

Social Security Administration

§410.214

due to pneumoconiosis (see subpart D of this part), or

(iii) Died before January 1, 1974, and it is determined that at the time of his death he was totally disabled by pneumoconiosis (see subpart D of this part).

(b) A child is not entitled to benefits for any month for which a widow of a miner is entitled to benefits, except that (for purposes of entitlement of a child under this section) a widow is deemed not entitled to benefits in months for which she is not paid benefits because she is married (see §410.211). Thus, a child may be entitled to benefits for months wherein such benefits are not payable to the widow because of marriage.

[37 FR 20636, Sept. 30, 1972, as amended at 41 FR 4900, Feb. 3, 1976]

§410.213 Duration of entitlement; child.

(a) An individual is entitled to benefits as a child for each month beginning with the first month in which all of the conditions of entitlement prescribed in §410.212 are satisfied.

(b) The last month for which such individual is entitled to or may be paid such benefit is the month before the month in which any one of the following events first occurs:

- (1) The child dies;
- (2) The child marries;
- (3) The child attains age 18 and,

(i) Is not under a disability at that time, and

(ii) Is not a student (as defined in §410.370) during any part of the month in which he attains age 18;

(4) If the child's entitlement is based on his status as a student, the earlier of:

(i) The first month during no part of which he is a student, or

(ii) The month in which he attains age 23 and is not under a disability at that time (but see §410.370(c)(4) for an exception);

(5) If the child's entitlement is based on disability, the first month in no part of which such individual is under a disability;

(6) A widow's benefit payment, which was ended because of marriage, is resumed following termination of such marriage. (See §410.211(a)). (In the month before the month in which a

widow marries, payment of benefits to her ends and non-payment of such benefits continues for the duration of the marriage. Thereafter, if her remarriage ends, subject to the provisions of §410.211 her benefit payments may be resumed. Should such widow again remarry or die, payment of benefits to such child, if he is otherwise entitled, will be resumed effective with the month of such remarriage or death. In such event no action by or on behalf of such child is required for resumption of payment.)

(c) A child whose entitlement to benefits terminated with the month before the month in which he attained age 18, or later, may thereafter (provided he is not married) again become entitled to such benefits upon filing application for such reentitlement, beginning with the first month in which he files such application in or after such termination and in which he is a student and has not attained the age of 23.

[37 FR 20636, Sept. 30, 1972, as amended at 41 FR 4900, Feb. 3, 1976]

§410.214 Conditions of entitlement; parent, brother, or sister.

An individual is entitled to benefits if:

(a) Such individual:

(1) Is the parent, brother, or sister (see §410.340) of a deceased miner (see §410.110(j));

(2) Has filed a claim for benefits in accordance with the provisions of §§410.220 through 410.234;

(3) Was dependent on the miner at the pertinent time (see §410.380); and

(4) Files proof of support before June 1, 1974, or within 2 years after the miner's death, whichever is later, or it is shown to the satisfaction of the Administration that there is good cause for failure to file such proof within such period (see §410.216).

(b) In the case of a brother, he also:

(1) Is under 18 years of age; or

(2) Is 18 years of age or older and is under a disability as defined in section 223(d) of the Social Security Act, 42 U.S.C. 423(d) (see subpart P of part 404 of this chapter), which began:

(i) Before he attained age 22, however, no entitlement to brother's benefits may be established for any month