

## §416.210

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### §416.210 You do not apply for other benefits.

(a) *General rule.* You are not eligible for SSI benefits if you do not apply for all other benefits for which you may be eligible.

(b) *What "other benefits" includes.* "Other benefits" includes any payments for which you can apply that are available to you on an ongoing or one-time basis of a type that includes annuities, pensions, retirement benefits, or disability benefits. For example, "other benefits" includes veterans' compensation and pensions, workers' compensation payments, Social Security insurance benefits and unemployment insurance benefits. "Other benefits" for which you are required to apply do not include payments that you may be eligible to receive from a fund established by a State to aid victims of crime. (See §416.1124(c)(17).)

(c) *Our notice to you.* We will give you a dated, written notice that will tell you about any other benefits that we think you are likely to be eligible for. In addition, the notice will explain that your eligibility for SSI benefits will be affected if you do not apply for those other benefits.

(d) *What you must do to apply for other benefits.* In order to apply for other benefits, you must file any required applications and do whatever else is needed so that your eligibility for the other benefits can be determined. For example, if any documents (such as a copy of a birth certificate) are required in addition to the application, you must submit them.

(e) *What happens if you do not apply for the other benefits.* (1) If you do not apply for the other benefits within 30 days from the day that you receive our written notice, you are not eligible for SSI benefits. This means that if you are applying for SSI benefits, you cannot receive them. If you are receiving SSI benefits, your SSI benefits will stop. In addition, you will have to repay us for any SSI benefits that you received beginning with the month that you received our written notice. We assume (unless you prove otherwise) that you received our written notice 5 days after the date shown on the notice. We will also find that you are not eligible for SSI benefits if you file

the required application for other benefits but do not take other necessary steps to obtain them.

(2) We will not find you ineligible for SSI benefits if you have a good reason for not applying for the other benefits within the 30-day period or taking other necessary steps to obtain them. In determining whether a good reason exists, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which may have caused you to fail to apply for other benefits. You may have a good reason if, for example—

(i) You are incapacitated (because of illness you were not able to apply); or

(ii) It would be useless for you to apply (you once applied for the benefits and the reasons why you were turned down have not changed).

[47 FR 3103, Jan. 22, 1982, as amended at 50 FR 5573, Feb. 11, 1985; 50 FR 14211, April 11, 1985; 59 FR 1635, Jan. 12, 1994; 61 FR 1712, Jan. 23, 1996]

### §416.211 You are a resident of a public institution.

(a) *General rule.* (1) Subject to the exceptions described in paragraphs (b), (c), and (d) of this section and §416.212, you are not eligible for SSI benefits for any month throughout which you are a resident of a public institution as defined in §416.201. In addition, if you are a resident of a public institution when you apply for SSI benefits and meet all other eligibility requirements, you cannot be eligible for payment of benefits until the first day of the month following the day of your release from the institution.

(2) By *throughout a month* we mean that you reside in an institution as of the beginning of a month and stay the entire month. If you have been a resident of a public institution, you remain a resident if you are transferred from one public institution to another or if you are temporarily absent for a period of not more than 14 consecutive days. A person also is a resident of an institution throughout a month if he or she is born in the institution during the month and resides in the institution the rest of the month or resides in the institution as of the beginning of a

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month and dies in the institution during the month.

(b) *Exception—SSI benefits payable at a reduced rate.* You may be eligible for SSI benefits at a reduced rate described in §416.414, if—

(1)(i) You reside throughout a month in a public institution that is a medical care facility where Medicaid (title XIX of the Social Security Act) pays a substantial part (more than 50 percent) of the cost of your care; you are a child under the age of 18 residing throughout a month in a public institution that is a medical care facility where a substantial part (more than 50 percent) of the cost of your care is paid under a health insurance policy issued by a private provider of such insurance; or, you are a child under the age of 18 residing throughout a month in a public institution that is a medical care facility where a substantial part (more than 50 percent) of the cost of your care is paid by a combination of Medicaid payments and payments made under a health insurance policy issued by a private provider of such insurance; or

(ii) You reside for part of a month in a public institution and the rest of the month in a public institution or private medical facility where Medicaid pays a substantial part (more than 50 percent) of the cost of your care; you are a child under the age of 18 residing for part of a month in a public institution and the rest of the month in a public institution or private medical facility where a substantial part (more than 50 percent) of the cost of your care is paid under a health insurance policy issued by a private provider of such insurance; or you are a child under the age of 18 residing for part of a month in a public institution and the rest of the month in a public institution or private medical facility where a substantial part (more than 50 percent) of the cost of your care is paid by a combination of Medicaid payments and payments made under a health insurance policy issued by a private provider; and

(2) You are ineligible in that month for a benefit described in §416.212 that is payable to a person temporarily confined in a medical facility.

(c) *Exception for publicly operated community residences which serve no more*

*than 16 residents.* (1) *General rule.* If you are a resident of a publicly operated community residence which serves no more than 16 residents, you may be eligible for SSI benefits.

(2) *Services that a facility must provide in order to be a community residence.* To be a community residence, a facility must provide food and shelter. In addition, it must make available some other services. For example, the other services could be—

- (i) Social services;
- (ii) Help with personal living activities;
- (iii) Training in socialization and life skills; or
- (iv) Providing occasional or incidental medical or remedial care.

(3) *Serving no more than 16 residents.* A community residence serves no more than 16 residents if—

- (i) It is designed and planned to serve no more than 16 residents, or the design and plan were changed to serve no more than 16 residents; and
- (ii) It is in fact serving 16 or fewer residents.

(4) *Publicly operated.* A community residence is publicly operated if it is operated or controlled by the Federal government, a State, or a political subdivision of a State such as a city or county.

(5) *Facilities which are not a publicly operated community residence.* If you live in any of the following facilities, you are not a resident of a publicly operated community residence:

- (i) A residential facility which is on the grounds of or next to a large institution or multipurpose complex;
- (ii) An educational or vocational training institution whose main function is to provide an approved, accredited, or recognized program to some or all of those who live there;
- (iii) A jail or other facility where the personal freedom of anyone who lives there is restricted because that person is a prisoner, is being held under court order, or is being held until charges against that person are disposed of; or
- (iv) A medical care facility (defined in §416.201).

(d) *Exception for residents of public emergency shelters for the homeless.* For months after December 1987, if you are

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a resident of a public emergency shelter for the homeless (defined in §416.201) you may be eligible for SSI benefits for any 6 months throughout which you reside in a shelter in any 9-month period (defined in §416.201). The 6 months do not need to be consecutive and we will not count as part of the 6 months any prior months throughout which you lived in the shelter but did not receive SSI benefits. We will also not count any months throughout which you lived in the shelter and received SSI benefits prior to January 1988.

*Example:* You are receiving SSI benefits when you lose your home and enter a public emergency shelter for the homeless on March 10, 1988. You remain a resident of a shelter until October 10, 1988. Since you were not in the shelter throughout the month of March, you are eligible to receive your benefit for March without having this month count towards the 6-month period. The last full month throughout which you reside in the shelter is September 1988. Therefore, if you meet all eligibility requirements, you will also be paid benefits for April through September (6 months during the 9-month period September 1988 back through January 1988). If you are otherwise eligible, you will receive your SSI benefit for October when you left the shelter, since you were not a resident of the shelter throughout that month.

[47 FR 3103, Jan. 22, 1982, as amended at 50 FR 51518, Dec. 18, 1985; 51 FR 13492, Apr. 21, 1986; 51 FR 17332, May 12, 1986; 51 FR 34464, Sept. 29, 1986; 54 FR 19164, May 4, 1989; 61 FR 10277, Mar. 13, 1996; 62 FR 1055, Jan. 8, 1997; 64 FR 31972, June 15, 1999]

### §416.212 Continuation of full benefits in certain cases of medical confinement.

(a) *Benefits payable under section 1611(e)(1)(E) of the Social Security Act.* Subject to eligibility and regular computation rules (see subparts B and D of this part), you are eligible for the benefits payable under section 1611(e)(1)(E) of the Social Security Act for up to 2 full months of medical confinement during which your benefits would otherwise be suspended because of residence in a public institution or reduced because of residence in a public or private institution where Medicaid pays a substantial part (more than 50 percent) of the cost of your care or, if you are a child under age 18, reduced because of

residence in a public or private institution which receives payments under a health insurance policy issued by a private provider, or a combination of Medicaid and a health insurance policy issued by a private provider, pay a substantial part (more than 50 percent) of the cost of your care if—

(1) You were eligible under either section 1619(a) or section 1619(b) of the Social Security Act in the month before the first full month of residence in an institution;

(2) The institution agrees that no portion of these benefits will be paid to or retained by the institution excepting nominal sums for reimbursement of the institution for any outlay for a recipient's personal needs (e.g., personal hygiene items, snacks, candy); and

(3) The month of your institutionalization is one of the first 2 full months of a continuous period of confinement.

(b) *Benefits payable under section 1611(e)(1)(G) of the Social Security Act.* (1) Subject to eligibility and regular computation rules (see subparts B and D of this part), you are eligible for the benefits payable under section 1611(e)(1)(G) of the Social Security Act for up to 3 full months of medical confinement during which your benefits would otherwise be suspended because of residence in a public institution or reduced because of residence in a public or private institution where Medicaid pays a substantial part (more than 50 percent) of the cost of your care or, if you are a child under age 18, reduced because of residence in a public institution which receives payments under a health insurance policy issued by a private provider, or a combination of Medicaid and a health insurance policy issued by a private provider, pay a substantial part (more than 50 percent) of the cost of your care if—

(i) You were eligible for SSI cash benefits and/or federally administered State supplementary payments for the month immediately prior to the first full month you were a resident in such institution;

(ii) The month of your institutionalization is one of the first 3 full months of a continuous period of confinement;

(iii) A physician certifies, in writing, that you are not likely to be confined for longer than 90 full consecutive days