

Title 20: Employees' Benefits

[PART 410—FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969, TITLE IV—BLACK LUNG BENEFITS \(1969—\)](#)

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Subpart E—Payment of Benefits

Authority: Sec. 702(a)(5) of the Social Security Act (42 U.S.C. 902(a)(5)), secs. 411(a), 412 (a) and (b), 413(b), 426(a), and 508, 83 Stat. 793; 30 U.S.C. 921(a), 922 (a) and (b), 923(b), 936(a), and 957; sec. 410.565 also issued under sec. 3, 80 Stat. 309, 31 U.S.C. 952, unless otherwise noted.

Source: 36 FR 23758, Dec. 14, 1971, unless otherwise noted.

§ 410.501 Payment periods.

Benefits are paid to beneficiaries during entitlement for payment periods consisting of full calendar months.

§ 410.505 Payees.

(a) *General.* Benefits may be paid as appropriate, to a beneficiary (see §410.110(r)), to a qualified dependent (see §410.511), or to a representative payee on behalf of a beneficiary or dependent (see §410.581ff). Also where an amount is payable under part B of title IV of the Act for any month to two or more individuals who are members of the same family, the Social Security Administration may, in its discretion, certify to any two or more of such individuals joint payment of the total benefits payable to them for such month.

(b) *Joint payee dies before cashing check.* Where a check has been issued for joint payment to an individual and spouse residing in the same household and one of them dies before the check is cashed, the Social Security Administration may give the survivor permission to cash the check. The permission is carried out by stamping the face of the check. An official of the Social Security Administration or the Treasury Disbursing Office must sign and name the survivor as the payee of the check (see 31 CFR 360.8). Where the uncashed check is for benefits for a month after the month of death, authority to cash the check will not be given to the surviving payee unless the funds are needed to meet the ordinary and necessary living expenses of the surviving payee.

(c) *Adjustment or recovery of overpayment.* Where a check representing payment of benefits to an individual and spouse residing in the same household is negotiated by the surviving payee in accordance with the authorization in paragraph (b) of this section and where the amount of the check exceeds the amount to which the surviving payee is entitled, appropriate adjustment or recovery with respect to such excess amount shall be made in accordance with section 204(a) of the Act (see subpart F of part 404).

[43 FR 34780, Aug. 7, 1978]

§ 410.510 Computation of benefits.

(a) *Basic rate.* The benefit amount of each beneficiary entitled to a benefit for a month is determined, in the first instance, by computing the "basic rate." The basic rate is equal to 50 percent of the minimum monthly payment to which a totally disabled Federal employee in Grade GS–2 would be entitled for such month under the Federal Employees' Compensation Act, chapter 81, title 5 U.S.C. That rate for a month is determined by:

- (1) Ascertaining the lowest annual rate of pay ("step 1") for Grade GS–2 of the General Schedule applicable to such month (see 5 U.S.C. 5332);
- (2) Ascertaining the monthly rate thereof by dividing the amount determined in paragraph (a)(1) of this section by 12;
- (3) Ascertaining the minimum monthly payment under the Federal Employees' Compensation Act by multiplying the amount determined in paragraph (a)(2) of this section by 0.75 (that is, by 75 percent) (see 5 U.S.C. 8112); and

(4) Ascertaining the basic rate under the Act by multiplying the amount determined in paragraph (a)(3) of this section by 0.50 (that is, by 50 percent).

(b) *Basic benefit.* When a miner or widow is entitled to benefits for a month for which he or she has no dependents who qualify under subpart C of this part, and when a surviving child of a miner or widow, or a parent, brother, or sister of a miner, is entitled to benefits for a month for which he or she is the only beneficiary entitled to benefits, the amount of benefits to which such beneficiary is entitled is equal to the basic rate as computed in accordance with this section (raised, if not a multiple of 10 cents, to the next higher multiple of 10 cents (see paragraph (d) of this section)). This amount is referred to as the *basic benefit*.

(c) *Augmented benefit.* (1) When a miner or widow is entitled to benefits for a month for which he or she has one or more dependents who qualify under subpart C of this part, the amount of benefits to which such miner or widow is entitled is increased. This increase is referred to as an *augmentation*.

(2) Any request to the Administration that the benefits of a miner or widow be augmented in accordance with this paragraph shall be in writing on such form and in accordance with such instructions as are prescribed by the Administration. Such request shall be filed with the Administration in accordance with those provisions of subpart B of this part dealing with the filing of claims as if such request were a claim for benefits, and as if such dependent were the *beneficiary* referred to therein. (See §410.220(f).) Ordinarily, such request is made as part of the claim of the miner or widow for benefits.

(3) The benefits of a miner or widow are augmented to take account of a particular dependent beginning with the first month in which such dependent satisfies the conditions set forth in subpart C of this part, and continues to be augmented through the month before the month in which such dependent ceases to satisfy the conditions set forth in subpart C of this part, except in the case of a child who qualifies as a dependent because he is a student (see §410.370(c)). In the latter case such benefits continue to be augmented through the month before the first month during no part of which he qualifies as a student.

(4) The basic rate is augmented by 50 percent for one such dependent, 75 percent for two such dependents, and 100 percent for three or more such dependents (see paragraph (d) of this section).

(d) *Benefit rates for miners and widows.*

October Beginning October 1969-70	October Beginning October 1975	October 1974 to September 1975	January 1973 to September 1974	1972 to September 1973	1972 to September 1972	1971
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(1) Miner or widow with no dependents.....	\$205.40	\$196.80	\$187.40	\$177.60	\$169.80	\$161.50	\$153.10
\$144.50							
(2) Miner or widow with one dependent.....	308.10	295.20	281.10	266.40	254.70	242.20	229.60
216.70							
(3) Miner or widow with two dependents.....	359.50	344.40	328.00	310.80	297.10	282.60	267.90
252.80							

(4) Miner or widow with three or more dependents.....	410.80	393.50	374.80	355.20	339.50	322.90	306.10
	288.90						

(e) *Survivor benefit.* (1) As used in this section, *survivor* means a surviving child of a miner or widow, or, for months beginning May 1972, a surviving parent, brother, or sister of a miner, who establishes entitlement to benefits under the provisions of subpart B of this part.

(2) When one survivor is entitled to benefits for a month, his benefit is the amount specified in paragraph (d)(1) of this section; when two survivors are so entitled, the benefit of each is one-half the amount specified in paragraph (d)(2) of this section; when three survivors are so entitled, the benefit of each is one-third the amount specified in paragraph (d)(3) of this section; when four survivors are so entitled, the benefit of each is one-quarter of the amount specified in paragraph (d)(4) of this section; and when more than four survivors are so entitled, the benefit of each is determined by dividing the amount specified in paragraph (d) (4) of this section by the number of such survivors.

(f) *Computation and rounding.* (1) Any computation prescribed by this section is made to the third decimal place.

(2) Monthly benefits are payable in multiples of 10 cents. Therefore, a monthly payment of amounts derived under paragraph (c)(4) or (e)(2) of this section which is not a multiple of 10 cents is increased to the next higher multiple of 10 cents.

(3) Since a fraction of a cent is not a multiple of 10 cents, such an amount which contains a fraction in the third decimal place is raised to the next higher multiple of 10 cents.

(g) *Eligibility based on the coal mine employment of more than one miner.* Where an individual, for any month, is entitled (and/or qualifies as a dependent for purposes of augmentation of benefits) based on the disability or death due to pneumoconiosis arising out of the coal mine employment of more than one miner, the benefit payable to or on behalf of such individual shall be at a rate equal to the highest rate of benefits for which entitlement is established by reason of eligibility as a beneficiary, or by reason of his or her qualification as a dependent for augmentation of benefit purposes.

[37 FR 20646, Sept. 30, 1972, as amended at 39 FR 12098, Apr. 3, 1974; 39 FR 41977, Dec. 4, 1974; 40 FR 56887, Dec. 5, 1975; 41 FR 53981, Dec. 10, 1976]

§ 410.511 Certification to dependent of augmentation portion of benefit.

(a) If the benefit of a miner or of a widow is augmented because of one or more dependents (see §410.510(c)), and it appears to the Administration that the best interest of such dependent would be served thereby, the Administration may certify payment of the amount of such augmentation (to the extent attributable to such dependents) (see §§410.510(c) and

410.536) to such dependent directly or to a representing payee for the use and benefit of such dependent (see §410.581ff).

(b) Any request to the Administration to certify separate payment of the amount of an augmentation in accordance with paragraph (a) of this section shall be in writing on such form and in accordance with such instructions as are prescribed by the Administration, and shall be filed with the Administration in accordance with those provisions of subpart B of this part dealing with the filing of claims as if such requests were a claim for benefits (see §410.220(f)).

(c) In determining whether it is in the best interest of such dependent to certify separate payment of the amount of the augmentation in benefits attributable to him, the Administration shall apply the standards pertaining to representative payment in §§410.581 through 410.590, and the instructions issued pursuant thereto.

(d) When the Administration determines (see §410.610(m)) that the amount of a miner's benefit attributable to the miner's wife or child should be certified for separate payment to a person other than such miner, or that the amount of a widow's benefit attributable to such widow's child should be certified for separate payment to a person other than the widow, and the miner or widow disagrees with such determination and alleges that separate certification is not in the best interest of such dependent, the Administration shall reconsider that determination (see §§410.622 and 410.623).

(e) Any payment made under this section, if otherwise valid under the Act, is a complete settlement and satisfaction of all claims, rights, and interests in and to such payment.

[37 FR 20647, Sept. 30, 1972]

§ 410.515 Modification of benefit amounts; general.

Under certain conditions, the amount of monthly benefits as computed in §410.510 must be modified to determine the amount actually to be paid to a beneficiary. A modification of the amount of a monthly benefit is required in the following instances:

(a) *Reduction.* A reduction from a beneficiary's monthly benefit may be required because of:

(1) In the case of benefits to a miner, parent, brother, or sister, the excess earnings from wages and from net earnings from self-employment (see §410.530) of such miner, parent, brother, or sister, respectively; or

(2) Failure to report earnings from work in employment and self-employment within the prescribed period of time (see §410.530); or

(3) The receipt by a beneficiary of payments made because of the disability of the miner

due to pneumoconiosis under State laws relating to workmen's compensation (including compensation for occupational disease), unemployment compensation, or disability insurance (see §410.520).

(4) The fact that a claim for benefits from an additional beneficiary is filed, or that such a claim is effective for a month prior to the month of filing (see §410.535), or a dependent qualifies under subpart C of this part for an augmentation portion of the benefit of a miner or widow for a month for which another dependent has previously qualified for an augmentation (see §410.536).

(b) *Adjustment.* An adjustment in a beneficiary's monthly benefit may be required because an overpayment or underpayment has been made to such beneficiary (see §§410.560, 410.570, and 410.580).

(c) *Nonpayment.* No benefits under this part are payable to the residents of a State which reduces its payments made to beneficiaries pursuant to certain State laws (see §410.550).

(d) *Suspension.* A suspension of a beneficiary's monthly benefits may be required when the Administration has information indicating that reductions on account of the miner's excess earnings (based on criteria in section 203(b) of the Social Security Act, 42 U.S.C. 403(b)) may reasonably be expected.

(e) *"Rounding" of benefit amounts.* Monthly benefit rates are payable in multiples of 10 cents. Any monthly benefit rate which, after all applicable computations, augmentations, and/or reductions is not a multiple of 10 cents, is increased to the next higher multiple of 10 cents. Since a fraction of a cent is not a multiple of 10 cents a benefit rate which contains such a fraction in the third decimal is raised to the next higher multiple of 10 cents.

[36 FR 23758, Dec. 14, 1971, as amended at 37 FR 20647, Sept. 30, 1972; 43 FR 34781, Aug. 7, 1978]

§ 410.520 Reductions; receipt of State benefit.

(a) As used in this section, the term *State benefit* means a payment to a beneficiary made because of the disability of the miner due to pneumoconiosis under State laws relating to workmen's compensation (including compensation for occupational disease), unemployment compensation, or disability insurance.

(b) Benefit payments to a beneficiary for a month are reduced (but not below zero) by an amount equal to any payments of State benefits received by such beneficiary for such month.

(c) Where a State benefit is paid periodically but not monthly, or in a lump sum as a commutation of or a substitute for periodic benefits, the reduction under this section is made at such time or times and in such amounts as the Administration determines will

approximate as nearly as practicable the reduction required under paragraph (b) of this section. In making such a determination, a weekly State benefit is multiplied by $4 \frac{1}{3}$ and a biweekly benefit is multiplied by $2 \frac{1}{6}$, to ascertain the monthly equivalent for reduction purposes.

(d) Amounts paid or incurred, or to be incurred, by the individual for medical, legal, or related expenses in connection with his claim for State benefits (defined in paragraph (a) of this section) or the injury or occupational disease, if any, on which such award of State benefits (or settlement agreement) is based, are excluded in computing the reduction under paragraph (b) of this section, to the extent that they are consonant with State law. Such medical, legal, or related expenses may be evidenced by the State benefit award, compromise agreement, or court order in the State benefit proceedings, or by such other evidence as the Administration may require. Such other evidence may consist of:

(1) A detailed statement by the individual's attorney, physician, or the employer's insurance carrier; or

(2) Bills, receipts, or canceled checks; or

(3) Other clear and convincing evidence indicating the amount of such expenses; or

(4) Any combination of the foregoing evidence from which the amount of such expenses may be determinable.

Any expenses not established by evidence required by the Administration will not be excluded.

[36 FR 23758, Dec. 14, 1971, as amended at 37 FR 20647, Sept. 30, 1972; 43 FR 34781, Aug. 7, 1978]

§ 410.530 Reductions; excess earnings.

Benefit payments to a miner, parent, brother, or sister are reduced by an amount equal to the deductions which would be made with respect to excess earnings under the provisions of section 203 (b), (f), (g), (h), (j), and (l) of the Social Security Act (42 U.S.C. 403 (b), (f), (g), (h), (j), and (l)), as if such benefit payments were benefits payable under section 202 of the Social Security Act (42 U.S.C. 402). (See §§404.428 through 404.456 of this chapter.)

[37 FR 20647, Sept. 30, 1972]

§ 410.535 Reductions; effect of an additional claim for benefits.

Beginning with the month in which a person (other than a miner) files a claim and becomes entitled to benefits, the benefits of other persons entitled to benefits with respect to the same miner, are adjusted downward, if necessary, so that no more than the permissible

amount of benefits (the maximum amount for the number of beneficiaries involved) will be paid. Certain claims may also be effective retroactively for benefits for months before the month of filing (see §410.226). For any month before the month of filing, however, otherwise correct benefits that have been previously certified by the Administration for payment to other persons with respect to the same miner may not be changed. Rather, the benefits of the person filing a claim in the later month is reduced for each month of the retroactive period to the extent that may be necessary so that the earlier and otherwise correct payment to some other person is not made erroneous. That is, for each month of the retroactive period, the amount payable to the person filing the later claim is the difference, if any, between (a) the total amount of benefits actually certified for payment to other persons for that month and (b) the permissible amount of benefits (the maximum amount for the number of beneficiaries involved) payable for that month to all persons, including the person filing later.

[37 FR 20647, Sept. 30, 1972]

§ 410.536 Reductions; effect of augmentation of benefits based on subsequent qualification of individual.

(a) Ordinarily, a written request that the benefits of a miner or widow be augmented on account of a qualified dependent (see §410.510(c)) is made as part of the claim for benefits filed by such miner or widow. However, it may also be made thereafter.

(b) In the latter case, beginning with the month in which such a request is filed on account of a particular dependent and in which such dependent qualifies for augmentation purposes under subpart C of this part, the augmented benefits attributable to other qualified dependents (with respect to the same miner or widow), if any, are adjusted downward, if necessary, so that the permissible amount of augmented benefits (the maximum amount for the number of dependents involved) will not be exceeded.

(c) Where, based on the entitlement to benefits of a miner or widow, a dependent would have qualified for augmentation purposes for a prior month of such miner's or widow's entitlement had such request been filed in such prior month, such request is effective for such prior month. For any month before the month of filing such request, however, otherwise correct benefits previously certified by the Administration may not be changed. Rather, the amount of the augmented benefit attributable to the dependent filing such request in the later month is reduced for each month of the retroactive period to the extent that may be necessary, so that no earlier payment for some other dependent is made erroneous. This means that for each month of the retroactive period, the amount payable to the dependent filing the later augmentation request is the difference, if any, between (1) the total amount of augmented benefits certified for payment for other dependents for that month, and (2) the permissible amount of augmented benefits (the maximum amount for the number of dependents involved) payable for that month for all dependents, including the dependent filing later.

[37 FR 20647, Sept. 30, 1972]

§ 410.540 Reductions; more than one reduction event.

If a reduction for receipt of State benefits (see §410.520) and a reduction on account of excess earnings (see §410.530) are chargeable to the same month, the benefit for such month is first reduced (but not below zero) by the amount of the State benefits (as determined in accordance with §410.520(c)), and the remainder of the benefit for such month, if any, is then reduced (but not below zero) by the amount of excess earnings chargeable to such month.

§ 410.550 Nonpayment of benefits to residents of certain States.

No benefit shall be paid under this part to the residents of any State which, after December 30, 1969, reduces the benefits payable to persons eligible to receive benefits under this part, under its State laws which are applicable to its general work force with regard to workmen's compensation (including compensation for occupational disease), unemployment compensation, or disability insurance benefits which are funded in whole or in part out of employer contributions.

§ 410.560 Overpayments.

(a) *General.* As used in this subpart the term *overpayment* includes a payment where no amount is payable under part B of title IV of the Act; a payment in excess of the amount due under part B or part C of title IV of the Act; a payment resulting from the failure to reduce benefits under section 412(b) of the Act (see §§410.520 and 410.530); a payment to a resident of a State whose residents are not eligible for payment (see §410.550); a payment of past due benefits to an individual where such payment had not been reduced by the amount of attorney's fees payable directly to an attorney (see §410.686(d)); and a payment resulting from the failure to terminate benefits of an individual no longer entitled thereto. As used in this section, the term *beneficiary* includes a qualified dependent for augmentation purposes and the term *benefit* includes the amount of augmented benefits attributable to a particular dependent (see §410.510(c)).

(b) *Overpaid beneficiary is living.* If the beneficiary to whom an overpayment was made is, at the time of a determination of such overpayment, entitled to benefits, or at any time thereafter becomes so entitled, no benefit for any month is payable to such individual, except as provided in paragraph (c) of this section, until an amount equal to the amount of the overpayment has been withheld or refunded.

(c) *Adjustment by withholding part of a monthly benefit.* Adjustment under paragraph (b) of this section may be effected by withholding a part of the monthly benefit payable to a beneficiary where it is determined that:

(1) Withholding the full amount each month would deprive the beneficiary of income

required for ordinary and necessary living expenses;

(2) The overpayment was not caused by the beneficiary's intentionally false statement or representation, or willful concealment of, or deliberate failure to furnish, material information; and

(3) Recoupment can be effected in an amount of not less than \$10 a month and at a rate which would not extend the period of adjustment beyond 3 years after the initiation of the adjustment action.

(d) *Overpaid beneficiary dies before adjustment.* If an overpaid beneficiary dies before adjustment is completed under the provisions of paragraph (b) of this section, the overpayment may be recovered through—

(1) Repayment by the estate of the deceased overpaid beneficiary;

(2) Withholding benefit amounts due the estate of the deceased overpaid beneficiary;

(3) Withholding benefit amounts due any other individual because of the black lung disease of the miner; or

(4) Any combination of the methods described in this paragraph.

(Sec. 204, Social Security Act, as amended, and sec. 413, Federal Coal Mine Health and Safety Act of 1969, as amended; 49 Stat. 624, as amended and 83 Stat. 793 (42 U.S.C. 404 and 30 U.S.C. 921, 923))

[36 FR 23758, Dec. 14, 1971, as amended at 46 FR 39588, Aug. 4, 1981; 47 FR 43674, Oct. 4, 1982]

§ 410.561 Notice of right to waiver consideration.

Whenever an initial determination is made that more than the correct amount of payment has been made, and we seek adjustment or recovery of the overpayment, the individual from whom we are seeking adjustment or recovery is immediately notified. The notice includes:

(a) The overpayment amount and how and when it occurred;

(b) A request for full, immediate refund, unless the overpayment can be withheld from the next month's benefit;

(c) The proposed adjustment of benefits if refund is not received within 30 days after the date of the notice and adjustment of benefits is available;

(d) An explanation of the availability of a different rate of withholding when full withholding is proposed, installment payments when refund is requested and adjustment is not currently available, and/or cross-program recovery when refund is requested and the individual is receiving another type of payment from SSA (language about cross-program recovery is not included in notices sent to individuals in jurisdictions where this recovery option is not available);

(e) An explanation of the right to request waiver of adjustment or recovery and the automatic scheduling of a file review and pre-recoupment hearing (commonly referred to as a personal conference) if a request for waiver cannot be approved after initial paper review;

(f) An explanation of the right to request reconsideration of the fact and/or amount of the overpayment determination;

(g) Instructions about the availability of forms for requesting reconsideration and waiver;

(h) An explanation that if the individual does not request waiver or reconsideration within 30 days of the date of the overpayment notice, adjustment or recovery of the overpayment will begin;

(i) A statement that an SSA office will help the individual complete and submit forms for appeal or waiver requests; and

(j) A statement that the individual receiving the notice should notify SSA promptly if reconsideration, waiver, a lesser rate of withholding, repayment by installments or cross-program adjustment is wanted.

[61 FR 56132, Oct. 31, 1996]

§ 410.561a When waiver may be applied and how to process the request.

(a) There shall be no adjustment or recovery in any case where an overpayment under part B of title IV of the Act has been made to an individual who is without fault if adjustment or recovery would either defeat the purpose of title IV of the Act, or be against equity and good conscience.

(b) If an individual requests waiver of adjustment or recovery of an overpayment made under part B of title IV within 30 days after receiving a notice of overpayment that contains the information in §410.561, no adjustment or recovery action will be taken until after the initial waiver determination is made. If the individual requests waiver more than 30 days after receiving the notice of overpayment, SSA will stop any adjustment or recovery actions until after the initial waiver determination is made.

(c) When waiver is requested, the individual gives SSA information to support his/her contention that he/she is without fault in causing the overpayment (see §410.561b), and that

adjustment or recovery would either defeat the purposes of this subpart (see §410.561c) or be against equity and good conscience (see §410.561d). That information, along with supporting documentation, is reviewed to determine if waiver can be approved. If waiver cannot be approved after this review, the individual is notified in writing and given the dates, times and place of the file review and personal conference; the procedure for reviewing the claims file prior to the personal conference; the procedure for seeking a change in the scheduled dates, times, and/or place; and all other information necessary to fully inform the individual about the personal conference. The file review is always scheduled at least 5 days before the personal conference.

(d) At the file review, the individual and the individual's representative have the right to review the claims file and applicable law and regulations with the decisionmaker or another SSA representative who is prepared to answer questions. We will provide copies of material related to the overpayment and/or waiver from the claims file or pertinent sections of the law or regulations that are requested by the individual or the individual's representative.

(e) At the personal conference, the individual is given the opportunity to:

- (1) Appear personally, testify, cross-examine any witnesses, and make arguments;
- (2) Be represented by an attorney or other representative (see §410.684), although the individual must be present at the conference; and
- (3) Submit documents for consideration by the decisionmaker.

(f) At the personal conference, the decisionmaker:

- (1) Tells the individual that the decisionmaker was not previously involved in the issue under review, that the waiver decision is solely the decisionmaker's, and that the waiver decision is based only on the evidence or information presented or reviewed at the conference;
- (2) Ascertains the role and identity of everyone present;
- (3) Indicates whether or not the individual reviewed the claims file;
- (4) Explains the provisions of law and regulations applicable to the issue;
- (5) Briefly summarizes the evidence already in file which will be considered;
- (6) Ascertains from the individual whether the information presented is correct and whether he/she fully understands it;
- (7) Allows the individual and the individual's representative, if any, to present the

individual's case;

(8) Secures updated financial information and verification, if necessary;

(9) Allows each witness to present information and allows the individual and the individual's representative to question each witness;

(10) Ascertains whether there is any further evidence to be presented;

(11) Reminds the individual of any evidence promised by the individual which has not been presented;

(12) Lets the individual and the individual's representative, if any, present any proposed summary or closing statement;

(13) Explains that a decision will be made and the individual will be notified in writing; and

(14) Explains repayment options and further appeal rights in the event the decision is adverse to the individual.

(g) SSA issues a written decision to the individual (and his/her representative, if any) specifying the findings of fact and conclusions in support of the decision to approve or deny waiver and advising of the individual's right to appeal the decision. If waiver is denied, adjustment or recovery of the overpayment begins even if the individual appeals.

(h) If it appears that the waiver cannot be approved, and the individual declines a personal conference or fails to appear for a second scheduled personal conference, a decision regarding the waiver will be made based on the written evidence of record. Reconsideration is then the next step in the appeals process (but see §410.630(c)).

[61 FR 56132, Oct. 31, 1996]

§ 410.561b Fault.

Fault as used in *without fault* (see §410.561a) applies only to the individual. Although the Administration may have been at fault in making the overpayment, that fact does not relieve the overpaid individual or any other individual from whom the Administration seeks to recover the overpayment from liability for repayment if such individual is not without fault. In determining whether an individual is at fault, the Administration will consider all pertinent circumstances, including his age, intelligence, education, and physical and mental condition. What constitutes fault (except for *reduction overpayments* (see §410.561e)) on the part of the overpaid individual or on the part of any other individual from whom the Administration seeks to recover the overpayment depends upon whether the facts show that the incorrect payment to the individual resulted from:

- (a) An incorrect statement made by the individual which he knew or should have known to be incorrect; or
- (b) Failure to furnish information which he knew or should have known to be material; or
- (c) With respect to the overpaid individual only, acceptance of a payment which he either knew or could have been expected to know was incorrect.

[37 FR 20648, Sept. 30, 1972]

§ 410.561c Defeat the purpose of title IV.

(a) *General. Defeat the purpose of title IV* for purposes of this subpart, means defeat the purpose of benefits under this title, *i.e.*, to deprive a person of income required for ordinary and necessary living expenses. This depends upon whether the person has an income or financial resources sufficient for more than ordinary and necessary needs, or is dependent upon all of his current benefits for such needs. An individual's ordinary and necessary expenses include:

- (1) Fixed living expenses, such as food and clothing, rent, mortgage payments, utilities, maintenance, insurance (e.g., life, accident, and health insurance including premiums for supplementary medical insurance benefits under title XVIII of the Social Security Act), taxes, installment payments, etc.;
- (2) Medical, hospitalization, and other similar expenses;
- (3) Expenses for the support of others for whom the individual is legally responsible; and
- (4) Other miscellaneous expenses which may reasonably be considered as part of the individual's standard of living.

(b) *When adjustment or recovery will defeat the purpose of title IV.* Adjustment or recovery will defeat the purposes of title IV in (but is not limited to) situations where the person from whom recovery is sought needs substantially all of his current income (including black lung benefits) to meet current ordinary and necessary living expenses.

[37 FR 20648, Sept. 30, 1972]

§ 410.561d Against equity and good conscience; defined.

Against equity and good conscience means that adjustment or recovery of an incorrect payment will be considered inequitable if an individual, because of a notice that such payment would be made or by reason of the incorrect payment, relinquished a valuable right (example 1); or changed his position for the worse (example 2). In reaching such a

determination, the individual's financial circumstances are irrelevant.

Example 1. After being awarded benefits, an individual resigned from employment on the assumption he would receive regular monthly benefit payments. It was discovered 3 years later than (due to Administration error) his award was erroneous because he did not have pneumoconiosis. Due to his age, the individual was unable to get his job back, and could not get any other employment. In this situation, recovery or adjustment of the incorrect payments would be against equity and good conscience because the individual gave up a valuable right.

Example 2. A widow, having been awarded benefits for herself and daughter, entered her daughter in college because the monthly benefits made this possible. After the widow and her daughter received payments for almost a year, the deceased worker was found not to have had pneumoconiosis and all payments to the widow and child were incorrect. The widow has no other funds with which to pay the daughter's college expenses. Having entered the daughter in college and thus incurred a financial obligation toward which the benefits had been applied, she was in a worse position financially than if she and her daughter had never been entitled to benefits. In this situation, the recovery of the incorrect payments would be inequitable.

[37 FR 20648, Sept. 30, 1972]

§ 410.561e When an individual is “without fault” in a reduction-overpayment.

Except as provided in §410.561g, or elsewhere in this subpart, an individual will be considered *without fault* in accepting a payment which is incorrect because he failed to report an event relating to excess earnings specified in section 203(b) of the Social Security Act, or which is incorrect because a reduction in his benefits equal to the amount of a deduction required under section 203(b) of the Social Security Act is necessary (see §410.530), if it is shown that such failure to report or such acceptance of the overpayment was due to one of the following circumstances:

- (a) Reasonable belief that only his net cash earnings (“take-home” pay) are included in determining the annual earnings limitation or the monthly earnings limitation under section 203(f) of the Social Security Act (see §410.530).
- (b) Reliance upon erroneous information from an official source within the Social Security Administration (or other governmental agency which the individual had reasonable cause to believe was connected with the administration of benefits under part B of title IV of the Act) with respect to the interpretation of a pertinent provision of the Act or regulations pertaining thereto. For example, this circumstance could occur where the individual is misinformed by such source as to the interpretation of a provision in the Act or regulations relating to reductions.
- (c) The beneficiary's death caused the earnings limit applicable to his earnings for purposes of reduction and the charging of excess earnings to be reduced below \$1,680 for a taxable year.
- (d) Reasonable belief that in determining, for reduction purposes, his earnings from employment and/or net earnings from self-employment in the taxable year in which he

became entitled to benefits, earnings in such year prior to such entitlement would be excluded. However, this provision does not apply if his earnings in the taxable year, beginning with the first month of entitlement, exceeded the earnings limitation amount for such year.

(e) Unawareness that his earnings were in excess of the earnings limitation applicable to the imposition of reductions and the charging of excess earnings or that he should have reported such excess where these earnings were greater than anticipated because of:

(1) Retroactive increases in pay, including backpay awards;

(2) Work at a higher pay rate than realized;

(3) Failure of the employer of an individual unable to keep accurate records to restrict the amount of earnings or the number of hours worked in accordance with a previous agreement with such individual;

(4) The occurrence of five Saturdays (or other workdays, e.g., five Mondays) in a month and the earnings for the services on the fifth Saturday or other workday caused the reductions.

(f) The continued issuance of benefit checks to him after he sent notice to the Administration of the event which caused or should have caused the reductions provided that such continued issuance of checks led him to believe in good faith that he was entitled to checks subsequently received.

(g) Lack of knowledge that bonuses, vacation pay, or similar payments, constitute earnings for purposes of the annual earnings limitation.

(h) Reasonable belief that earnings in excess of the earnings limitation amount for the taxable year would subject him to reductions only for months beginning with the first month in which his earnings exceeded the earnings limitation amount. However, this provision is applicable only if he reported timely to the Administration during the taxable year when his earnings reached the applicable limitation amount for such year.

(i) Reasonable belief that earnings from employment and/or net earnings from self-employment after the attainment of age 72 in the taxable year in which he attained age 72 would not cause reductions with respect to benefits payable for months in that taxable year prior to the attainment of age 72.

(j) Reasonable belief by an individual entitled to benefits that earnings from employment and/or net earnings from self-employment after the termination of entitlement in the taxable year in which the termination event occurred would not cause reductions with respect to benefits payable for months in that taxable year prior to the month in which the termination

event occurred.

(k) Failure to understand the deduction provisions of the Social Security Act or the occurrence of unusual or unavoidable circumstances the nature of which clearly shows that the individual was unaware of a violation of such reduction provisions. However, these provisions do not apply unless he made a bona fide attempt to restrict his annual earnings or otherwise comply with the reduction provisions of the Act.

[37 FR 20648, Sept. 30, 1972]

§ 410.561f When an individual is “without fault” in an entitlement overpayment.

A benefit payment under part B of title IV of the Act to or on behalf of an individual who fails to meet one or more requirements for entitlement to such payment or the payment exceeds the amount to which he is entitled, constitutes an entitlement overpayment. Where an individual or other person on behalf of an individual accepts such overpayment because of reliance on erroneous information from an official source within the Administration (or other governmental agency which the individual had reasonable cause to believe was connected with the administration of benefits under part B of title IV of the Act) with respect to the interpretation of a pertinent provision of the Act or regulations pertaining thereto, such individual, in accepting such overpayment, will be deemed to be *without fault*.

[37 FR 20649, Sept. 30, 1972]

§ 410.561g When an individual is at “fault” in a reduction-overpayment.

(a) *Degree of care.* An individual will not be *without fault* if the Administration has evidence in its possession which shows either a lack of good faith or failure to exercise a high degree of care in determining whether circumstances which may cause reductions from his benefits should be brought to the attention of the Administration by an immediate report or by return of a benefit check. The high degree of care expected of an individual may vary with the complexity of the circumstances giving rise to the overpayment and the capacity of the particular payee to realize that he is being overpaid. Accordingly, variances in the personal circumstances and situations of individual payees are to be considered in determining whether the necessary degree of care has been exercised by an individual to warrant a finding that he was without fault in accepting a “reduction-overpayment.”

(b) *Subsequent reduction-overpayments.* An individual will not be without fault where, after having been exonerated for a “reduction-overpayment” and after having been advised of the correct interpretation of the reduction provision, he incurs another “reduction-overpayment” under the same circumstances as the first overpayment.

[37 FR 20649, Sept. 30, 1972]

§ 410.561h When adjustment or recovery of an overpayment will be waived.

(a) *Adjustment or recovery deemed “against equity and good conscience.”* In the situations described in §§410.561e (a), (b), and (c), and 410.561f, adjustment or recovery will be waived since it will be deemed such adjustment or recovery is “against equity and good conscience.” Adjustment or recovery will also be deemed “against equity and good conscience” in the situation described in §410.561e(d), but only as to a month in which the individual's earnings from wages do not exceed the total monthly benefits affected for that month.

(b) *Adjustment or recovery considered to “defeat the purpose of title IV” or be “against equity and good conscience” under certain circumstances.* In the situation described in §410.561e(d) (except in the case of an individual whose monthly earnings from wages in employment do not exceed the total monthly benefits affected for a particular month), and in the situations described in §410.561e (e) through (k), adjustment or recovery shall be waived only where the evidence establishes that adjustment or recovery would work a financial hardship (see §410.561c) or would otherwise be inequitable (see §410.561d).

[37 FR 20649, Sept. 30, 1972]

§ 410.563 Liability of a certifying officer.

No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any individual:

(a) Where adjustment or recovery of such amount is waived under section 204(b) of the Social Security Act; or

(b) Where adjustment under section 204(a) of the Social Security Act is not completed prior to the death of all individuals against whose benefits or lump sums reductions are authorized; or

(c) Where a claim for recovery of an overpayment is compromised or collection or adjustment action is suspended or terminated pursuant to the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953) (see §410.565).

[37 FR 20649, Sept. 30, 1972]

§ 410.565 Collection and compromise of claims for overpayment.

(a) *General effect of the Federal Claims Collection Act of 1966.* Claims by the Administration against an individual for recovery of overpayments under part B of title IV of the Act, not exceeding the sum of \$20,000, exclusive of interest, may be compromised, or collection suspended or terminated where such individual or his estate does not have the present or prospective ability to pay the full amount of the claim within a reasonable time

(see paragraph (c) of this section) or the cost of collection is likely to exceed the amount of recovery (see paragraph (d) of this section) except as provided under paragraph (b) of this section.

(b) *When there will be no compromise, suspension or termination of collection of a claim for overpayment—*(1) *Overpaid individual alive.* In any case where the overpaid individual is alive, a claim for overpayment will not be compromised, nor will there be suspension or termination of collection of the claim by the Administration if there is an indication of fraud, the filing of a false claim, or misrepresentation on the part of such individual or on the part of any other party having an interest in the claim.

(2) *Overpaid individual deceased.* In any case where the overpaid individual is deceased (i) a claim for overpayment in excess of \$5,000 will not be compromised, nor will there be suspension or termination of collection of the claim by the Administration if there is an indication of fraud: The filing of a false claim, or misrepresentation on the part of such deceased individual, and (ii) a claim for overpayment regardless of the amount will not be compromised, nor will there be suspension or termination of collection of the claim by the Administration if there is an indication that any person other than the deceased overpaid individual had a part in the fraudulent action which resulted in the overpayment.

(c) *Inability to pay claim for recovery of overpayment.* In determining whether the overpaid individual is unable to pay a claim for recovery of an overpayment under part B of title IV of the Act, the Administration will consider such individual's age, health, present and potential income (including inheritance prospects), assets (e.g., real property, savings account), possible concealment or improper transfer of assets, and assets or income of such individual which may be available in enforced collection proceedings. The Administration will also consider exemptions available to such individual under the pertinent State or Federal law in such proceedings. In the event the overpaid individual is deceased, the Administration will consider the available assets of the estate, taking into account any liens or superior claims against the estate.

(d) *Cost of collection or litigative probabilities.* Where the probable costs of recovering an overpayment under part B of title IV of the Act would not justify enforced collection proceedings for the full amount of the claim or there is doubt concerning the Administration's ability to establish its claim as well as the time which it will take to effect such collection, a compromise or settlement for less than the full amount will be considered.

(e) *Amount of compromise.* The amount to be accepted in compromise of a claim for overpayment under part B of title IV of the Act shall bear a reasonable relationship to the amount which can be recovered by enforced collection proceedings giving due consideration to the exemptions available to the overpaid individual under State or Federal law and the time which such collection will take.

(f) *Payment.* Payment of the amount which the Administration has agreed to accept as a

compromise in full settlement of a claim for recovery of an overpayment under part B of title IV of the Act must be made within the time and in the manner set by the Administration. A claim for such recovery of the overpayment shall not be considered compromised or settled until the full payment of the compromised amount has been made within the time and manner set by the Administration. Failure of the overpaid individual or his estate to make such payment as provided shall result in reinstatement of the full amount of the overpayment less any amounts paid prior to such default.

§ 410.570 Underpayments.

(a) *General.* As used in this subpart, the term *underpayment* includes a payment in an amount less than the amount of the benefit due for such month, and nonpayment where some amount of such benefits are payable.

(b) *Underpaid individual is living.* If an individual to whom an underpayment is due is living, the amount of such underpayment will be paid to such individual either in a single payment (if he is not entitled to a monthly benefit) or by increasing one or more monthly benefit payments to which such individual is or becomes entitled.

(c) *Underpaid individual dies before adjustment of underpayment.* If an individual to whom an underpayment is due dies before receiving payment or negotiating a check or checks representing such payment, such underpayment will be distributed to the living person (or persons) in the highest order of priority as follows:

(1) The deceased individual's surviving spouse who was either:

(i) Living in the same household (as defined in §410.393) with the deceased individual at the time of such individual's death, or

(ii) In the case of a deceased miner, entitled for the month of death to widow's black lung benefits.

(2) In the case of a deceased miner or widow, his or her child entitled to benefits as the surviving child of such miner or widow for the month in which such miner or widow died (if more than one such child, in equal shares to each such child). As used in this subparagraph, "entitled to benefits as a surviving child" refers to the benefit described in §410.212, and not to the payment described in §410.510(c).

(3) In the case of a deceased miner, his parent entitled to benefits as the surviving parent of such miner for the month in which such miner died (if more than one such parent, in equal shares to each such parent).

(4) The surviving spouse of the deceased individual who does not qualify under paragraph (c)(1) of this section.

(5) The child or children of the deceased individual who do not qualify under paragraph (c) (2) of this section (if more than one such child, in equal shares to each such child).

(6) The parent or parents of the deceased individual who do not qualify under paragraph (c) (3) of this section (if more than one such parent, in equal shares to each such parent).

(7) The legal representative of the estate of the deceased individual as defined in paragraph (e) of this section.

(d) *Person qualified to receive underpayment dies before receiving payment.* In the event that a person who is otherwise qualified to receive an underpayment under the provisions of paragraph (c) of this section, dies before receiving payment or before negotiating the check or checks representing such payment, his share of the underpayment will be divided among the remaining living person(s) in the same order of priority. In the event that there is (are) no other such person(s), the underpayment will be paid to the living person(s) in the next lower order of priority under paragraph (c) of this section.

(e) *Definition of legal representative.* The term *legal representative*, for the purpose of qualifying to receive an underpayment, generally means the executor or the administrator of the estate of the deceased beneficiary. However, it may also include an individual, institution, or organization acting on behalf of an unadministered estate: *Provided*, The person can give the Administration good acquittance (as defined in paragraph (f) of this section). The following persons may qualify as legal representative for purposes of this section, provided they can give the Administration good acquittance:

(1) A person who qualifies under a State's "small estate" statute; or

(2) A person resident in a foreign country who, under the laws and customs of that country, has the right to receive assets of the estate; or

(3) A public administrator; or

(4) A person who has the authority, under applicable law, to collect the assets of the estate of the deceased beneficiary.

(f) *Definition of good acquittance.* A person is considered to give the Administration *good acquittance* when payment to that person will release the Administration from further liability for such payment.

[36 FR 23758, Dec. 14, 1971, as amended at 37 FR 20650, Sept. 30, 1972]

§ 410.580 Relation to provisions for reductions or increases.

The amount of an overpayment or underpayment is the difference between the amount actually paid to the beneficiary and the amount of the payment to which the beneficiary was

actually entitled. Such overpayment or underpayment, for example, would be equal to the difference between the amount of a benefit in fact paid to the beneficiary and the amount of such benefit as reduced under section 412(b) of the Act, as increased pursuant to section 412(a)(1), or as augmented under section 412(a)(3), of the Act. In effecting an adjustment with respect to an overpayment, no amount can be considered as having been withheld from a particular benefit which is in excess of the amount of such benefit as so reduced. Overpayments and underpayments simultaneously outstanding on account of the same beneficiary are first adjusted against one another before adjustment pursuant to the other provisions of this subpart.

§ 410.581 Payments on behalf of an individual.

When it appears to the Administration that the interest of a beneficiary entitled to a payment under part B of title IV of the Act would be served thereby, certification of payment may be made by the Administration, regardless of the legal competency or incompetency of the beneficiary entitled thereto, either for direct payment to such beneficiary, or for his use and benefit to a relative or some other person as the “representative payee” of the beneficiary. When it appears that an individual who is receiving benefit payments may be incapable of managing such payments in his own interest, the Administration shall, if such individual is age 18 or over and has not been adjudged legally incompetent, continue payments to such individual pending a determination as to his capacity to manage benefit payments and the selection of a representative payee. As used in §§410.581 through 410.590, the term *beneficiary* includes the dependent of a miner or widow who could qualify for certification of separate payment of an augmentation portion of such miner's or widow's benefits (see §§410.510(c) and 410.511).

[37 FR 20650, Sept. 30, 1972]

§ 410.582 Submission of evidence by representative payee.

Before any amount shall be certified for payment to any relative or other person as representative payee for and on behalf of a beneficiary, such relative or other person shall submit to the Administration such evidence as it may require of his relationship to, or his responsibility for the care of, the beneficiary on whose behalf payment is to be made, or of his authority to receive such payment. The Administration may, at any time thereafter, require evidence of the continued existence of such relationship, responsibility, or authority. If any such relative or other person fails to submit the required evidence within a reasonable period of time after it is requested, no further payments shall be certified to him on behalf of the beneficiary unless for good cause shown, the default of such relative or other person is excused by the Administration, and the required evidence is thereafter submitted.

[37 FR 20650, Sept. 30, 1972]

§ 410.583 Responsibility of representative payee.

A relative or other person to whom certification of payment is made on behalf of a beneficiary as representative payee shall, subject to review by the Administration and to such requirements as it may from time to time prescribe, apply the payments certified to him on behalf of a beneficiary only for the use and benefit of such beneficiary in the manner and for the purposes determined by him to be in the beneficiary's best interest.

[37 FR 20650, Sept. 30, 1972]

§ 410.584 Use of benefits for current maintenance.

Payments certified to a relative or other person on behalf of a beneficiary shall be considered as having been applied for the use and benefit of the beneficiary when they are used for the beneficiary's current maintenance. Where a beneficiary is receiving care in an institution (see §410.586), current maintenance shall include the customary charges made by the institution to individuals it provides with care and services like those it provides the beneficiary and charges made for current and foreseeable needs of the beneficiary which are not met by the institution.

[37 FR 20650, Sept. 30, 1972]

§ 410.585 Conservation and investment of payments.

Payments certified to a relative or other person on behalf of a beneficiary which are not needed for the current maintenance of the beneficiary except as they may be used pursuant to §410.587, shall be conserved or invested on the beneficiary's behalf. Preferred investments are U.S. Savings Bonds, but such funds may also be invested in accordance with the rules applicable to investment of trust estates by trustees. For example, surplus funds may be deposited in an interest- or dividend-bearing account in a bank or trust company, in a savings and loan association, or in a credit union, if the account is either federally insured or is otherwise insured in accordance with State law requirements. Surplus funds deposited in an interest- or dividend-bearing account in a bank or trust company, in a savings and loan association, or in a credit union, must be in a form of account which clearly shows that the representative payee has only a fiduciary, and not a personal, interest in the funds. The preferred forms of such accounts are as follows:

_____ (Name of beneficiary) by _____, (Name of representative payee) representative payee; or _____ (Name of beneficiary) by _____, (Name of representative payee) trustee.

U.S. Savings Bonds purchased with surplus funds by a representative payee for a minor should be registered as follows:

_____ (Name of beneficiary) _____ (Social Security No.), a minor, for whom _____ (Name of payee) is representative payee for black lung benefits.

U.S. Savings Bonds purchased with surplus funds by a representative payee for an incapacitated adult beneficiary should be registered as follows:

_____, (Name of beneficiary) _____ (Social Security No.), for whom _____ (Name of payee) is representative payee for black lung benefits.

A representative payee who is the legally appointed guardian or fiduciary of the beneficiary may also register U.S. Savings Bonds purchased with funds from the payment of benefits under part B of title IV in accordance with applicable regulations of the U.S. Treasury Department (31 CFR 315.5 through 315.8). Any other approved investment of the beneficiary's funds made by the representative payee must clearly show that the payee holds the property in trust for the beneficiary.

[41 FR 17892, Apr. 29, 1976]

§ 410.586 Use of benefits for beneficiary in institution.

Where a beneficiary is confined in a Federal, State, or private institution because of mental or physical incapacity, the relative or other person to whom payments are certified on behalf of the beneficiary shall give highest priority to expenditure of the payments for the current maintenance needs of the beneficiary, including the customary charges made by the institution (see §410.584) in providing care and maintenance. It is considered in the best interest of the beneficiary for the relative or other person to whom payments are certified on the beneficiary's behalf to allocate expenditure of the payments so certified in a manner which will facilitate the beneficiary's earliest possible rehabilitation or release from the institution or which otherwise will help him live as normal a life as practicable in the institutional environment.

[37 FR 20651, Sept. 30, 1972]

§ 410.587 Support of legally dependent spouse, child, or parent.

If current maintenance needs of a beneficiary are being reasonably met, a relative or other person to whom payments are certified as representative payee on behalf of the beneficiary may use part of the payment so certified for the support of the legally dependent spouse, a legally dependent child, or a legally dependent parent of the beneficiary.

[37 FR 20651, Sept. 30, 1972]

§ 410.588 Claims of creditors.

A relative or other person to whom payments under part B of title IV of the Act are certified as representative payee on behalf of a beneficiary may not be required to use such payments to discharge an indebtedness of the beneficiary which was incurred before the first month for which payments are certified to a relative or other person on the beneficiary's behalf. In no case, however, may such payee use such payments to discharge

such indebtedness of the beneficiary unless the current and reasonably foreseeable future needs of the beneficiary are otherwise provided for.

[37 FR 20651, Sept. 30, 1972]

§ 410.589 Accountability.

A relative or other person to whom payments are certified as representative payee on behalf of a beneficiary shall submit a written report in such form and at such times as the Administration may require, accounting for the payments certified to him on behalf of the beneficiary unless such payee is a court-appointed fiduciary and, as such, is required to make an annual accounting to the court, in which case a true copy of each such account filed with the court may be submitted in lieu of the accounting form prescribed by the Administration. If any such relative or other person fails to submit the required accounting within a reasonable period of time after it is requested, no further payments shall be certified to him on behalf of the beneficiary unless for good cause shown, the default of such relative or other person is excused by the Administration, and the required accounting is thereafter submitted.

[37 FR 20651, Sept. 30, 1972]

§ 410.590 Transfer of accumulated benefit payments.

A representative payee who has conserved or invested funds from payments under part B of title IV of the Act certified to him on behalf of a beneficiary shall, upon direction of the Administration, transfer any such funds (including interest earned from investment of such funds) to a successor payee appointed by the Administration, or, at the option of the Administration, shall transfer such funds, including interest, to the Administration for recertification to a successor payee or to the beneficiary.

[37 FR 20651, Sept. 30, 1972]

§ 410.591 Eligibility for services and supplies under part C of title IV of the act.

The Social Security Administration will notify each miner entitled to benefits on the basis of a claim filed under part B of the title IV of the Act of his or her possible eligibility for medical services and supplies under part C of title IV of the Act. Application for medical benefits under part C will not jeopardize a person's eligibility for part B benefits, regardless of the outcome of the claim for part C benefits. The DOL regulations covering the time period in which the miner must file with DOL for these benefits are published at 20 CFR part 725.

(Sec. 411, Federal Coal Mine Health and Safety Act of 1969, as amended; 85 Stat. 793, 30 U.S.C. 921)

[43 FR 34781, Aug. 7, 1978]

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