” for “pneumoconiosis”.

Subsec. (b). Pub. L. 92-303, §4(d), inserted provision for the promulgation and publication in the Federal Register of final regulations and their amendments and for time limits for publication.

Subsec. (c)(1), (2). Pub. L. 92-303, §3(a), substituted “coal mines” for “underground coal mines”.

Subsec. (c)(3). Pub. L. 92-303, §4(b)(3), inserted presumption that at the time of death the miner was totally disabled by pneumoconiosis.

Subsec. (c)(4). Pub. L. 92-303, §4(c), added par. (4).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-148, title I, §1556(c), Mar. 23, 2010, 124 Stat. 260, provided that: “The amendments made by this section [amending this section and section 932 of this title] shall apply with respect to claims filed under part B or part C of the Black Lung Benefits Act (30 U.S.C. 921 et seq., 931 et seq.) after January 1, 2005, that are pending on or after the date of enactment of this Act [Mar. 23, 2010].”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-275 effective 90 days after Nov. 2, 2002, see section 4 of Pub. L. 107-275, set out as a note under section 902 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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 Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-119 effective Jan. 1, 1982, except as otherwise provided, see section 206(a) of Pub. L. 97-119, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 3(a) of Pub. L. 92-303 effective Dec. 30, 1969, see section 3(c) of Pub. L. 92-303, set out as a note under section 901 of this title.

Pub. L. 92-303, §4(g), May 19, 1972, 86 Stat. 154, provided that: “The amendments made by this section [amending this section and sections 901, 902, 923, and 931 of this title] shall be effective as of December 30, 1969.”

TRANSITIONAL PROVISIONS

Pub. L. 107-275, §3, Nov. 2, 2002, 116 Stat. 1926, provided that:

“(a) APPLICABILITY.—This section shall apply to the transfer of all functions relating to the administration of part B of subchapter IV (30 U.S.C. 901 et seq.) [probably means 30 U.S.C. 921 et seq.] from the Commissioner of Social Security (hereinafter in this section referred to as the ‘Commissioner’) to the Secretary of Labor, as provided by this Act [see Short Title of 2002 Amendment note set out under section 801 of this title].

“(b) TRANSFER OF ASSETS, LIABILITIES, ETC.—

“(1) The Commissioner shall transfer to the Secretary of Labor all property and records that the Director of the Office of Management and Budget determines relate to the functions transferred to the Secretary of Labor by this Act or amendments made by this Act.

“(2) Section 1531 of title 31, United States Code, shall apply in carrying out this Act and amendments made by this Act, except that, for purposes of carrying out this Act and amendments made by this Act, the functions of the President under section 1531(b) shall be performed by the Director of the Office of Management and Budget unless otherwise directed by the President.

“(c) CONTINUATION OF ORDERS, DETERMINATIONS, ETC.—

“(1) This Act shall not affect the validity of any order, determination, rule, regulation, operating procedure (to the extent applicable to the Secretary of Labor), or contract that—

“(A) relates to a function transferred by this Act; and

“(B) is in effect on the date this Act takes effect [see Effective Date of 2002 Amendment note set out under section 902 of this title].

“(2) Any order, determination, rule, regulation, operating procedure, or contract described in paragraph (1) shall—

“(A) apply on and after the effective date of this Act to the Secretary of Labor; and

“(B) continue in effect, according to its terms, until it is modified, superseded, terminated, or otherwise deprived of legal effect by the Secretary of Labor, a court of competent jurisdiction, or operation of law.

“(d) CONTINUATION OF ADMINISTRATIVE PROCEEDINGS.—

“(1) Any proceeding before the Commissioner involving the functions transferred by this Act that is pending on the date this Act takes effect shall continue before the Secretary of Labor, except as provided in paragraph (2).

“(2) Any proceeding pending before an Administrative Law Judge or the Appeals Council pursuant to part B and the applicable regulations of the Secretary of Health and Human Services shall continue before the Commissioner consistent with the following provisions:

“(A) Any proceeding described in this paragraph shall continue as if this Act had not been enacted, and shall include all rights to hearing, administrative review, and judicial review available under part B and the applicable regulations of the Secretary of Health and Human Services.

“(B) Any decision, order, or other determination issued in any proceeding described in this subsection shall apply to the Secretary of Labor and continue in effect, according to its terms, until it is

modified, superseded, terminated, or otherwise deprived of legal effect by the Secretary of Labor, a court of competent jurisdiction, or operation of law.

“(C) Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

“(3) Any proceeding before the Secretary of Labor involving the functions transferred by this Act shall be subject to the statutory requirements for notice, hearing, action upon the record, administrative review, and judicial review that apply to similar proceedings before the Commissioner conducted prior to the enactment of this Act.

“(e) CONTINUATION OF ACTIONS AND CAUSES OF ACTION.—

“(1) Except as provided in paragraphs (2) and (3), this Act shall not abrogate, terminate, or otherwise affect any action or cause of action, that—

“(A) relates to a function transferred by this Act; and

“(B) is pending or otherwise in existence on the date this Act takes effect [see Effective Date of 2002 Amendment note set out under section 902 of this title].

“(2) Any action pending before the Commissioner or any court on the date this Act takes effect that involves a function transferred by this Act shall continue before the Commissioner or court consistent with the following provisions:

“(A) Any proceeding described in this paragraph shall continue as if this Act had not been enacted.

“(B) Any decision, order, or other determination issued in any proceeding subject to this paragraph shall apply to the Secretary of Labor and continue in effect, according to its terms, until it is modified, superseded, terminated, or otherwise deprived of legal effect by the Secretary of Labor, a court of competent jurisdiction, or operation of law.

“(3) Any cause of action by or against the Commissioner that exists on the date this Act takes effect and involves any function transferred by this Act may be asserted by or against the Secretary of Labor or the United States.

“(f) CONTINUATION OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Social Security Administration, and relating to a function transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against the Social Security Administration, or by or against any officer thereof in his official capacity, relating to a function transferred by this Act, shall abate by reason of enactment of this Act.

“(g) PRESERVATION OF PENALTIES, ETC.—The transfer of functions under this Act shall not release or extinguish any penalty, forfeiture, liability, prosecution, investigation, or right to initiate a future investigation or prosecution involving any function transferred by this Act.”

§ 922. Payment of benefits

(a) Schedules

Subject to the provisions of subsection (b) of this section, benefit payments shall be made by the Secretary under this part as follows:

(1) In the case of total disability of a miner due to pneumoconiosis, the disabled miner shall be paid benefits during the disability at a rate equal to 37½ per centum of the monthly pay rate for Federal employees in grade GS-2, step 1.

(2) In the case of death of a miner due to pneumoconiosis or, except with respect to a claim filed under part C of this subchapter on or after

the effective date of the Black Lung Benefits Amendments of 1981, of a miner receiving benefits under this part, benefits shall be paid to his widow (if any) at the rate the deceased miner would receive such benefits if he were totally disabled.

(3) In the case of the child or children of a miner whose death is due to pneumoconiosis or, except with respect to a claim filed under part C of this subchapter on or after the effective date of the Black Lung Benefits Amendments of 1981, of a miner who is receiving benefits under this part at the time of his death or who was totally disabled by pneumoconiosis at the time of his death, in the case of the child or children of a widow who is receiving benefits under this part at the time of her death, and in the case of any child or children entitled to the payment of benefits under paragraph (5) of section 921(c) of this title, benefits shall be paid to such child or children as follows: If there is one such child, he shall be paid benefits at the rate specified in paragraph (1). If there is more than one such child, the benefits paid shall be divided equally among them and shall be paid at a rate equal to the rate specified in paragraph (1), increased by 50 per centum of such rate if there are two such children, by 75 per centum of such rate if there are three such children, and by 100 per centum of such rate if there are more than three such children: *Provided*, That benefits shall only be paid to a child for so long as he meets the criteria for the term “child” contained in section 902(g) of this title: *And provided further*, That no entitlement to benefits as a child shall be established under this paragraph (3) for any month for which entitlement to benefits as a widow is established under paragraph (2).

(4) In the case of an individual entitled to benefit payments under clause (1) or (2) of this subsection who has one or more dependents, the benefit payments shall be increased at the rate of 50 per centum of such benefit payments, if such individual has one dependent, 75 per centum if such individual has two dependents, and 100 per centum if such individual has three or more dependents.

(5) In the case of the dependent parent or parents of a miner whose death is due to pneumoconiosis, or, except with respect to a claim filed under part C of this subchapter on or after the effective date of the Black Lung Benefits Amendments of 1981, of a miner who is receiving benefits under this part at the time of his death or who was totally disabled by pneumoconiosis at the time of death, and who is not survived at the time of his death by a widow or a child, in the case of the dependent surviving brother(s) or sister(s) of such a miner who is not survived at the time of his death by a widow, child, or parent, in the case of the dependent parent or parents of a miner (who is not survived at the time of his or her death by a widow or a child) who are entitled to the payment of benefits under paragraph (5) of section 921(c) of this title, or in the case of the dependent surviving brother(s) or sister(s) of a miner (who is not survived at the time of his or her death by a widow, child, or parent) who are entitled to the payment of benefits under paragraph (5) of section 921(c) of this title, benefits shall be paid under this part to

such parent(s), or to such brother(s), or sister(s), at the rate specified in paragraph (3) (as if such parent(s) or such brother(s) or sister(s), were the children of such miner). In determining for purposes of this paragraph whether a claimant bears the relationship as the miner's parent, brother, or sister, the Secretary shall apply legal standards consistent with those applicable to relationship determination under title II of the Social Security Act [42 U.S.C. 401 et seq.]. No benefits to a sister or brother shall be payable under this paragraph for any month beginning with the month in which he or she receives support from his or her spouse, or marries. Benefits shall be payable under this paragraph to a brother only if he is—

(1)(A) under eighteen years of age, or

(B) under a disability as defined in section 223(d) of the Social Security Act [42 U.S.C. 423(d)] which began before the age specified in section 202(d)(1)(B)(ii) of such Act [42 U.S.C. 402(d)(1)(B)(ii)], or in the case of a student, before he ceased to be a student, or

(C) a student as defined in section 902(g) of this title; or

(2) who is, at the time of the miner's death, disabled as determined in accordance with section 223(d) of the Social Security Act [42 U.S.C. 423(d)], during such disability. Any benefit under this paragraph for a month prior to the month in which a claim for such benefit 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 claim, the Secretary has certified for payment for such prior months. As used in this paragraph, "dependent" means that during the one year period prior to and ending with such miner's death, such parent, brother, or sister was living in the miner's household, and was, during such period, totally dependent on the miner for support. Proof of such support shall be filed by such claimant within two years after May 1972, or within two years after the miner's death, whichever is the later. Any such proof 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 Secretary that there was good cause for failure to file such proof within such period. The determination of what constitutes "living in the miner's household", "totally dependent upon the miner for support," and "good cause," shall for purposes of this paragraph be made in accordance with regulations of the Secretary. Benefit payments under this paragraph to a parent, brother, or sister, shall be reduced by the amount by which such payments would be reduced on account of excess earnings of such parent, brother, or sister, respectively, under section 203(b)-(l) of the Social Security Act [42 U.S.C. 403(b)-(l)], as if the benefit under this paragraph were a benefit under section 202 of such Act [42 U.S.C. 402].

(6) If an individual's benefits would be increased under paragraph (4) of this subsection because he or she has one or more dependents, and it appears to the Secretary that it would be in the interest of any such dependent to have the amount of such increase in benefits (to the

extent attributable to such dependent) certified to a person other than such individual, then the Secretary may, under regulations prescribed by him, certify the amount of such increase in benefits (to the extent so attributable) not to such individual but directly to such dependent or to another person for the use and benefit of such dependent; and any payment made under this clause, if otherwise valid under this subchapter, shall be a complete settlement and satisfaction of all claims, rights, and interests in and to such payment.

(b) Reduction of benefits

Notwithstanding subsection (a), benefit payments under this section to a miner or his widow, child, parent, brother, or sister shall be reduced, on a monthly or other appropriate basis, by an amount equal to any payment received by such miner or his widow, child, parent, brother, or sister under the workmen's compensation, unemployment compensation, or disability insurance laws of his State on account of the disability of such miner due to pneumoconiosis, and the amount by which such payment would be reduced on account of excess earnings of such miner under section 203(b) through (l) of the Social Security Act [42 U.S.C. 403(b) to (l)] if the amount paid were a benefit payable under section 202 of such Act [42 U.S.C. 402]. This part shall not be considered a workmen's compensation law or plan for purposes of section 224 of such Act [42 U.S.C. 424a].

(c) Reporting of income

Benefits payable under this part shall be deemed not to be income for purposes of the Internal Revenue Code of 1986.

(Pub. L. 91-173, title IV, §412, Dec. 30, 1969, 83 Stat. 794; Pub. L. 92-303, §§1(b)(1), (2), (c)(1), 2(a), May 19, 1972, 86 Stat. 150, 151, 153; Pub. L. 95-239, §§3(b)(1), 4, Mar. 1, 1978, 92 Stat. 96, 97; Pub. L. 97-119, title II, §203(a)(1)-(3), (d), Dec. 29, 1981, 95 Stat. 1643, 1644; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103-296, title I, §108(i)(2), Aug. 15, 1994, 108 Stat. 1488; Pub. L. 107-275, §2(a), Nov. 2, 2002, 116 Stat. 1925.)

Editorial Notes

REFERENCES IN TEXT

Grade GS-2, referred to in subsec. (a)(1), is contained in the General Schedule which is set out under section 5332 of Title 5, Government Organization and Employees.

The effective date of the Black Lung Benefits Amendments of 1981, referred to in subsec. (a)(2), (3), and (5), is Jan. 1, 1982, except as otherwise provided. See section 206(a) of Pub. L. 97-119, set out as an Effective Date of 1981 Amendment note under section 901 of this title.

The Social Security Act, referred to in subsec. (a)(5), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of that Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Internal Revenue Code of 1986, referred to in subsec. (c), is classified to Title 26, Internal Revenue Code.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-275 substituted "Secretary" for "Commissioner of Social Security" wherever appearing.

1994—Subsec. (a). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary” wherever appearing.

1986—Subsec. (c). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

1981—Subsec. (a)(1). Pub. L. 97-119, §203(d), substituted “37½ per centum of the monthly pay rate for Federal employees in grade GS-2, step 1” for “50 per centum of the minimum monthly payment to which a Federal employee in grade GS-2, who is totally disabled, is entitled at the time of payment under chapter 81 of title 5”.

Subsec. (a)(2). Pub. L. 97-119, §203(a)(1), inserted “, except with respect to a claim filed under part C of this subchapter on or after the effective date of the Black Lung Amendments of 1981,” after “pneumoconiosis or”.

Subsec. (a)(3). Pub. L. 97-119, §203(a)(2), inserted “, except with respect to a claim filed under part C of this subchapter on or after the effective date of the Black Lung Benefits Amendments of 1981,” after “pneumoconiosis or” and substituted “time of his death or” for “time of his death, or”.

Subsec. (a)(5). Pub. L. 97-119, §203(a)(3), inserted “, except with respect to a claim filed under part C of this subchapter on or after the effective date of the Black Lung Benefits Amendments of 1981,” after “pneumoconiosis, or” and substituted “time of his death or who was totally” for “time of his death, or of a miner who was totally”.

1978—Subsec. (a)(3). Pub. L. 95-239, §3(b)(1)(A), inserted reference to any child or children entitled to the payment of benefits under paragraph (5) of section 921(c) of this title.

Subsec. (a)(5). Pub. L. 95-239, §3(b)(1)(B), inserted references to the payment of benefits under par. (5) of section 921(c) of this title.

Subsec. (b). Pub. L. 95-239, §4, substituted “on account of the disability of such miner due to pneumoconiosis” for “on account of the disability of such miner”.

1972—Subsec. (a)(3), (4). Pub. L. 92-303, §1(b)(1), added par. (3) and redesignated former par. (3) as par. (4).

Subsec. (a)(5), (6). Pub. L. 92-303, §1(b)(2), added pars. (5) and (6).

Subsec. (b). Pub. L. 92-303, §§1(c)(1), 2(a), substituted “widow, child, parent, brother, or sister” for “widow” wherever appearing, and inserted provision that this part would not be considered as a workmen’s compensation law or plan for purposes of section 224 of such Act.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-275 effective 90 days after Nov. 2, 2002, see section 4 of Pub. L. 107-275, set out as a note under section 902 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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 Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-119 effective Jan. 1, 1982, except as otherwise provided, see section 206(a) of Pub. L. 97-119, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92-303, §2(b), May 19, 1972, 86 Stat. 153, provided that: “The amendment made by this section

[amending this section] shall be effective as of December 30, 1969.”

CALCULATION OF MONTHLY BENEFIT PAYMENTS

Pub. L. 103-333, title V, §512, Sept. 30, 1994, 108 Stat. 2573, provided that: “Notwithstanding any other provision of law, monthly benefit rates during fiscal year 1995 and thereafter under part B or part C of the Black Lung Benefits Act [30 U.S.C. 921 et seq., 931 et seq.] shall continue to be based on the benefit rates in effect in September, 1994 and be paid in accordance with the Act, until exceeded by the benefit rate specified in section 412(a)(1) of the Act [30 U.S.C. 922(a)(1)].”

Pub. L. 103-112, title V, §508(a), Oct. 21, 1993, 107 Stat. 1113, provided that: “Notwithstanding any other provision of law, monthly benefit payments under part B or part C of the Black Lung Benefits Act [30 U.S.C. 921 et seq., 931 et seq.] for months after December 1993 and before October 1994 shall be calculated as though the provisions of Federal law prescribing pay rates for Federal employees continued in effect, without amendment to or limitation of such provisions, after January 1993.”

§ 923. Filing of notice of claim

(a) Promulgation of regulations; time requirement

Except as otherwise provided in section 924 of this title, no payment of benefits shall be made under this part except pursuant to a claim filed therefor on or before December 31, 1973, in such manner, in such form, and containing such information, as the Secretary shall by regulation prescribe.

(b) Utilization of personnel and procedures; evidence required to establish claim; medical evidence; affidavits; autopsy reports; reimbursement of expenses

No claim for benefits under this part shall be denied solely on the basis of the results of a chest roentgenogram. In determining the validity of claims under this part, all relevant evidence shall be considered, including, where relevant, medical tests such as blood gas studies, X-ray examination, electrocardiogram, pulmonary function studies, or physical performance tests, and any medical history, evidence submitted by the claimant’s physician, or his wife’s affidavits, and in the case of a deceased miner, other appropriate affidavits of persons with knowledge of the miner’s physical condition, and other supportive materials. Where there is no medical or other relevant evidence in the case of a deceased miner, such affidavits, from persons not eligible for benefits in such case with respect to claims filed on or after the effective date of the Black Lung Benefits Amendments of 1981, shall be considered to be sufficient to establish that the miner was totally disabled due to pneumoconiosis or that his or her death was due to pneumoconiosis. In any case, other than that involving a claim filed on or after the effective date of the Black Lung Benefits Amendments of 1981, in which there is other evidence that a miner has a pulmonary or respiratory impairment, the Secretary shall accept a board certified or board eligible radiologist’s interpretation of a chest roentgenogram which is of a quality sufficient to demonstrate the presence of pneumoconiosis submitted in support of a claim for benefits under this subchapter if such roentgenogram has been taken by a radiologist or qualified technician, except

where the Secretary has reason to believe that the claim has been fraudulently represented. In order to insure that any such roentgenogram is of adequate quality to demonstrate the presence of pneumoconiosis, and in order to provide for uniform quality in the roentgenograms, the Secretary of Labor may, by regulation, establish specific requirements for the techniques used to take roentgenograms of the chest. Unless the Secretary has good cause to believe that an autopsy report is not accurate, or that the condition of the miner is being fraudulently misrepresented, the Secretary shall accept such autopsy report concerning the presence of pneumoconiosis and the stage of advancement of pneumoconiosis. Claimants under this part shall be reimbursed for reasonable medical expenses incurred by them in establishing their claims. For purposes of determining total disability under this part, the provisions of subsections (a), (b), (c), (d), and (g) of section 221 of such Act [42 U.S.C. 421(a) to (d), (g)] shall be applicable. The provisions of sections 204, 205(a), (b), (d), (e), (g), (h), (j), (k), (l), and (n), 206, 207, and 208 of the Social Security Act [42 U.S.C. 404, 405(a), (b), (d), (e), (g), (h), (j), (k), (l), and (n), 406, 407, 408] shall be applicable under this part with respect to a miner, widow, child, parent, brother, sister, or dependent, as if benefits under this part were benefits under title II of such Act [42 U.S.C. 401 et seq.]. Each miner who files a claim for benefits under this subchapter shall upon request be provided an opportunity to substantiate his or her claim by means of a complete pulmonary evaluation.

(c) Filing of claim for workmen's compensation; necessity; exceptions

No claim for benefits under this section shall be considered unless the claimant has also filed a claim under the applicable State workmen's compensation law prior to or at the same time his claim was filed for benefits under this section; except that the foregoing provisions of this paragraph shall not apply in any case in which the filing of a claim under such law would clearly be futile because the period within which such a claim may be filed thereunder has expired or because pneumoconiosis is not compensable under such law, or in any other situation in which, in the opinion of the Secretary, the filing of a claim would clearly be futile.

(d) Employment termination and benefits entitlement

No miner who is engaged in coal mine employment shall (except as provided in section 921(c)(3) of this title) be entitled to any benefits under this part while so employed. Any miner who has been determined to be eligible for benefits pursuant to a claim filed while such miner was engaged in coal mine employment shall be entitled to such benefits if his or her employment terminates within one year after the date such determination becomes final.

(Pub. L. 91-173, title IV, §413, Dec. 30, 1969, 83 Stat. 794; Pub. L. 92-303, §§1(c)(5)(A), 4(f), 5(2), May 19, 1972, 86 Stat. 152, 154, 155; Pub. L. 95-239, §5, Mar. 1, 1978, 92 Stat. 97; Pub. L. 97-119, title II, §202(a), (c), Dec. 29, 1981, 95 Stat. 1643; Pub. L. 103-296, title I, §108(i)(2), Aug. 15, 1994, 108 Stat.

1488; Pub. L. 107-275, §2(a), (b)(2), Nov. 2, 2002, 116 Stat. 1925.)

Editorial Notes

REFERENCES IN TEXT

The effective date of the Black Lung Benefits Amendments of 1981, referred to in subsec. (b), is Jan. 1, 1982, except as otherwise provided. See section 206(a) of Pub. L. 97-119, set out as an Effective Date of 1981 Amendment note under section 901 of this title.

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of this Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-275, §2(a), substituted “Secretary” for “Commissioner of Social Security”.

Subsec. (b). Pub. L. 107-275, §2(b)(2), substituted “No” for “In carrying out the provisions of this part, the Commissioner of Social Security shall to the maximum extent feasible (and consistent with the provisions of this part) utilize the personnel and procedures he uses in determining entitlement to disability insurance benefit payments under section 223 of the Social Security Act, but no”.

Pub. L. 107-275, §2(a), substituted “Secretary has” for “Commissioner of Social Security has” in two places and “Secretary shall” for “Commissioner of Social Security shall” in two places.

Subsec. (c). Pub. L. 107-275, §2(a), substituted “Secretary” for “Commissioner of Social Security”.

1994—Subsecs. (a) to (c). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary” wherever appearing, except in reference to Secretary of Labor.

1981—Subsec. (b). Pub. L. 97-119, §202(a), (c), inserted “, from persons not eligible for benefits in such case with respect to claims filed on or after the effective date of the Black Lung Benefits Amendments of 1981,” after “such affidavits” and “, other than that involving a claim filed on or after the effective date of the Black Lung Benefits Amendments of 1981,” after “In any case”.

1978—Subsec. (b). Pub. L. 95-239, §5(a), (b), (c), provided that, in the case of a deceased miner where there is no medical or other relevant evidence, the affidavits be considered sufficient to establish that the miner was totally disabled due to pneumoconiosis or that death was due to pneumoconiosis, directed the Secretary to accept a board certified or board eligible radiologist's interpretation of a chest roentgenogram in cases in which there is other evidence that a miner has a pulmonary or respiratory impairment, provided for regulations covering roentgenogram techniques, provided for acceptance by the Secretary of an autopsy report concerning the presence of pneumoconiosis and the stage of advancement of that pneumoconiosis, directed that each miner who files a claim for benefits under this subchapter be provided upon request an opportunity to substantiate the claim by means of a complete pulmonary evaluation, and, in the reference to the various subsections of section 405 of Title 42, struck out reference to subsec. (f) and inserted reference to subsec. (n).

Subsec. (d). Pub. L. 95-239, §5(d), added subsec. (d).

1972—Subsec. (a). Pub. L. 92-303, §5(2), substituted “1973” for “1972”.

Subsec. (b). Pub. L. 92-303, §§1(c)(5)(A), 4(f), inserted provisions making sections 404 to 408 of title 42 applicable, and for a more liberal consideration of claims for benefits.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendments by Pub. L. 107-275 effective 90 days after Nov. 2, 2002, see section 4 of Pub. L. 107-275, set out as a note under section 902 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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 Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-119 effective Jan. 1, 1982, except as otherwise provided, see section 206(a) of Pub. L. 97-119, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 4(f) of Pub. L. 92-303 effective Dec. 30, 1969, see section 4(g) of Pub. L. 92-303, set out as a note under section 921 of this title.

EFFECTIVE DATE FOR THE APPLICATION OF SECTION 405 OF TITLE 42

Pub. L. 92-303, §1(c)(5)(B), May 19, 1972, 86 Stat. 152, provided that: "Only section 205(b), (g), and (h) of those sections of the Social Security Act [section 405(b), (g), and (h) of Title 42, The Public Health and Welfare] recited in subparagraph (A) of this paragraph [amending this section] shall be effective as of the date provided in subsection (d) of this section."

[There is no subsec. (d) in section 1 of Pub. L. 92-303 as it was enacted. However, Senate Report No. 92-743, at page 30, refers to such a subsec. (d) applying the provisions of section of Pub. L. 92-303 retroactively to Dec. 30, 1969.]

§ 924. Time for filing claims**(a) Claims filed before December 31, 1973**

(1) No claim for benefits under this part on account of total disability of a miner shall be considered unless it is filed on or before December 31, 1973, or, in the case of a claimant who is a widow, within six months after the death of her husband or by December 31, 1973, whichever is the later.

(2) In the case of a claim by a child this paragraph shall apply, notwithstanding any other provision of this part.

(A) If such claim is filed within six months following May 1972, and if entitlement to benefits is established pursuant to such claim, such entitlement shall be effective retroactively from December 30, 1969, or from the date such child would have been first eligible for such benefit payments had section 922(a)(3) of this title been applicable since December 30, 1969, whichever is the lesser period. If on the date such claim is filed the claimant is not eligible for benefit payments, but was eligible at any period of time during the period from December 30, 1969, to the date such claim is filed, entitlement shall be effective for the duration of eligibility during such period.

(B) If such claim is filed after six months following May 1972, and if entitlement to benefits is established pursuant to such claim, such enti-

tlement shall be effective retroactively from a date twelve months preceding the date such claim is filed, or from the date such child would have been first eligible for such benefit payments had section 922(a)(3) of this title been applicable since December 30, 1969, whichever is the lesser period. If on the date such claim is filed the claimant is not eligible for benefit payments, but was eligible at any period of time during the period from a date twelve months preceding the date such claim is filed, to the date such claim is filed, entitlement shall be effective for the duration of eligibility during such period.

(C) No claim for benefits under this part, in the case of a claimant who is a child, shall be considered unless it is filed within six months after the death of his father or mother (whichever last occurred) or by December 31, 1973, whichever is the later.

(D) Any benefit under subparagraph (A) or (B) for a month prior to the month in which a claim 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 claim, the Secretary has certified for payment for such prior month.

(3) No claim for benefits under this part, in the case of a claimant who is a parent, brother, or sister shall be considered unless it is filed within six months after the death of the miner or by December 31, 1973, whichever is the later.

(b) Filing of claims after June 30, 1973

No benefits shall be paid under this part after December 31, 1973, if the claim therefor was filed after June 30, 1973.

(c) Effective date of claims

No benefits under this part shall be payable for any period prior to the date a claim therefor is filed.

(d) Reduction of State benefits

No benefits shall be paid under this part to the residents of any State which, after December 30, 1969, reduces the benefits payable to persons eligible to receive benefits under this part, under its State laws which are applicable to its general work force with regard to workmen's compensation, unemployment compensation, or disability insurance.

(e) Conditions upon payment

No benefits shall be payable to a widow, child, parent, brother, or sister under this part on account of the death of a miner unless (1) benefits under this part were being paid to such miner with respect to disability due to pneumoconiosis prior to his death, (2) the death of such miner occurred prior to January 1, 1974, or (3) any such individual is entitled to benefits under paragraph (5) of section 921(c) of this title.

(Pub. L. 91-173, title IV, §414, Dec. 30, 1969, 83 Stat. 795; Pub. L. 92-303, §§1(c)(1), (6), 5(1)-(3), May 19, 1972, 86 Stat. 151, 152, 155; Pub. L. 95-239, §3(b)(2), Mar. 1, 1978, 92 Stat. 97; Pub. L. 103-296, title I, §108(i)(2), Aug. 15, 1994, 108 Stat. 1488; Pub. L. 107-275, §2(a), Nov. 2, 2002, 116 Stat. 1925.)

Editorial Notes**AMENDMENTS**

2002—Subsec. (a)(2)(D). Pub. L. 107-275 substituted “Secretary” for “Commissioner of Social Security”.

1994—Subsec. (a)(2)(D). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary”.

1978—Subsec. (e). Pub. L. 95-239 added cl. (3) relating to individuals entitled to benefits under par. (5) of section 921(c) of this title.

1972—Subsec. (a). Pub. L. 92-303, §§1(c)(6), 5(2), designated existing provisions as par. (1) and added pars. (2) and (3), and in par. (1) substituted “1973” for “1972” wherever appearing.

Subsec. (b). Pub. L. 92-303, §§5(1), (2), substituted “June 30, 1973” for “December 31, 1971” and “December 31, 1973” for “December 31, 1971”.

Subsec. (e). Pub. L. 92-303, §§1(c)(1), 5(3), substituted “widow, child, parent, brother, or sister” for “widow” and “1974” for “1973”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107-275 effective 90 days after Nov. 2, 2002, see section 4 of Pub. L. 107-275, set out as a note under section 902 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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 Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as a note under section 901 of this title.

§ 924a. Repealed. Pub. L. 107-275, § 2(c)(2), Nov. 2, 2002, 116 Stat. 1926

Section, Pub. L. 95-239, §11, Mar. 1, 1978, 92 Stat. 101, related to notification to miners of eligibility for medical services and supplies and the period for filing a claim.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF REPEAL**

Repeal effective 90 days after Nov. 2, 2002, see section 4 of Pub. L. 107-275, set out as an Effective Date of 2002 Amendment note under section 902 of this title.

§ 925. Procedure for the determination of claims during transition period

(a) Notwithstanding any other provision in this subchapter, for the purpose of assuring the uninterrupted receipt of benefits by claimants at such time as responsibility for administration of the benefits program is assumed by either a State workmen’s compensation agency or the Secretary of Labor, any claim for benefits under this part filed during the period from July 1, 1973 to December 31, 1973, shall be considered and determined in accordance with the procedures of this section. With respect to any such claim—

(1) Such claim shall be determined and, where appropriate under this part or section 9501(d) of title 26, benefits shall be paid with respect to such claim by the Secretary of Labor.

(2) The Secretary of Labor shall promptly notify any operator who he believes, on the

basis of information contained in the claim, or any other information available to him, may be liable to pay benefits to the claimant under part C of this subchapter for any month after December 31, 1973.

(3) In determining such claims, the Secretary of Labor shall, to the extent appropriate, follow the procedures described in subsections (b), (c), and (d) of section 919 of title 33.

(4) Any operator who has been notified of the pendency of a claim under paragraph (2) of this subsection shall be bound by the determination of the Secretary of Labor on such claim as if the claim had been filed pursuant to part C of this subchapter and section 932 of this title had been applicable to such operator. Nothing in this paragraph shall require any operator to pay any benefits for any month prior to January 1, 1974.

(b) The Secretary of Labor may issue such regulations as are necessary or appropriate to carry out the purpose of this section.

(Pub. L. 91-173, title IV, §415, as added Pub. L. 92-303, §7, May 19, 1972, 86 Stat. 156; amended Pub. L. 97-119, title I, §104(b)(2), Dec. 29, 1981, 95 Stat. 1639; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103-296, title I, §108(i)(2), Aug. 15, 1994, 108 Stat. 1488; Pub. L. 107-275, §2(b)(3), Nov. 2, 2002, 116 Stat. 1925.)

Editorial Notes**AMENDMENTS**

2002—Subsec. (a)(2) to (5). Pub. L. 107-275, §2(b)(3)(A), redesignated pars. (3) to (5) as (2) to (4), respectively, substituted “paragraph (2)” for “paragraph 4” in par. (4), and struck out former par. (2) which read as follows: “The manner and place of filing such claim shall be in accordance with regulations issued jointly by the Commissioner of Social Security and the Secretary of Labor, which regulations shall provide, among other things, that such claims may be filed in district offices of the Social Security Administration and thereafter transferred to the jurisdiction of the Department of Labor for further consideration.”

Subsec. (b). Pub. L. 107-275, §2(b)(3)(B), struck out “, after consultation with the Commissioner of Social Security,” after “Secretary of Labor”.

1994—Subsecs. (a)(2), (b). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health, Education, and Welfare”.

1986—Subsec. (a)(1). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1981—Subsec. (a)(1). Pub. L. 97-119 substituted “section 9501(d) of title 26” for “section 934 of this title”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107-275 effective 90 days after Nov. 2, 2002, see section 4 of Pub. L. 107-275, set out as a note under section 902 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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 Title 42, The Public Health and Welfare.

PART C—CLAIMS FOR BENEFITS AFTER
DECEMBER 31, 1973

§ 931. Benefits under State workmen's compensation laws

(a) Filing

On and after January 1, 1974, any claim for benefits for death or total disability due to pneumoconiosis shall be filed pursuant to the applicable State workmen's compensation law, except that during any period when miners or their surviving widows, children, parents, brothers, or sisters, as the case may be, are not covered by a State workmen's compensation law which provides adequate coverage for pneumoconiosis, and in any case in which benefits based upon eligibility under paragraph (5) of section 921(c) of this title are involved,¹ they shall be entitled to claim benefits under this part.

(b) Adequacy of compensation; listing of States providing adequate compensation; requisites for listing

(1) For purposes of this section, a State workmen's compensation law shall not be deemed to provide adequate coverage for pneumoconiosis during any period unless it is included in the list of State laws found by the Secretary to provide such adequate coverage during such period. The Secretary shall, no later than October 1, 1972, publish in the Federal Register a list of State workmen's compensation laws which provide adequate coverage for pneumoconiosis and shall revise and republish in the Federal Register such list from time to time, as may be appropriate to reflect changes in such State laws due to legislation or judicial or administrative interpretation.

(2) The Secretary shall include a State workmen's compensation law on such list during any period only if he finds that during such period under such law—

(A) benefits must be paid for total disability or death of a miner due to pneumoconiosis, except that (i) such law shall not be required to provide such benefits where the miner's last employment in a coal mine terminated before the Secretary's approval of the State law pursuant to this section; and (ii) each operator of a coal mine shall secure the payment of benefits pursuant to section 933 of this title with respect to any miner whose last employment in a coal mine terminated before the Secretary's approval of the State law pursuant to this section;

(B) the amount of such cash benefits is substantially equivalent to or greater than the amount of benefits prescribed by section 922(a) of this title;

(C) the standards for determining death or total disability due to pneumoconiosis are substantially equivalent to section 902(f) of this title and to those standards established under this part, and by the regulations of the Secretary promulgated under this part;

(D) any claim for benefits on account of total disability of a miner due to pneumoconiosis is deemed to be timely filed if such claim is filed within three years after a med-

ical determination of total disability due to pneumoconiosis;

(E) there are in effect provisions with respect to prior and successor operators which are substantially equivalent to the provisions contained in section 932(i) of this title; and

(F) there are applicable such other provisions, regulations or interpretations, which are consistent with the provisions contained in Public Law 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), as amended [33 U.S.C. 901 et seq.], which are applicable under section 932(a) of this title, but are not inconsistent with any of the criteria set forth in subparagraphs (A) through (E) of this paragraph, as the Secretary, in accordance with regulations promulgated by him, determines to be necessary or appropriate to assure adequate compensation for total disability or death due to pneumoconiosis.

The action of the Secretary in including or failing to include any State workmen's compensation law on such list shall be subject to judicial review exclusively in the United States court of appeals for the circuit in which the State is located or the United States Court of Appeals for the District of Columbia.

(c) Publication in Federal Register; review of listings

Final regulations required for implementation of any amendments to this part shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of such amendments, and in no event later than the end of the sixth month following the month in which such amendments are enacted.

(Pub. L. 91-173, title IV, §421, Dec. 30, 1969, 83 Stat. 795; Pub. L. 92-303, §§1(c)(1), 4(e), 5(3), (5), May 19, 1972, 86 Stat. 151, 154, 155; Pub. L. 95-239, §§3(b)(3), 6, Mar. 1, 1978, 92 Stat. 97, 98.)

Editorial Notes

REFERENCES IN TEXT

Public Law 803, 69th Congress, referred to in subsec. (b)(2)(F), is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, popularly known as the Longshore and Harbor Workers' Compensation Act, which is classified generally to chapter 18 (§901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-239, §3(b)(3), inserted reference to cases in which benefits based upon eligibility under par. (5) of section 921(c) of this title are involved.

Subsec. (b)(2)(A). Pub. L. 95-239, §6(a), added the exceptions set out in cls. (i) and (ii).

Subsec. (b)(2)(C). Pub. L. 95-239, §6(b), substituted "established under this part, and by the regulations of the Secretary promulgated under this part" for "established under part B of this subchapter, and by the regulations of the Secretary of Health, Education, and Welfare promulgated thereunder".

Subsec. (b)(2)(D). Pub. L. 95-239, §6(c), substituted "total disability of a miner due to pneumoconiosis is deemed to be timely filed if such claim is filed within three years after a medical determination of total disability due to pneumoconiosis" for "total disability or death of a miner due to pneumoconiosis is deemed to be timely filed if such claim is filed within three years of

¹ So in original. The period probably should be a comma.