

Eighty-third Congress) [sections 2281 to 2288 of former Title 5, Executive Departments and Government Officers and Employees, and are covered by section 8311 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 5105 of Title 38, Veterans' Benefits.

PAYMENTS OF ALIENS' BENEFITS WITHHELD UNDER FOREIGN DELIVERY RESTRICTION OF CHECKS AGAINST FEDERAL FUNDS

Pub. L. 90-248, title I, §162(c)(3), Jan. 2, 1968, 81 Stat. 871, 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 [42 U.S.C. 402(j)(1)]) to a monthly benefit under title II of such Act [42 U.S.C. 401 et seq.] 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

Pub. L. 90-248, title IV, §405, Jan. 2, 1968, 81 Stat. 933, authorized the Secretary of Health, Education, and Welfare [now Health and Human Services] 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 subchapter 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.

Executive Documents

EX. ORD. NO. 12436. 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:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 156 of Public Law 97-377 (96 Stat. 1920; 42 U.S.C. 402 note), in order to provide certain benefits to the surviving spouses and children of certain persons who died in or as a result of military service, it is hereby ordered as follows:

SECTION 1. The Administrator of Veterans' Affairs is designated to administer the provisions of Section 156 of Public Law 97-377.

SEC. 2. The Secretary of Health and Human Services shall provide to the Administrator of Veterans' Affairs such information and such technical assistance as the Administrator may reasonably require to discharge his responsibilities under Section 156. The Administrator of Veterans' Affairs shall reimburse the Department of

Health and Human Services for all expenses it incurs in providing such information and technical assistance to the Veterans' Administration. Such expenses shall be paid from the Veterans' Administration account described in Section 3 of this Order.

SEC. 3. During fiscal year 1983 and each succeeding fiscal year, the Secretary of Defense shall transfer, from time to time, from the “Retired Pay, Defense” account of the Department of Defense to an account established in the Veterans' Administration, such amounts as the Administrator of Veterans' Affairs determines to be necessary to pay the benefits authorized by Section 156 during fiscal year 1983 and each succeeding fiscal year, and the expenses incurred by the Veterans' Administration in paying such benefits during fiscal year 1983 and each succeeding fiscal year. Such transfers shall, to the extent feasible, be made in advance of the payment of benefits and expenses by the Veterans' Administration.

SEC. 4. This Order shall be effective as of January 1, 1983.

RONALD REAGAN.

§ 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 beneficiaries may be entitled under section 402 or 423 of this title for a month on the basis of the wages and self-employment income of such individual shall, except as provided by paragraphs (3) and (6) (but prior to any increases resulting from the application of paragraph (2)(A)(i)(III) of section 415(i) of this title), be reduced as necessary so as not to exceed—

(A) 150 percent of such individual's primary insurance amount to the extent that it does not exceed the amount established with respect to this subparagraph by paragraph (2),

(B) 272 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (A) but does not exceed the amount established with respect to this subparagraph by paragraph (2),

(C) 134 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (B) but does not exceed the amount established with respect to this subparagraph by paragraph (2), and

(D) 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 the calendar year 1979, the amounts established with respect to subparagraphs (A), (B), and (C) of paragraph (1) shall be \$230, \$332, and \$433, respectively.

(B) 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 ap-

plication 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 423(b) 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(i) 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

¹ See References in Text note below.

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). Whenever a reduction is made under this subsection in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment income of an insured individual, each such benefit other than the old-age or disability insurance benefit shall be proportionately decreased.

(5) Notwithstanding any other provision of law, when—

(A) two or more persons are entitled to monthly benefits for a particular month on the basis of the wages and self-employment income of an insured individual and (for such particular month) the provisions of this sub-

section are applicable to such monthly benefits, and

(B) 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 any such subsequent 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.

(6) 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—

(A) 85 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

(B) 150 percent of such individual's primary insurance amount.

(7) 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)(C), 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 section 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) When—

(A) one or more persons were entitled (without the application of section 402(j)(1) of this title) to monthly benefits under section 402 of this title for May 1978 on the basis of the wages and self-employment income of an individual,

(B) the benefit of at least one such person for June 1978 is increased by reason of the amendments made by section 204 of the Social Security Amendments of 1977; and

(C) the total amount of benefits to which all such persons are entitled under such section 402 of this title are reduced under the provisions of this subsection (or would be so reduced except for the first sentence of subsection (a)(4)),

then the amount of the benefit to which each such person is entitled for months after May 1978 shall be increased (after such reductions are made under this subsection) to the amount such benefits would have been if the benefit of the person or persons referred to in subparagraph (B) had not been so increased.

(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 equals—

(A) such individual's benefit or benefits under section 402 of this title for any month, and

(B) if such individual was entitled to old-age insurance benefits under section 402(a) of this title for such month, the benefit or benefits of all other persons for such month under section 402 of this title based on such individual's wages and self-employment income,

if for such month he is charged with excess earnings, under the provisions of subsection (f) of this section, equal to the total of benefits referred to in clauses (A) and (B). If the excess earnings so charged are less than such total of benefits, such deductions with respect to such month shall be equal only to the amount of such excess earnings. If a child who has attained the age of 18 and is entitled to child's insurance benefits, or a person who is entitled to mother's or father's insurance benefits, is married to an individual entitled to old-age insurance benefits under section 402(a) of this title, such child or such person, as the case may be, shall, for the purposes of this subsection and subsection (f), be deemed to be entitled to such benefits on the basis of the wages and self-employment income of such individual entitled to old-age insurance benefits. If a deduction has already been made under this subsection with respect to a person's benefit or benefits under section 402 of this title for a month, he shall be deemed entitled to payments under such section for such month for purposes of further deductions under this subsection, and for purposes of charging of each person's excess earnings under subsection (f), 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)—

(1) 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)¹ 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) of 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 title) and for more than forty-five hours of which such individual engaged in noncovered remunerative activity outside the United States;

(2) in which such individual, if a wife or husband under retirement age (as defined in section 416(l) of this title) entitled to a wife's or husband's insurance benefit, did not have in his or her care (individually or jointly with his or her spouse) a child of such spouse entitled to a child's insurance benefit and such wife's or husband's insurance benefit for such month

was not reduced under the provisions of section 402(q) of this title;

(3) in which such individual, if a widow or widower 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 spouse entitled to a child's insurance benefit; or

(4) in which such an 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.

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(s) of this title applies or an event specified in section 422(b)¹ of this title occurs with respect to such child. Subject to paragraph (3) of such section 402(s) of this title, no deduction shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of eighteen or any subsequent month; 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.

(d) Deductions from dependents' benefits on account of noncovered work outside United States by old-age insurance beneficiary

(1)(A) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to old-age insurance benefits, to which a wife, divorced wife, husband, divorced husband, or child is entitled, until the total of such deductions equals such wife's, husband's, or child's insurance benefit or benefits under section 402 of this title for any month in which such individual is under retirement age (as defined in section 416(l) of this title) and for more than forty-five hours of which such individual engaged in noncovered remunerative activity outside the United States.

(B)(i) Except as provided in clause (ii), in any case in which—

(I) a divorced spouse is entitled to monthly benefits under section 402(b) or (c) of this title for any month, and

(II) such divorced spouse has been divorced for not less than 2 years,

the benefit to which he or she is entitled for such month 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 deter-

mined 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 or mother's or father's insurance benefit or benefits under section 402 of this title for any month in which such child or person entitled to mother's or father's insurance benefits is married to an individual under retirement age (as defined in section 416(l) of this title) who is entitled to old-age insurance benefits and for more than forty-five hours of which such individual engaged in noncovered remunerative activity outside the United States.

(e) Occurrence of more than one event

If more than one of the events specified in subsections (c) and (d) 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)—

(1) The amount of an individual's excess earnings (as defined in paragraph (3)) 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)) 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)) 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, 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(s) 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(l) 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), 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.

(2) 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.

(3) For purposes of paragraph (1) and subsection (h), an individual's excess earnings for a taxable year shall be 33½ 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(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, 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(l) 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.

(4) 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 includible 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(7) 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 or benefits payable under section 402(d) 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, regardless 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)) 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 402(k)(3) 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 quarter² 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—

- (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 individ-

uals 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 estimated amount of such increase, indicating the new exempt amount, the actuarial estimates of the effect of the increase, and the actuarial assumptions and methodology used in preparing such estimates.

(C) Notwithstanding the determination of a new exempt amount by the Commissioner of Social Security under subparagraph (A) (and notwithstanding any publication thereof under such subparagraph or any notification thereof under the last sentence of subparagraph (B)), such new exempt amount shall not take effect pursuant thereto if during the calendar year in which such determination is made a law increasing the exempt amount is enacted.

(D) 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(l) of this title) before the close of the taxable year involved shall be—

- (i) for each month of any taxable year ending after 1995 and before 1997, \$1,041.66⅔,
- (ii) for each month of any taxable year ending after 1996 and before 1998, \$1,125.00,
- (iii) for each month of any taxable year ending after 1997 and before 1999, \$1,208.33⅓,
- (iv) for each month of any taxable year ending after 1998 and before 2000, \$1,291.66⅔,
- (v) for each month of any taxable year ending after 1999 and before 2001, \$1,416.66⅔,
- (vi) for each month of any taxable year ending after 2000 and before 2002, \$2,083.33⅓, and
- (vii) for each month of any taxable year ending after 2001 and before 2003, \$2,500.00.

(E) Notwithstanding subparagraph (D), no deductions in benefits shall be made under subsection (b) with respect to the earnings of any individual in any month beginning with the month in which the individual attains retirement age (as defined in section 416(l) of this title).

²So in original. Probably should be followed by a comma.

(9) For purposes of paragraphs (3), (5)(D)(i), (8)(D), and (8)(E), the term “retirement age (as defined in section 416(l) of this title)”, with respect to any individual entitled to monthly insurance benefits under section 402 of this title, means the retirement age (as so defined) which is applicable in the case of old-age insurance benefits, regardless of whether or not the particular benefits to which the individual is entitled (or the only such benefits) are old-age insurance benefits.

(g) Penalty for failure to report certain events

Any individual in receipt of benefits subject to deduction under subsection (c), (or who is in receipt of such benefits on behalf of another individual), because of the occurrence of an event specified therein, who fails to report such occurrence to the Commissioner of Social Security prior to the receipt and acceptance of an insurance benefit for the second month following the month in which such event occurred, shall suffer deductions in addition to those imposed under subsection (c) 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 this subsection, 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).

(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), in excess of the product of the applicable exempt amount as determined under subsection (f)(8) 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 Com-

missioner 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—

(i) 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), (c), (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.

(B) If the benefit payments of an individual have been suspended for all months in any taxable year under the provisions of the first sentence of paragraph (3) of this subsection, no benefit payment shall be made to such individual for any such month in such taxable year after the expiration of the period of three years, three months, and fifteen days following the close of such taxable year unless within such period the individual, or some other person entitled to benefits under this subchapter on the basis of the same wages and self-employment income, files with the Commissioner of Social Security information showing that a benefit for such month is payable to such individual.

(2) If an individual fails to make a report required under paragraph (1) of this subsection, within the time prescribed by or in accordance with such paragraph, for any taxable year and any deduction is imposed under subsection (b) by reason of his earnings for such year, he shall suffer additional deductions as follows:

(A) if such failure is the first one with respect to which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 402 of this title, except that if the deduction imposed under subsection (b) by reason of his earnings for such year is less than the amount of his benefit (or benefits) for the last month of such year for which he was entitled to a benefit under section 402 of this title, the additional deduction shall be equal to the amount

of the deduction imposed under subsection (b) but not less than \$10;

(B) if such failure is the second one for which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to two times his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 402 of this title;

(C) if such failure is the third or a subsequent one for which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to three times his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 402 of this title;

except that the number of the additional deductions required by this paragraph with respect to a failure to report earnings for a taxable year shall not exceed the number of months in such year for which such individual received and accepted insurance benefits under section 402 of this title and for which deductions are imposed under subsection (b) by reason of his earnings. In determining whether a failure to report earnings is the first or a subsequent failure for any individual, all taxable years ending prior to the imposition of the first additional deduction under this paragraph, other than the latest one of such years, shall be disregarded.

(3) If the Commissioner of Social Security determines, on the basis of information obtained by or submitted to the Commissioner, that it may reasonably be expected that an individual entitled to benefits under section 402 of this title for any taxable year will suffer deductions imposed under subsection (b) by reason of his earnings for such year, the Commissioner of Social Security may, before the close of such taxable year, suspend the total or less than the total payment for each month in such year (or for only such months as the Commissioner of Social Security may specify) of the benefits payable on the basis of such individual's wages and self-employment income; and such suspension shall remain in effect with respect to the benefits for any month until the Commissioner of Social Security has determined whether or not any deduction is imposed for such month under subsection (b). The Commissioner of Social Security is authorized, before the close of the taxable year of an individual entitled to benefits during such year, to request of such individual that he make, at such time or times as the Commissioner of Social Security may specify, a declaration of his estimated earnings for the taxable year and that he furnish to the Commissioner of Social Security such other information with respect to such 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) 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 para-

graph (5) of subsection (f)) 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) 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.

(i) Repealed. Pub. L. 103-296, title III, §309(a), Aug. 15, 1994, 108 Stat. 1523

(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(l) 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.

(l) 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) with-

in 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 that 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).

(Aug. 14, 1935, ch. 531, title II, § 203, 49 Stat. 623; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362, 1367; Aug. 10, 1946, ch. 951, title IV, § 406, 60 Stat. 988; Aug. 28, 1950, ch. 809, title I, §§ 102(a), 103(a), 64 Stat. 489; July 18, 1952, ch. 945, §§ 2(b)(2), 4(a)–(d), 66 Stat. 768, 773; Sept. 1, 1954, ch. 1206, title I, §§ 102(e)(7), 103(a)–(h), (i)(3), 112(a), 68 Stat. 1070, 1073–1077, 1078, 1085; Aug. 1, 1956, ch. 836, title I, §§ 101(d)–(g), 102(d)(11), 107(a), 112 (a), (b), 70 Stat. 808, 814, 829, 831; Pub. L. 85–840, title I, § 101(f), title II, § 205(j), (k), title III, §§ 307(f), 308(a)–(e), Aug. 28, 1958, 72 Stat. 1017, 1024, 1032, 1033; Pub. L. 86–778, title I, § 103(b), title II, §§ 209(a), 211(a)–(h), title III, § 302(a), Sept. 13, 1960, 74 Stat. 936, 953–957, 960; Pub. L. 87–64, title I, § 108(a), June 30, 1961, 75 Stat. 140; Pub. L. 89–97, title III, §§ 301(c), 306(c)(10)–(12), 308(d)(6)–(8), 310(a), 325(a), July 30, 1965, 79 Stat. 363, 373, 378–380, 399; Pub. L. 90–248, title I, §§ 101(b), 104(d)(1), 107(a), 160, 161(a), (b), 163(a)(1), Jan. 2, 1968, 81 Stat. 826, 832, 834, 870, 872; Pub. L. 91–172, title X, § 1002(b)(1), Dec. 30, 1969, 83 Stat. 739; Pub. L. 92–5, title II, § 201(b), Mar. 17, 1971, 85 Stat. 8; Pub. L. 92–336, title II, §§ 201(b), (h)(1), 202(a)(2)(A), (B), July 1, 1972, 86 Stat. 410, 411, 415; Pub. L. 92–603, title I, §§ 101(b), 102(c), 103(c), 105(a), (b), 106(a), 107(b)(1), (2), 144(a)(2), (3), Oct. 30, 1972, 86 Stat. 1334, 1336, 1340–1343, 1370; Pub. L. 93–66, title II, § 202(a)–(c), July 9, 1973, 87 Stat. 153; Pub. L. 93–233, §§ 3(k), 18(a), Dec. 31, 1973, 87 Stat. 953, 967; Pub. L. 94–202, § 8(i), Jan. 2, 1976, 89 Stat. 1140; Pub. L. 95–216, title II, §§ 202, 204(e), title III, §§ 301(a), (b), (c)(1), (d), 302(a)–(d), 303(a), 353(a), Dec. 20, 1977, 91 Stat. 1524, 1528, 1530, 1531, 1552; Pub. L. 96–265, title I, § 101(a)–(b)(2), June 9, 1980, 94 Stat. 442; Pub. L. 96–473, §§ 1(a), 3(a), 4(a), 6(b), Oct. 19, 1980, 94 Stat. 2263–2265; Pub. L. 97–35, title XXII, §§ 2201(c)(6), 2206(b)(2)–(4), Aug. 13, 1981, 95 Stat. 831, 838; Pub. L. 97–123, § 2(f), Dec. 29, 1981, 95 Stat. 1661; Pub. L. 98–21, title I, §§ 111(a)(4), 132(b), title II, § 201(c)(1)(B), (2), title III, §§ 306(i), 309(f)–(h), 324(c)(4), 331(a), (b), 347(a), Apr. 20, 1983, 97 Stat. 72, 94, 109, 114, 116, 117, 125, 128, 129, 138; Pub. L. 98–369, div. B, title VI, §§ 2602(a), 2661(g)(1)(A), (2)(A), 2662(c)(1), 2663(a)(3), July 18, 1984, 98 Stat. 1127, 1157, 1159, 1161; Pub. L. 99–272, title XII, § 12108(a), Apr. 7, 1986, 100 Stat. 286; Pub. L. 100–647, title VIII, § 8002(a), (b), Nov. 10, 1988, 102 Stat. 3779; Pub. L. 101–239, title X, §§ 10208(b)(1)(A), (B), (d)(2)(A)(i), (ii), (vi), 10305(a), Dec. 19, 1989, 103 Stat. 2477, 2480, 2481, 2483; Pub. L. 101–508, title V, §§ 5117(a)(3)(B), 5119(c), (d), 5123(a)(1), (2), 5127(a), (b), Nov. 5, 1990, 104 Stat. 1388–277, 1388–279, 1388–280, 1388–284, 1388–286; Pub. L. 103–296, title I, § 107(a)(4), title III, §§ 309(a)–(c), 310(a), (b), 314(a), 321(a)(6), (c)(6)(A), (g)(2), Aug. 15, 1994, 108 Stat.

1478, 1523, 1524, 1530, 1536, 1538, 1543; Pub. L. 104–121, title I, § 102(a), (b)(1), Mar. 29, 1996, 110 Stat. 847, 848; Pub. L. 106–182, §§ 2–4(a), Apr. 7, 2000, 114 Stat. 198, 199.)

Editorial Notes

REFERENCES IN TEXT

Section 422(b) of this title, referred to in subsecs. (a)(3)(B)(iii), (4), (b)(1)(ii), (c), and (e), was repealed by Pub. L. 106–170, title I, § 101(b)(1)(C), Dec. 17, 1999, 113 Stat. 1873.

Section 5117 of the Omnibus Budget Reconciliation Act of 1990, referred to in subsec. (a)(8), is section 5117 of Pub. L. 101–508, title V, Nov. 5, 1990, 104 Stat. 1388–274.

The amendments made by section 204 of the Social Security Amendments of 1977, referred to in subsec. (a)(9)(B), means the amendments made by section 204 of Pub. L. 95–216, which enacted subsec. (a)(9) of this section and amended section 402(e)(2)(A), (e)(2)(B)(i), (f)(3)(A), and (f)(3)(B)(i) of this title.

The Internal Revenue Code of 1986, referred to in subsecs. (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 widow or surviving divorced wife is entitled and has not attained retirement age (as defined in section 416(l) of this title) (but only if she became so entitled prior to attaining age 60), or from any widower’s insurance benefit for any month in which the widower or surviving divorced husband is entitled and has not attained retirement age (as defined in section 416(l) of this title) (but only if he became so entitled prior to attaining age 60)”.

Subsec. (c)(1). Pub. L. 106–182, § 2(1), substituted “retirement age (as defined in section 416(l) of this title)” for “the age of seventy”.

Subsec. (d)(1)(A), (2). Pub. L. 106–182, § 2(2), substituted “retirement age (as defined in section 416(l) of this title)” for “the age of seventy”.

Subsec. (f)(1)(B). Pub. L. 106–182, § 2(3), substituted “was at or above retirement age (as defined in section 416(l) of this title)” for “was age seventy or over”.

Subsec. (f)(1)(D). Pub. L. 106–182, § 4(a)(2), added cl. (D) and struck out former cl. (D) which read as follows: “for which such individual is entitled to widow’s insurance benefits and has not attained retirement age (as defined in section 416(l) of this title) (but only if she became so entitled prior to attaining age 60), or widower’s insurance benefits and has not attained retirement age (as defined in section 416(l) of this title) (but only if he became so entitled prior to attaining age 60).”.

Subsec. (f)(3). Pub. L. 106–182, § 2(4), substituted “retirement age (as defined in section 416(l) of this title)” for “age 70”.

Subsec. (f)(8)(E). Pub. L. 106–182, § 3(a), added subpar. (E).

Subsec. (f)(9). Pub. L. 106–182, § 3(b), substituted “(8)(D), and (8)(E),” for “and (8)(D).”.

Subsec. (h)(1)(A)(i), (ii). Pub. L. 106–182, § 2(5), substituted “retirement age (as defined in section 416(l) of this title)” for “age 70”.

Subsec. (j). Pub. L. 106–182, § 2(6), substituted “retirement age” for “age seventy” in heading and “having attained retirement age (as defined in section 416(l) of this title)” for “seventy years of age”.

1996—Subsec. (f)(8)(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 1995 (with respect to other individuals)" for "the taxable year ending after 1993 and before 1995".

Subsec. (f)(8)(B)(ii)(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)(8)(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(l) of this title) before the close of the taxable year involved—

"(i) shall be \$333.33 $\frac{1}{3}$ for each month of any taxable year ending after 1977 and before 1979,

"(ii) shall be \$375 for each month of any taxable year ending after 1978 and before 1980,

"(iii) shall be \$416.66 $\frac{2}{3}$ for each month of any taxable year ending after 1979 and before 1981,

"(iv) shall be \$458.33 $\frac{1}{3}$ for each month of any taxable year ending after 1980 and before 1982, and

"(v) shall be \$500 for each month of any taxable year ending after 1981 and before 1983."

1994—Subsec. (a)(2)(C). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

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 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). 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)".

Subsec. (a)(10). Pub. L. 103-296, §310(a), added par. (10).
Subsecs. (b)(1), (c), (f)(3), (4). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Subsec. (f)(5)(B)(ii). Pub. L. 103-296, §321(c)(6)(A), substituted "Code of 1986" for "Code of 1954".

Subsec. (f)(5)(C)(i), (ii). Pub. L. 103-296, §321(a)(6), realigned margins.

Subsec. (f)(5)(D), (6). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Subsec. (f)(8)(A). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" and "the Commissioner" for "he".

Subsec. (f)(8)(B). Pub. L. 103-296, §107(a)(4), in closing provisions substituted "Commissioner of Social Security" for "Secretary" and "the Commissioner shall" for "he shall".

Subsec. (f)(8)(B)(ii). Pub. L. 103-296, §321(g)(2), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "the product of the exempt amount described in clause (i) and the ratio of (I) 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 subparagraph (A) is made to (II) the deemed average total wages (as so defined) for the calendar year before the most recent calendar year in which an increase in the exempt amount was enacted or a determination resulting in such an increase was made under subparagraph (A), 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."

Subsecs. (f)(8)(C), (g). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (h)(1)(A). Pub. L. 103-296, §314(a), substituted "four months" for "three months" in last sentence.

Pub. L. 103-296, §107(a)(4), in subpar. (A) as amended by Pub. L. 103-296, §309(c), substituted "Commissioner of Social Security" for "Secretary" wherever appearing and "the Commissioner" for "he" before "finds".

Pub. L. 103-296, §309(c), substituted "Such report need not be made for any taxable year—

"(i) beginning with or after the month in which such individual attained age 70, or

"(ii) if benefit payments for all months (in such taxable year) in which such individual is under age 70 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), (c), (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 Secretary may grant" for "Such report need not be made for any taxable year (i) beginning with or after the month in which such individual attained age 70, or (ii) if benefit payments for all months (in such taxable year) in which such individual is under age 70 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection. The Secretary may grant".

Subsec. (h)(1)(B). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (h)(3). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing and "submitted to the Commissioner" for "submitted to him".

Subsec. (h)(4). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (i). Pub. L. 103-296, §309(a), struck out subsec. (i) which read as follows: "In the case of any individual, deductions by reason of the provisions of subsection (b), (c), (g), or (h) of this section, or the provisions of section 422(b) of this title, shall, notwithstanding such provisions, be made from the benefits to which such individual is entitled only to the extent that such deductions reduce the total amount which would otherwise be paid, on the basis of the same wages and self-employment income, to such individual and the other individuals living in the same household."

Subsec. (k). Pub. L. 103-296, §321(c)(6)(A), substituted "Code of 1986" for "Code of 1954".

Subsec. (l). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

1990—Subsec. (a)(3)(D). Pub. L. 101-508, §5119(c), added subpar. (D).

Subsec. (a)(6). Pub. L. 101-508, §5119(d), inserted "(3)(D)," after "(3)(C)."

Subsec. (a)(8). Pub. L. 101-508, §5117(a)(3)(B), inserted "and as amended by section 5117 of the Omnibus Budget Reconciliation Act of 1990," after second reference to "December 1978".

Subsec. (b)(2). Pub. L. 101-508, §5127(a), designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B), in any case in which—" and cls. (i) and (ii) for "When 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 such person has been so divorced for not less than 2 years.”, and added subpar. (B).

Subsec. (d)(1)(B). Pub. L. 101-508, § 5127(b), designated existing provisions as cl. (i), substituted “Except as provided in clause (ii), in any case in which—” and subcls. (I) and (II) for “When any divorced spouse is entitled to monthly benefits under section 402(b) or (c) of this title for any month and such divorced spouse has been so divorced for not less than 2 years.”, and added cl. (ii).

Subsec. (f)(5)(E). Pub. L. 101-508, § 5123(a)(1), (2), 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”.

1989—Subsec. (f)(5)(C). Pub. L. 101-239, § 10208(d)(2)(A)(ii), (vi), substituted “paragraphs (1), (6)(B), (6)(C), (7)(B), and (8) of section 409(a)” for “subsections (a), (g)(2), (g)(3), (h)(2), and (j) of section 409” in introductory provisions and “409(a)(11)(B)” for “409(m)(2)” in cl. (ii).

Subsec. (f)(8)(B)(ii)(I). Pub. L. 101-239, § 10208(b)(1)(A), 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) of this title) reported to the Secretary of the Treasury or his delegate”.

Pub. L. 101-239, § 10208(d)(2)(A)(i), substituted “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 so defined)” for “the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate”.

Subsec. (l). Pub. L. 101-239, § 10305(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.

1988—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.

1986—Subsec. (a)(4). Pub. L. 99-272, § 12108(a)(1), struck out “preceding” after “pursuant to the” in first sentence.

Subsec. (a)(6). Pub. L. 99-272, § 12108(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”.

1984—Subsec. (a)(8). Pub. L. 98-369, § 2663(a)(3)(A), inserted a period at end of par. (8).

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 “on 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 “on seven or more different calendar days”.

Subsec. (f)(5)(B)(ii). Pub. L. 98-369, § 2663(a)(3)(C), substituted “702(a)(8)” for “702(a)(9)”.

Subsec. (f)(5)(D)(i). Pub. L. 98-369, § 2662(c)(1), made a clarifying amendment to Pub. L. 98-21, § 201(c)(1)(B). See 1983 Amendment note below.

Subsec. (f)(8)(B), (C). Pub. L. 98-369, § 2663(a)(3)(D), realigned margins of subpars. (B) and (C).

Subsec. (f)(9). Pub. L. 98-369, § 2661(g)(2)(A), added par. (9).

Subsec. (h)(4). Pub. L. 98-369, § 2602(a), added par. (4). 1983—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 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, for provisions relating to an amount 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 that month 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 inserted provisions following cl. (ii).

Subsec. (a)(7). Pub. L. 98-21, § 331(a)(2), substituted “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)” for “the product of 1.75 and the primary insurance amount that would be computed under section 415(a)(1) of this title for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined under section 430 of this title for the year in which that month occurs”.

Subsec. (b)(1). Pub. L. 98-21, § 309(f), inserted “or father’s” after “mother’s” in provisions following subpar. (B).

Pub. L. 98-21, § 132(b)(1)(A)(iii), substituted “clauses (A) and (B)” for “clauses (1) and (2)” in provisions following subpar. (B).

Pub. L. 98-21, § 132(b)(1)(A)(i), (ii), (iv), designated existing provisions of subsec. (b) as par. (1), and in par. (1), as so designated, redesignated cls. (1) and (2) as (A) and (B), respectively, and cls. (A) and (B) as (i) and (ii), respectively.

Subsec. (b)(1)(i). Pub. L. 98-21, § 331(b), substituted “first sentence of paragraph (4)” for “penultimate sentence”.

Subsec. (b)(2). Pub. L. 98-21, § 132(b)(1)(A)(v), added par. (2).

Subsec. (c). Pub. L. 98-21, § 201(c)(2), substituted “retirement age (as defined in section 416(l) of this title)” for “age sixty-five”.

Pub. L. 98-21, § 201(c)(1)(B), substituted “retirement age (as defined in section 416(l) of this title)” for “age 65” wherever appearing in provisions following par. (4).

Pub. L. 98-21, § 309(g), amended subsec. (c) generally, substituting in par. (1) specification of more than forty-five hours of nonrecovered remunerative activity for specification of seven or more different days of such activity, and in pars. (2) to (4) provisions not distinguishing between the sexes for provisions relating only to the entitlements of women, and in provisions following par. (4) inserting “or surviving divorced husband” after “widower”.

Subsec. (d)(1). Pub. L. 98-21, § 309(h), inserted “divorced husband,” after “husband.”.

Pub. L. 98-21, § 132(b)(2), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (d)(2). Pub. L. 98-21, § 309(h), inserted “or father’s” after “mother’s” in three places.

Subsec. (f)(1). Pub. L. 98-21, § 132(b)(1)(B)(i), inserted “(excluding divorced spouses referred to in subsection (b)(2))” after “and all other persons” and after “other persons” and inserted “such” after “payments to which such individual and all” in first sentence.

Subsec. (f)(1)(D). Pub. L. 98-21, §201(c)(1)(B), substituted “retirement age (as defined in section 416(l) of this title)” for “age 65” in two places.

Subsec. (f)(1)(F). Pub. L. 98-21, §306(i), substituted “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), 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. (f)(3). Pub. L. 98-21, §347(a), substituted “33½ 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 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 per centum 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(c)(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 “the age of 65”.

Subsec. (f)(7). Pub. L. 98-21, §132(b)(1)(B)(ii), inserted “(excluding divorced spouses referred to in subsection (b)(2))” after “all persons”.

Subsec. (f)(8)(A). Pub. L. 98-21, §111(a)(4), substituted “December” for “June”.

Subsec. (f)(8)(D). Pub. L. 98-21, §201(c)(1)(B), substituted “retirement age (as defined in section 416(l) of this title)” for “age 65”.

1981—Subsec. (a)(1). Pub. L. 97-35, §2206(b)(2), substituted in provisions following subpar. (D) “decreased to the next lower” for “increased to the next higher”.

Subsec. (a)(3)(B)(iii). Pub. L. 97-35, §2206(b)(3), substituted “next lower multiple” for “next higher multiple”.

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), 2206(b)(4), inserted “, 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 \$0.10”, 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 \$0.10”.

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. (a)(3)(A). Pub. L. 96-473, §6(b)(1), substituted “entitled on the basis” for “entitled on the bases”.

Subsec. (a)(7). Pub. L. 96-473, §6(b)(2), substituted “benefit base” for “benefits base”.

Subsec. (f)(1). Pub. L. 96-473, §§1(a)(1), 4(a), inserted reference to December 1977 in cl. (E) and added cl. (F).

Subsec. (f)(2)(F). Pub. L. 96-473, §1(a)(2), inserted reference to cl. (F).

Subsec. (f)(5)(D). Pub. L. 96-473, §3(a), revised former cls. (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 (5) with changes to take into account the revised system 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)(8). Pub. L. 95-216, §204(e), added par. (8).

Subsecs. (c)(1), (d)(1), (f)(1)(B). Pub. L. 95-216, §302(a), substituted “seventy” for “seventy-two”.

Subsec. (f)(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”.

Pub. L. 95-216, §302(b), substituted “age 70” for “age 72”.

Subsec. (f)(4)(B). Pub. L. 95-216, §301(d), substituted “the applicable exempt amount” for “\$200 or the exempt amount”.

Subsec. (f)(8)(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)(8)(B). Pub. L. 95-216, §§301(b), 353(a), applicable 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, 1979, substituted “is” for “was” in cl. (i) and, in cl. (ii), substituted “(I) 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 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 “(I) 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 subparagraph (A) was made to (II) 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 the most recent calendar year” and struck out reference to wages for calendar year 1978.

Subsec. (f)(8)(D). Pub. L. 95-216, §301(c)(1), added subpar. (D).

Subsec. (h)(1)(A). Pub. L. 95-216, §301(d), substituted “the applicable exempt amount” for “\$200 or the exempt amount”.

Pub. L. 95-216, §302(c), substituted “age 70” for “the age of 72” and for “age 72”.

Subsec. (j). Pub. L. 95-216, §302(a), (d), substituted “seventy” for “seventy-two” in heading and in 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.

1973—Subsec. (f). Pub. L. 93-66, §202(a), (b), substituted in pars. (1), (3), first sentence, and (4)(B), “\$200” for “\$175”.

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 quarter occurs” and before “a new exempt amount” parenthetical “(along with the publication of such benefit increase as required by section 415(i)(2)(D) of this title)”.

Subsec. (f)(8)(B)(ii). Pub. L. 93-233, §18(a), substituted “exempt amount” for “contribution and benefit base” and “subparagraph (A)” for “section 430(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(i)(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(i)(3) of this title)” after “law increasing the exempt amount”.

Subsec. (h)(1)(A). Pub. L. 93-66, §202(c), substituted “\$200” for “\$175”.

1972—Subsec. (a). Pub. L. 92-336, §202(a)(2)(A), inserted “in or deemed to be” after “the table”.

Subsec. (a)(2). Pub. L. 92-336, §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 August, 1972.

Pub. L. 92-336, §201(b), substituted 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 August 1972, for provisions relating to the reduction in the total of benefits for January 1971 or any subsequent month where two or more persons were entitled to monthly benefits under section 402 or 423 of this title for January 1971.

Subsec. (a)(2)(B). Pub. L. 92-603, §144(a)(2), inserted “such” before “person”.

Subsec. (a)(4). Pub. L. 92-336, §201(h)(1), added par. (4).

Subsec. (a)(5). Pub. L. 92-603, §101(b), added par. (5).

Subsec. (c). Pub. L. 92-603, §§102(c)(1), 107(b)(1), substituted “attained age 65 (but only if she became so entitled prior to attaining age (60), or from any widower’s insurance benefit for any month in which the widower is entitled and has not attained age 65 (but only if he became so entitled prior to attaining age 60))” for “attained age 62 (but only if she became so entitled prior to attaining age 60), or from any widower’s insurance benefit for any month in which the widower is entitled and has not attained age 62”.

Subsec. (f)(1). Pub. L. 92-603, §§102(c)(2), 105(a)(1), 107(b)(2), substituted “attained age 65 (but only if she became so entitled prior to attaining age 60), or widower’s insurance benefits and has not attained age 65 (but only if she became so entitled prior to attaining

age 60)” for “attained age 62 (but only if she became so entitled prior to attaining age 60), or widower’s insurance benefits and has not attained age 62” in cl. (D) and substituted “\$175 or the exempt amount as determined under paragraph (8)” for “\$140” in cl. (E).

Subsec. (f)(3). Pub. L. 92-603, §§105(a)(3), 106(a), substituted “shall be 50 per centum of his earnings for such year in excess of the product of \$175 or the exempt amount as determined under paragraph (8),” for “shall be his earnings for such year in excess of the product of \$140” and struck out “, except that of the first \$1,200 of such excess (or all of such excess if it is less than \$1,200), an amount equal to one-half thereof shall not be included” after “number of months in such year” and inserted provisions for the exclusion of certain earnings in the year of attaining age 72.

Subsec. (f)(4)(B). Pub. L. 92-603, §105(a)(1), substituted “\$175 or the exempt amount as determined under paragraph (8)” for “\$140”.

Subsec. (f)(8). Pub. L. 92-603, §105(b), added par. (8).

Subsec. (h)(1)(A). Pub. L. 92-603, §105(a)(2), substituted “\$175 or the exempt amount as determined under subsection (f)(8)” for “\$140”.

1971—Subsec. (a)(2). Pub. L. 92-5 substituted references to January 1971 for references to January 1970, substituted “December 1970” for “December 1969”, and, in subpar. (B), substituted “prior to March 17, 1971” for “prior to December 30, 1969 (and prior to January 1, 1970)”, and lowered the multiple of the benefit amount from 115 percent to 110 percent.

1969—Subsec. (a)(2). Pub. L. 91-172 substituted references to January 1970 for references to February 1968, and, in subpar. (B), substituted “prior to December 30, 1969 (and prior to January 1, 1970)” for “prior to February 1968”, and raised the multiple of the benefit amount from 113 percent to 115 percent.

1968—Subsec. (a). Pub. L. 90-248, §163(a)(1), provided for reduction of benefits in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment income of an insured individual and that where such total of benefits for such month includes any benefit or benefits under section 402(d) of this title which are payable solely by reason of section 416(h)(3) of this title, the reduction shall be first applied to reduce (proportionately where there is more than one benefit so payable) the benefits so payable (but not below zero).

Subsec. (a)(2). Pub. L. 90-248, §101(b), substituted references to February 1968 for former references to December 1964 and for former references to the enactment of the Social Security Amendments of 1965, increased the multiple of the benefit amount from 107 to 113 percent, and struck out former cl. (ii) which provided that the total of monthly benefits shall not be reduced to less than the larger of the amount determined under subpar. (A) or with respect to any month after the month in which the Social Security Amendments of 1965 are enacted, an amount equal to the sum of the amounts derived by multiplying the benefit amount determined under this subchapter (including subsection (a) of this section, but without the application of section 422(b) of this title, section 402(q) of this title, and subsections (b), (c) and (d) of this section), as in effect prior to the enactment of such Amendments, for each such person (other than a person who would not be entitled to such benefits for such month without the application of the amendments made by section 306 of the Social Security Amendments of 1965) for the month of enactment, by 107 percent and raising each such increased amount, if it is not a multiple of \$0.10, to the next higher multiple of \$0.10.

Subsec. (c). Pub. L. 90-248, §104(d)(1)(A), inserted after “any subsequent month” in third sentence “; nor shall any deduction be made under this subsection from any widow’s insurance benefit for any month in which the widow or surviving divorced wife is entitled and has not attained age 62 (but only if she became so entitled prior to attaining age 60), or from any widower’s insurance benefit for any month in which the widower is entitled and has not attained age 62”.

Subsec. (f)(1). Pub. L. 90-248, §§ 104(d)(1)(B), 107(a)(1), inserted in third sentence subpar. (D) and redesignated existing provisions as subpar. (E), and substituted "\$140" for "125".

Subsec. (f)(2). Pub. L. 90-248, § 104(d)(1)(C), substituted "(D), and (E)" for "and (D)".

Subsec. (f)(3). Pub. L. 90-248, § 107(a)(1), substituted "\$140" for "\$125".

Subsec. (f)(4). Pub. L. 90-248, § 104(d)(1)(D), substituted "(E)" for "(D)".

Subsec. (f)(4)(B). Pub. L. 90-248, § 107(a)(1), substituted "\$140" for "\$125".

Subsec. (g). Pub. L. 90-248, § 161(b), substituted provisions that the penalty for the first failure to report will equal one month's benefit, for the second failure to report—two month's benefits, for the third or a subsequent failure to report—three month's benefits but in no case will the penalty exceed the number of months in the period for which there is a failure to report, and defining "period for which there is a failure to report" for present provisions that the penalty for the first failure to report is one month's benefit and for subsequent failures, the penalty is an amount equal to the total amount of the benefits for all the months in which the event occurred but was not reported within the prescribed time.

Subsec. (h)(1)(A). Pub. L. 90-248, §§ 107(a)(2), 160(a), inserted last sentence authorizing the Secretary to extend time to report earnings up to three months if there is a valid reason for delay, and substituted "\$140" for "\$125".

Subsec. (h)(2). Pub. L. 90-248, § 160(b), substituted in text preceding subpar. (A) "by or in accordance with such paragraph" for "therein".

Subsec. (h)(2)(A). Pub. L. 90-248, § 161(a), inserted exception provision that if the deduction is less than the amount of his benefits for the last month for which he was entitled to benefits, the additional deduction will be the amount of the deduction under subsec. (b) but not less than ten dollars.

1965—Subsec. (a)(2). Pub. L. 89-97, § 301(c), substituted provisions to assure an increase in the family benefits for families who were on the benefit rolls after December 1964 and whose benefits were determined under former provisions by providing that the maximum family benefit of each month after December 1964 will be the larger of (1) the family maximum specified in column V of the new table or (2) the sum of all family members' benefits after each such benefit has been increased by seven percent (and rounded to the next higher ten cents if it is not already a multiple of ten cents), for former provisions restricting the reduction of total benefits to individuals entitled to monthly benefits under section 402 or 423 of this title for December 1958.

Subsec. (a)(3). Pub. L. 89-97, §§ 301(c), 308(d)(6), struck out par. (3) which was a special saving clause for maximum family benefits of people who became disabled before 1959 since families whose benefits were determined under such par. (3) are now covered by subsec. (a)(2) of this section, and added par. (3), respectively.

Subsec. (c). Pub. L. 89-97, § 306(c)(10), (11), inserted in penultimate sentence "paragraph (1) of section 402(s) of this title applies or" after "for any month in which" and in last sentence the introductory phrase "Subject to paragraph (3) of such section 402(s)".

Subsec. (c)(4). Pub. L. 89-97, § 308(d)(7), substituted "surviving divorced mother" for "former wife divorced".

Subsec. (d)(1). Pub. L. 89-97, § 308(d)(8), inserted "divorced wife," after "wife."

Subsec. (f)(1). Pub. L. 89-97, §§ 306(c)(12), 310(a)(1), inserted "but subject to section 402(s) of this title" after "Notwithstanding the preceding provisions of this paragraph" in last sentence and substituted "\$125" for "\$100".

Subsec. (f)(3). Pub. L. 89-97, § 310(a)(1), (2), substituted "\$125" for "\$100" and "\$1,200" for "\$500" in two places.

Subsec. (f)(4)(B). Pub. L. 89-97, § 310(a)(1), substituted "\$125" for "\$100".

Subsec. (f)(5)(B). Pub. L. 89-97, § 325(a)(1), broke down existing provisions into cls. (i) and (ii), provided, in cl.

(ii), for exclusion from gross income of amounts provided by subpar. (D) of this par., and, in cl. (ii), inserted reference to distributive share of loss described in section 702(a)(9) of Title 26.

Subsec. (f)(5)(D). Pub. L. 89-97, § 325(a)(2), added subpar. (D).

Subsec. (h)(1)(A). Pub. L. 89-97, § 310(a)(3), substituted "\$125" for "\$100".

1961—Subsec. (f)(3). Pub. L. 87-64 substituted "\$500" for "\$300" in two places.

1960—Subsec. (a)(3). Pub. L. 86-778, § 302(a), substituted ", then such total of benefits shall not be reduced to less than \$99.10 if such primary insurance amount is \$66, to less than \$102.40 if such primary insurance amount is \$67, to less than \$106.50 if such primary insurance amount is \$68, or, if such primary insurance amount is higher than \$68, to less than the smaller of" for "and is not less than \$68, then such total of benefits shall not be reduced to less than the smaller of" in the provisions following cl. (B), and "the amount determined under this subsection without regard to this paragraph, or \$206.60, whichever is larger" for "the last figure in column V of the table appearing in section 415(a) of this title" in cl. (C).

Subsec. (b). Pub. L. 86-778, § 211(a), amended subsec. (b) generally, and among other changes, authorized deductions from payments to which any other persons are entitled on the basis of an individual's wages and self-employed income, substituted provisions requiring deductions for months in which an individual is charged with excess earnings under the provisions of subsec. (f) of this section for provisions which required deductions for months in which an individual is charged with any earnings under the provisions of subsec. (e) of this section, and inserted the second, third, fourth and fifth sentences. Former cls. (2)-(5) and the closing paragraph of subsec. (b) are covered by subsec. (c) of this section.

Subsec. (c). Pub. L. 86-778, § 211(b), redesignated the opening provisions, cls. (2) to (5) and the closing provisions of former subsec. (b) of this section as the opening provisions, cls. (1) to (4) and the closing provisions of subsec. (c), respectively. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 86-778, § 211(c), added subsec. (d) and redesignated former subsec. (d) as (e). Provisions of subsec. (d) were formerly contained in subsec. (c) of this section.

Subsec. (e). Pub. L. 86-778, § 211(c), (d), redesignated former subsec. (d) as (e), substituted "subsections (c) and (d)" for "subsections (b) and (c)", and struck out provisions which required the charging of any earnings to any month to be treated as an event occurring in such month. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 86-778, § 211(c), (e), redesignated former subsec. (e) as (f), and amended such subsection by inserting pars. (3) and (7), substituting provisions requiring an amount of an individual's excess earnings equal to the sum of the payments to which he and all other persons are entitled for the 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) to be charged to the first month of the taxable year, and 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 which required the first \$80 of earnings in excess of \$1,200 to be charged to the first month of the taxable year, and the balance, if any, at the rate of \$80 per month to each succeeding month in such year until all of the balance has been applied, and inserting provisions requiring the excess earnings of an individual for any taxable year, where an individual is entitled to 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-em-

ployment 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 subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 86-778, §§209(a), 211(c), redesignated former subsec. (f) as (g), and substituted therein "subsection (c)" for "subsection (b) or (c)" in two places, and struck out "(other than an event specified in subsection (b)(1) or (c)(1))" after "of an event specified therein." Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 86-778, §211(c), (f), redesignated former subsec. (g) as (h), and substituted therein "paragraph (5) of subsection (f)" for "paragraph (4) of subsection (e)" in two places, "paragraph (3) of this subsection" for "paragraph (3) of subsection (g)", "subsection (b)" for "subsection (b)(1)" in five places, and "suspend the total or less than the total payment" for "suspend the payment." Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 86-778, §211(c), (g), redesignated former subsec. (h) as (i) and substituted therein "subsection (b), (c), (g), or (h)" for "subsection (b), (f), or (g)." Former subsec. (i) was repealed by Act Sept. 1, 1954, ch. 1206, title I, §112(a), 68 Stat. 1085.

Subsec. (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".

Subsec. (l). Pub. L. 86-778, §211(h), substituted "subsection (g) or (h)(1)(A)" for "subsection (f) or (g)(1)(A)".

1958—Subsec. (a). Pub. L. 85-840, §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 section 402 of this title to \$50, or 80% 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 disability began prior to January 1959 and continued until he became entitled to benefits under section 402 or 423 of this title, or he died, whichever first occurred.

Subsec. (c). Pub. L. 85-840, §205(j), inserted " , based on the wages and self-employment income of an individual entitled to old-age insurance benefits," before "to which a wife" in opening provisions of par. (1), and Pub. L. 85-840, §307(f), designated existing provisions of subsec. (c) as par. (1), redesignated subpars. (1) and (2) of par. (1) as subpars. (A) and (B), substituted in subpar. (B) of par. (1) "subparagraph (A)" for "paragraph (1)", and added par. (2).

Subsec. (e)(2). Pub. L. 85-840, §308(a), (c), substituted "first month" for "last month" and "succeeding 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 'last month of such taxable year' means the latest month" in cl. (A), and "\$100" for "\$80" in cl. (B)(ii).

Subsec. (g)(1). 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 benefit payments 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. (h). 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. (l). Pub. L. 85-840, §308(e), substituted "(g)(1)(A)" for "(g)".

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, §101(g), 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. (k). 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".

1954—Subsec. (a). Act Sept. 1, 1954, §102(e)(7), increased maximum limitations on the total monthly amount of benefits.

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 nonrecovered 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). Act Sept. 1, 1954, §103(f)(1), amended heading.

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-two" 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. (g)(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)” for “subsection (b)(2)”, “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, 1954, 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(f)(6), (i)(3), substituted “seventy-two” for “seventy-five”.

Subsec. (k). Act Sept. 1, 1954, §103(g), added subsec. (k).

Subsec. (l). Act Sept. 1, 1954, §103(h), added subsec. (l). 1952—Subsec. (a). Act July 18, 1952, §2(b)(2), increased the maximum and minimum monthly benefits payable a family.

Subsecs. (b)(1), (2), (c)(1), (2), (e), (g). Act July 18, 1952, §4(a)—(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.

Subsec. (d)(2). Act Aug. 10, 1946, §406(a), struck out par. (2) which related to deductions for failure to attend school.

1939—Act Aug. 10, 1939, amended section generally.

Statutory Notes and Related Subsidiaries

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 402 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-121, title I, §102(c), Mar. 29, 1996, 110 Stat. 848, provided that: “The amendments made by this sec-

tion [amending this section and section 423 of this title] shall apply with respect to taxable years ending after 1995.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 107(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.

Pub. L. 103-296, title III, §309(e)(1), Aug. 15, 1994, 108 Stat. 1524, 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.”

Pub. L. 103-296, title III, §310(c), Aug. 15, 1994, 108 Stat. 1525, 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 [42 U.S.C. 402, 423] 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.”

Pub. L. 103-296, title III, §314(b), Aug. 15, 1994, 108 Stat. 1530, 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.”

Pub. L. 103-296, title III, §321(g)(3)(B), Aug. 15, 1994, 108 Stat. 1543, 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

Pub. L. 101-508, title V, §5117(a)(4), Nov. 5, 1990, 104 Stat. 1388-277, 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 [42 U.S.C. 402, 423] 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.”

Pub. L. 101-508, title V, §5119(e), Nov. 5, 1990, 104 Stat. 1388-280, 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 [42 U.S.C. 402(b), (c), (e), (f)] 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)."

Pub. L. 101-508, title V, §5123(b), Nov. 5, 1990, 104 Stat. 1388-284, 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."

Pub. L. 101-508, title V, §5127(c), Nov. 5, 1990, 104 Stat. 1388-286, 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 10208(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 10208(c) of Pub. L. 101-239, set out as a note under section 430 of this title.

Pub. L. 101-239, title X, §10305(f), Dec. 19, 1989, 103 Stat. 2484, 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

Pub. L. 100-647, title VIII, §8002(c), Nov. 10, 1988, 102 Stat. 3780, 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

Pub. L. 99-272, title XII, §12108(b), Apr. 7, 1986, 100 Stat. 286, as amended by Pub. L. 99-514, title XVIII, §1895(a), Oct. 22, 1986, 100 Stat. 2931, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to benefits payable for months after December 1986."

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. B, title VI, §2602(b), July 18, 1984, 98 Stat. 1128, 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]."

Pub. L. 98-369, div. B, title VI, §2661(g)(1)(B), July 18, 1984, 98 Stat. 1157, 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]."

Pub. L. 98-369, div. B, title VI, §2661(g)(2)(B), July 18, 1984, 98 Stat. 1157, 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 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)(3) 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 section 111(a)(4) of Pub. L. 98-21 applicable with respect to cost-of-living increases deter-

mined 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.

Pub. L. 98-21, title I, §132(c)(2), Apr. 20, 1983, 97 Stat. 95, provided that: "The amendments made by subsection (b) [amending this section] shall apply with respect to monthly insurance benefits for months after December 1984."

Amendment by sections 306(i) and 309(f)-(h) 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 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 cash or deferred arrangement, and except in the case of an agreement with certain non-qualified 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, Internal Revenue Code.

Pub. L. 98-21, title III, §331(c), Apr. 20, 1983, 97 Stat. 129, provided that: "The amendments made by subsection (a) [amending this section] shall be effective with respect to payments made for months after December 1983."

Pub. L. 98-21, title III, §347(b), Apr. 20, 1983, 97 Stat. 138, 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 2201(c)(6) of Pub. L. 97-35 and by section 2(f) 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 2206(b)(2)-(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 2206(c) of Pub. L. 97-35, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Pub. L. 96-473, §1(b), Oct. 19, 1980, 94 Stat. 2263, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to monthly benefits payable for months after December 1977."

Pub. L. 96-473, §3(b), Oct. 19, 1980, 94 Stat. 2264, 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."

Pub. L. 96-473, §4(b), Oct. 19, 1980, 94 Stat. 2264, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to monthly benefits payable for months after December 1977."

Pub. L. 96-265, title I, §101(c), June 9, 1980, 94 Stat. 443, 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 on the basis of the wages and self-employment income of an individual who first becomes eligible for benefits (determined under sections 215(a)(3)(B) and 215(a)(2)(A) of the Social Security Act [42 U.S.C. 415(a)(3)(B), (a)(2)(A)], as applied for this purpose) after 1978, and who first becomes entitled to disability insurance benefits after June 30, 1980."

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.

Pub. L. 95-216, title III, § 301(e), Dec. 20, 1977, 91 Stat. 1531, provided that: "The amendments made by this section [amending this section] shall apply with respect to taxable years ending after December 1977."

Pub. L. 95-216, title III, § 302(e), Dec. 20, 1977, 91 Stat. 1531, provided that: "The amendments made by this section [amending this section] shall apply only with respect to taxable years ending after December 31, 1981."

Pub. L. 95-216, title III, § 303(b), Dec. 20, 1977, 91 Stat. 1531, 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."

Amendment by section 353(a) of Pub. L. 95-216 effective Jan. 1, 1979, see section 353(g) of Pub. L. 95-216, set out as a note under section 418 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93-66, title II, § 202(d), July 9, 1973, 87 Stat. 153, provided that: "The amendments made by this section [amending this section] shall be effective with respect to taxable years beginning after December 31, 1973."

EFFECTIVE DATE OF 1972 AMENDMENTS

Amendment by section 101(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 101(g) of Pub. L. 92-603, set out as a note under section 415 of this title.

Pub. L. 92-336, title II, § 202(a)(2)(A), (B), July 1, 1972, 86 Stat. 415, provided that the amendments made by that section are effective Jan. 1, 1974.

Amendment by section 201(b) of Pub. L. 92-336 applicable with respect to monthly benefits under subchapter II of this chapter for months after August 1972 and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after such month, see section 201(i) of Pub. L. 92-336, set out as a note under section 415 of this title.

Pub. L. 92-603, title I, § 144(b), Oct. 30, 1972, 86 Stat. 1370, provided that: "The amendments made by each of the paragraphs in subsection (a) [amending this section and sections 415 and 430 of this title] shall be effective in like manner as if such amendment had been included in title II of Public Law 92-336 in the particular provision of such title referred to in such paragraph."

Amendment by section 201(h)(1) of Pub. L. 92-336 applicable with respect to monthly benefits under subchapter II of this chapter for months after December 1971, see section 201(i) of Pub. L. 92-336, set out as a note under section 415 of this title.

Amendment by section 102(c) of Pub. L. 92-603 applicable with respect to monthly benefits under this subchapter for months after December 1972, see section 102(i) of Pub. L. 92-603, set out as a note under section 402 of this title.

Amendment by section 107(b)(1), (2) of 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.

Pub. L. 92-603, title I, § 105(c), Oct. 30, 1972, 86 Stat. 1342, provided that: "The amendments made by this section [amending this section] shall apply with respect to taxable years ending after December 1972."

Pub. L. 92-603, title I, § 106(b), Oct. 30, 1972, 86 Stat. 1343, provided that: "The amendment made by subsection (a) [amending this section to provide for the exclusion of certain earnings in 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 after December 1969, see section 1002(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.

Pub. L. 90-248, title I, § 107(b), Jan. 2, 1968, 81 Stat. 834, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to taxable years ending after December 1967."

Pub. L. 90-248, title I, § 163(a)(2), Jan. 2, 1968, 81 Stat. 872, 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 [42 U.S.C. 401 et seq.] with respect to individuals who become entitled to benefits under section 202(d) of such Act [42 U.S.C. 402(d)] solely by reason of section 216(h)(3) of such Act [42 U.S.C. 416(h)(3)] in or after January 1968 (but without regard to section 202(j)(1) of such Act [42 U.S.C. 402(j)(1)]). 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 301(c) of Pub. L. 89-97 applicable with respect to monthly benefits under this subchapter for months after December 1964 and with respect to lump-sum death benefits payments under this subchapter in the case of deaths occurring in or after July 1965, see section 301(d) of Pub. L. 89-97, set out as a note under section 415 of this title.

Amendment by section 308(d)(6)-(8) 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.

Pub. L. 89-97, title III, § 310(b), July 30, 1965, 79 Stat. 380, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to taxable years ending after December 31, 1965."

Pub. L. 89-97, title III, § 325(b), July 30, 1965, 79 Stat. 399, 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

Pub. L. 87-64, title I, §108(b), July 30, 1961, 75 Stat. 140, 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 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of this title.

Pub. L. 86-778, title II, §211(p)-(s), Sept. 13, 1960, 74 Stat. 958, provided that:

"(p) Section 203(c), (d), (e), (g), and (i) of the Social Security Act [42 U.S.C. 403(c), (d), (e), (g), (i)] 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 [42 U.S.C. 403(b), (f), (h)] 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 [42 U.S.C. 403(l)] 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(h)(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 (i), (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 [42 U.S.C. 403], 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."

Pub. L. 86-778, title III, §302(b), Sept. 13, 1960, 74 Stat. 960, 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 [42 U.S.C. 402, 423] for months after the month following the month in which this Act is enacted [September 1960], and then only (1) if 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 [42 U.S.C. 401 et seq.] 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. 85-840 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 205(j) of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after August 1958, but only if an application for such benefits is filed on or after Aug. 28, 1958, and amendment by section 205(k) of Pub. L. 85-840

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.

Pub. L. 85-840, title III, §307(h)(2), Aug. 28, 1958, 72 Stat. 1033, 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 [42 U.S.C. 402(d), (g)] for months in any taxable year, of the individual to whom the person entitled to such benefits is married, beginning after the month in which this Act is enacted [August 1958]."

Pub. L. 85-840, title III, §308(f), Aug. 28, 1958, 72 Stat. 1034, 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 with respect to monthly benefits 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.

Act Aug. 1, 1956, ch. 836, title I, §107(a), 70 Stat. 829, 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.

Act Aug. 1, 1956, ch. 836, title I, §112(c), 70 Stat. 831, provided that: "The amendments made by subsections (a) and (b) [amending this section] shall be applicable with respect to taxable years ending after 1955."

EFFECTIVE DATE OF 1954 AMENDMENT

Act Sept. 1, 1954, ch. 1206, title I, §103(i)(3), 68 Stat. 1078, provided that: "Subsections (b)(1), (b)(2), (c), (e), and (j) of section 203 of the Social Security Act [42 U.S.C. 403] 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, see section 102(f) of act Sept. 1, 1954, as amended, set out as a note under section 415 of this title.

Act Sept. 1, 1954, ch. 1206, title I, §103(i)(1), (2), 68 Stat. 1077, 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 [42 U.S.C. 401 et seq.] 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 in any taxable year (of the individual on the basis of whose wages and self-employment income such benefits are payable) beginning after December 1954. The amendments made by subsections (e) and (g), and by paragraph (2) of subsection (a) and paragraph (2) of subsection (b) [amending this section] shall be applicable in the case of monthly benefits under such title II for months after December 1954. The remaining amendments made by this section (other than subsection (h)) [amending this section] shall be applicable, insofar as they are related to the monthly benefits of an individual which are based on his wages and self-employment income, in the case of monthly benefits under such title II for months in any taxable year (of such individual) beginning after December 1954 and, insofar as

they are related to the monthly benefits of an individual which are based on the wages and self-employment income of someone else, in the case of monthly benefits under such title II for months in any taxable year (of the individual on whose wages and self-employment income such benefits are based) beginning after December 1954.

“(2) No deduction shall be imposed on or after the date of the enactment of this Act [Sept. 1, 1954] under subsection (f) or (g) of section 203 of the Social Security Act [42 U.S.C. 403(f), (g)], as in effect prior to such date, on account of failure to file a report of an event described in subsection (b)(1), (b)(2), or (c)(1) of such section (as in effect prior to such date); and no such deduction imposed prior to such date shall be collected after such date. In determining whether, under section 203(g)(2) of the Social Security Act, as amended by this Act, a failure to file a report is a first or subsequent failure, any failure with respect to a taxable year which began prior to January 1955 shall be disregarded.”

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.

Act July 18, 1952, ch. 945, §4(e), 66 Stat. 773, 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 [42 U.S.C. 401 et seq.] 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 (c) [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 (d) [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

Act Aug. 28, 1950, ch. 809, title I, §102(b), 64 Stat. 489, 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.”

Act Aug. 28, 1950, ch. 809, title I, §103(b), 64 Stat. 492, 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 [42 U.S.C. 403(d), (e), (f)] 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

Act Aug. 10, 1939, ch. 666, title II, §201, 53 Stat. 1362, provided that the amendment made by that section is effective Jan. 1, 1940.

SAVINGS PROVISION

Pub. L. 92-336, title II, §201(h)(2), July 1, 1972, 86 Stat. 412, provided that: “In any case in which the provisions of section 1002(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 [42 U.S.C. 403(a)] 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 sec-

tion 202(q) of such Act [42 U.S.C. 402(q)]) 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 1002(b)(2) applied.”

Pub. L. 91-172, title X, §1002(b)(2), Dec. 30, 1969, 83 Stat. 740, 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 [42 U.S.C. 401 et seq.] 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 [42 U.S.C. 403(a), 402(q)]) 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].”

Pub. L. 90-248, title I, §170, Jan. 2, 1968, 81 Stat. 875, provided that: “Where—

“(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [42 U.S.C. 402(j)(1)]) to monthly benefits under section 202 or 223 of such Act [42 U.S.C. 402, 423] 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 [42 U.S.C. 402] for February 1968 on the basis of such wages and self-employment by reason of the amendments made to such Act [42 U.S.C. 301 et seq.] by sections 104 [amending this section and sections 402, 416, 422, and 425 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 228 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 [42 U.S.C. 402, 423] 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 section 203(a) [42 U.S.C. 403(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.”

Act Sept. 1, 1954, ch. 1206, title I, §102(h), 68 Stat. 1072, provided that:

“(1) Where—

“(A) an individual was entitled (without the application of section 202(j)(1) of the Social Security Act [42 U.S.C. 402(j)(1)]) to an old-age insurance benefit under title II of such Act [42 U.S.C. 401 et seq.] for August 1954;

“(B) one or more other persons were entitled (without the application of such section 202(j)(1) [42 U.S.C. 402(j)(1)]) 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 section 203(a) of the Social Security Act [42 U.S.C. 403(a)], 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 [42 U.S.C. 403(a)], 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, 1954], 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 [42 U.S.C. 402(j)(1)]) to monthly benefits under title II of such Act [42 U.S.C. 401 et seq.] 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 application of the first sentence of section 203(a) of the Social Security Act [42 U.S.C. 403(a)], as amended by this Act,

then, notwithstanding any other provision in title II of the Social Security Act [42 U.S.C. 401 et seq.], 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 [42 U.S.C. 415], as amended by this Act; or

“(D) his average monthly wage determined under such 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

Pub. L. 97-35, title XXII, §2204, Aug. 13, 1981, 95 Stat. 837, provided that:

“(a) Notwithstanding subsection (e) of section 302 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 [42 U.S.C. 403] by subsections (a) through (d) of such section 302 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 [42 U.S.C. 401 et seq.] for months after December 1982.

“(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 302 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)

Pub. L. 95-216, title III, §301(c)(2), Dec. 20, 1977, 91 Stat. 1530, 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

[42 U.S.C. 403(f)(8)(D)] (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(f)(8)(D) of such Act (as so added).”

COST-OF-LIVING INCREASE IN BENEFITS

For purposes of subsec. (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 and amending sections 427(a), (b) and 428(b)(1), (2), (c)(3)(A), (B) of this title considered an increase under section 415(i) of this title, see section 3(i) of Pub. L. 93-233, set out as a note under section 415 of this title.

PENALTIES FOR FAILURE TO FILE TIMELY REPORTS OF EARNINGS AND OTHER EVENTS

Pub. L. 90-248, title I, §161(c), Jan. 2, 1968, 81 Stat. 871, 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 [42 U.S.C. 403(g), (h)] on account of failure to make a report required thereby.”

COMPUTATION OF BENEFITS FOR CERTAIN CHILDREN

Pub. L. 90-248, title I, §163(b), Jan. 2, 1968, 81 Stat. 872, provided that: “Where—

“(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [42 U.S.C. 402(j)(1)]) to monthly benefits under section 202 or 223 of such Act [42 U.S.C. 402, 423] 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(d) of such Act [42 U.S.C. 402(d)] by reason of section 216(h)(3) of such Act [42 U.S.C. 416(h)(3)] (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

“(3) the total of benefits to which all persons are entitled under such section 202 or 223 of such Act [42 U.S.C. 402, 423] on the basis of such wages and self-employment for January 1968 are reduced by reason of section 203(a) of such Act [42 U.S.C. 403(a)], 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) 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

Pub. L. 86-778, title II, §209(b), Sept. 13, 1960, 74 Stat. 953, provided that: “No deduction shall be imposed on or after the date of the enactment of this Act [Sept. 13, 1960] under section 203(f) of the Social Security Act [42 U.S.C. 403(f)], 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

Pub. L. 86-778, title II, §211(t), Sept. 13, 1960, 74 Stat. 958, provided that: “In any case where—

“(1) an individual has earnings (as defined in section 203(e)(4) of the Social Security Act [42 U.S.C.

403(e)(4)] 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

“(2) such individual’s spouse or child entitled to monthly benefits on the basis of such individual’s self-employment income has excess earnings (as defined in section 203(f)(3) of the Social Security Act [42 U.S.C. 403(f)(3)] as amended by this Act) in a taxable year which begins after 1960, and

“(3) one or more months in the taxable year specified in paragraph (2) are included in the taxable year specified in paragraph (1),

then, if a deduction is imposed against the benefits payable to such individual with respect to a month described in paragraph (3), such spouse or child, as the case may be, shall not, for purposes of subsections (b) and (f) of section 203 of the Social Security Act [42 U.S.C. 403(b), (f)] as amended by this Act, be entitled to a payment for such month.”

§ 404. Overpayments and underpayments

(a) Procedure for adjustment or recovery

(1) Whenever the Commissioner of Social Security finds that more or less than the correct amount of payment has been made to any person under this subchapter, proper adjustment or recovery shall be made, under regulations prescribed by the Commissioner of Social Security, as follows:

(A) With respect to payment to a person of more than the correct amount, the Commissioner of Social Security shall decrease any payment under this subchapter to which such overpaid person is entitled, or shall require such overpaid person or his estate to refund the amount in excess of the correct amount, or shall decrease any payment under this subchapter payable to his estate or to any other person on the basis of the wages and self-employment income which were the basis of the payments to such overpaid person, 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, or shall apply any combination of the foregoing. A payment made under this subchapter on the basis of an erroneous report of death by the Department of Defense of an individual in the line of duty while he is a member of the uniformed services (as defined in section 410(m) of this title) on active duty (as defined in section 410(l) of this title) shall not be considered an incorrect payment for any month prior to the month such Department notifies the Commissioner of Social Security that such individual is alive.

(B)(i) Subject to clause (ii), with respect to payment to a person of less than the correct amount, the Commissioner of Social Security shall make payment of the balance of the amount due such underpaid person, or, if such person dies before payments are completed or before negotiating one or more checks representing correct payments, disposition of the amount due shall be made in accordance with subsection (d).

(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.

(3)(A) When any payment of more than the correct amount is made on behalf of an individual who is a represented minor beneficiary for a month in which such individual is in foster care under the responsibility of a State and the State is the representative payee of such individual, the State shall be liable for the repayment of the overpayment, and there shall be no adjustment of payments to, or recovery by the United States from, such individual.

(B) For purposes of this paragraph, the term “represented minor beneficiary” has the meaning given such term in subsection (j)(1)(B)(iii).¹

(b) Access to financial information for old-age, survivors, and disability insurance waivers

(1) 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.

(2) In making for purposes of this subsection any determination of whether any individual is

¹ See References in Text note below.