

**§ 408.102**

**42 CFR Ch. IV (10–1–07 Edition)**

**§ 408.102 Reconsideration of termination.**

(a) *Basic rules.* Coverage may be reinstated without interruption of benefits if the following conditions are met:

(1) The enrollee appeals the termination by the end of the month following the month in which SSA sent the notice of termination.

(2) The enrollee alleges and it is found that the enrollee did not receive timely and adequate notice that the premiums were overdue.

(3) The enrollee pays, within 30 days after SSA's subsequent request for payment, all premiums due through the month in which he or she appealed the termination.

(b) *Basis for reinstating coverage.* Coverage may be reinstated if the evidence establishes one of the following:

(1) The enrollee acted diligently to pay the premiums or to request relief upon receiving a premium notice very late in the grace period or shortly after its end, and the delayed notice was not the enrollee's fault. (For example, if the billing notice was misaddressed or lost in the mail, it would not be the enrollee's fault; if the enrollee had moved and not notified SSA of the new address, he or she would be responsible for the delay.)

(2) On the basis of information given by SSA, the enrollee could reasonably have believed that the premiums were being paid by deduction from benefits or by some other means. (An example would be a notice indicating that premiums would be paid by a State Medicaid agency or a group payer or would be deducted from the spouse's civil service annuity.)

(c) *No basis for reinstating coverage.* Coverage may not be reinstated if the enrollee—

(1) Received timely and adequate notice but failed to pay within the grace period, for example because of insufficient income or resources; or

(2) Appealed the termination more than one month after the month in which SSA sent the termination notice.

**§ 408.104 Reinstatement procedures.**

(a) *Request for payment.* If the conditions of § 408.102(a) (1) and (2) are met, SSA sends written notice requesting

the enrollee to pay, within 30 days, all premiums due through the month in which the enrollee appealed the termination.

(b) *Reinstatement of coverage.* If SSA receives the requested payment within 30 days, it sets aside the termination and reinstates the enrollee's coverage without interruption.

**Subpart G—Collection of Unpaid Premiums; Refund of Excess Premiums After the Death of the Enrollee**

**§ 408.110 Collection of unpaid premiums.**

(a) *Basis and scope—*(1) *Basis.* Under the Federal Claims Collection Act of 1966 (31 U.S.C. 3711), CMS is required to collect any debts due it but is authorized to suspend or terminate collection action on debts of less than \$20,000 when certain conditions are met. (See 4 CFR, parts 101–105 for general rules implementing the Federal Claims Collection Act.) As indicated in § 408.4, unpaid premiums are debts owed the Federal government by the enrollee or the enrollee's estate.

(2) *Scope.* This section sets forth the methods of collection used by CMS and the circumstances under which CMS terminates or renews collection action. The regulations in this section apply to hospital insurance premiums as well as SMI premiums.

(b) *Collection of unpaid premiums.* Generally, CMS will attempt to collect unpaid premiums by one of the following methods:

(1) By billing enrollees who pay the premiums directly to CMS or to a designated agent in accordance with § 408.60.

(2) By deduction from any benefits payable to the enrollee or the estate of a deceased enrollee under Title II or XVIII of the Social Security Act, the Railroad Retirement Act or any act administered by the Office of Personnel Management in accordance with § 408.4(b) and Subpart C of this part (Deduction from Monthly Benefits); or

(3) By billing the estate of a deceased enrollee.

(c) *Termination of collection action.* CMS terminates collection action on unpaid premiums under either of the

following circumstances, if the cost of collection exceeds the amount of overdue premiums:

(1) The individual is not entitled to benefits under the Acts listed in paragraph (b)(2) of this section, is not currently enrolled for SMI or premium hospital insurance, and demonstrates, to CMS's satisfaction, that he or she is unable to pay the debt within a reasonable time.

(2) The individual has been dead more than 27 months (the maximum time allowed for claiming SMI benefits), and the legal representative of his or her estate demonstrates, to CMS's satisfaction, that the estate is unable to pay the debt within a reasonable time.

(d) *Renewal of collection efforts.* CMS renews collection efforts in either of the following circumstances, if the cost of collection does not exceed the amount of the overdue premiums:

(1) The individual enrolls again for premium hospital insurance or SMI. (Payment of overdue premiums is not a prerequisite for reenrollment.)

(2) The individual becomes entitled or reentitled to social security or railroad retirement benefits or a Federal civil service annuity.

**§ 408.112 Refund of excess premiums after the enrollee dies.**

If CMS has received premiums for months after the enrollee's death, CMS refunds those premiums as follows:

(a) To the person or persons who paid the premiums or, if the premiums were paid by the enrollee, to the representative of the enrollee's estate, if any.

(b) If refund cannot be made under paragraph (a) of this section, CMS refunds the premiums to the enrollee's survivors in the following order of priority:

(1) The surviving spouse, if he or she was either living in the same household with the deceased at the time of death, or was, for the month of death, entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased beneficiary;

(2) The child or children who were, for the month of death, entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased

(and, if there is more than one child, in equal parts to each child);

(3) The parent or parents who were, for the month of death, entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased (and, if there is more than one parent, in equal parts to each parent);

(4) The surviving spouse who was not living in the same household with the deceased at the time of death and was not, for the month of death, entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased beneficiary;

(5) The child or children who were not entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased (and, if there is more than one child, in equal parts to each child);

(6) The parent or parents who were not entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased (and, if there is more than one parent, in equal parts to each parent).

If none of the listed relatives survives, no refund can be made.

**Subpart H—Supplementary Medical Insurance Premium Surcharge Agreements**

SOURCE: 67 FR 60996, Sept. 27, 2002, unless otherwise noted.

**§ 408.200 Statutory basis.**

This subpart implements provisions of section 1839(e) of the Social Security Act that allow State or local government agencies to enter into an agreement with the Secretary to pay, on a quarterly or other periodic basis, a lump sum for the total of the SMI premium late enrollment surcharge amounts due for a group of eligible enrollees.

**§ 408.201 Definitions.**

For purposes of this subpart, the following definitions apply:

*SMI premium surcharge* means the amount that the standard monthly