

**§ 406.38**

through the end of the general enrollment period in which the individual reenrolled, excluding any months before April 1981.

(e) *Example.* Peter M enrolled during his initial enrollment period, terminated his first coverage period in August 1979 and reenrolled for the first time in January 1980. The 7 months to be counted (September 1979 through March, 1980) were not enough to require any increase in the premium. Peter terminated his second period of coverage in February 1981 and reenrolled for the second time in July 1981. Since the 4 months (April through July 1981), when added to the previous 7 months, bring the total to only 11 months, no premium increase is required.

[48 FR 12536, Mar. 25, 1983. Redesignated at 51 FR 41338, Nov. 14, 1986. Further redesignated and amended at 57 FR 58717, Dec. 11, 1992]

**§ 406.38 Prejudice to enrollment rights because of Federal Government error.**

(a) If an individual's enrollment or nonenrollment for premium hospital insurance is unintentional, inadvertent, or erroneous because of the error, misrepresentation, or inaction of a Federal employee, or any person authorized by the Federal Government to act on its behalf, the Social Security Administration or CMS may take whatever action it determines is necessary to provide appropriate relief.

(b) The action may include—

(1) Designation of a special initial or general enrollment period;

(2) Designation of an entitlement period;

(3) Adjustment of premiums;

(4) Any combination of the actions specified in paragraph (b) (1) through (3) of this section; or

(5) Any other remedial action which may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction.

[48 FR 12536, Mar. 25, 1983. Redesignated at 51 FR 41338, Nov. 14, 1986. Further redesignated at 56 FR 38080, Aug. 12, 1991]

**42 CFR Ch. IV (10-1-07 Edition)**

**Subpart D—Special Circumstances That Affect Entitlement to Hospital Insurance**

**§ 406.50 Nonpayment of benefits on behalf of certain aliens.**

(a) Hospital insurance benefit payments may not be made for services furnished to an alien in any month in which his or her monthly social security benefits are suspended (or would be suspended if he or she were entitled to those benefits) because the alien remains outside the United States for more than 6 months.

(b) Benefits will be payable beginning with services furnished in the first full calendar month the alien is back in the United States.

[48 FR 12536, Mar. 25, 1983. Redesignated at 51 FR 41338, Nov. 14, 1986. Further redesignated at 57 FR 58717, Dec. 11, 1992]

**§ 406.52 Conviction of certain offenses.**

(a) *Penalty that affects entitlement.* (1) If an individual is convicted of any of the crimes listed in § 406.11(c) (1) and (2), the court may impose, in addition to all other penalties, a penalty that affects entitlement to hospital insurance, beginning with the month of conviction.

(2) The additional penalty is that the individual's income (or the income of the insured individual on whose earnings record he or she became or seeks to become entitled) for the year of conviction and any previous year may not be counted in determining the insured status necessary for entitlement to hospital insurance.

(b) *Effect of pardon.* If the President of the United States pardons the convicted individual, that individual regains (or may again seek) entitlement effective with the month following the month in which the pardon is granted.

[48 FR 12536, Mar. 25, 1983. Redesignated at 51 FR 41338, Nov. 14, 1986. Further redesignated at 57 FR 58717, Dec. 11, 1992]