

§ 404.2115

20 CFR Ch. III (4-1-08 Edition)

(12) Post-employment services necessary to maintain, regain or advance into suitable employment at or above the SGA level;

(13) Occupational licenses, tools, equipment, initial stocks, and supplies;

(14) Rehabilitation technology services; and

(15) Other goods and services that can reasonably be expected to motivate or assist the individual in returning to, or continuing in, SGA.

[59 FR 11915, Mar. 15, 1994]

§ 404.2115 When services must have been provided.

(a) In order for the VR agency or alternate participant to be paid, the services must have been provided—

(1) After September 30, 1981;

(2) No earlier than the beginning of the waiting period or the first month of entitlement, if no waiting period is required; and

(3) Before completion of a continuous 9-month period of SGA or termination of entitlement to disability benefits, whichever occurs first.

(b) If an individual who is entitled to disability benefits under this part also is or has been receiving disability or blindness benefits under part 416 of this chapter, the determination as to when services must have been provided may be made under this section or § 416.2215 of this chapter, whichever is advantageous to the State VR agency or alternate participant that is participating in both VR programs.

[55 FR 8455, Mar. 8, 1990, as amended at 61 FR 31025, June 19, 1996]

§ 404.2116 When claims for payment for VR services must be made (filing deadlines).

The State VR agency or alternate participant must file a claim for payment in each individual case within the following time periods:

(a) A claim for payment for VR services based on the individual's completion of a continuous 9-month period of SGA must be filed within 12 months after the month in which the continuous 9-month period of SGA is completed.

(b) A claim for payment for VR services provided to an individual whose disability benefits were continued after

disability has ceased because of that individual's continued participation in a VR program must be filed as follows:

(1) If a written notice requesting that a claim be filed was sent to the State VR agency or alternate participant, a claim must be filed within 90 days following the month in which VR services end, or if later, within 90 days after receipt of the notice.

(2) If no written notice was sent to the State VR agency or alternate participant, a claim must be filed within 12 months after the month in which VR services end.

[55 FR 8455, Mar. 8, 1990, as amended at 61 FR 31025, June 19, 1996; 68 FR 40124, July 7, 2003]

§ 404.2117 What costs will be paid.

In accordance with section 222(d) of the Social Security Act, the Commissioner will pay the State VR agency or alternate participant for the VR services described in § 404.2114 which were provided during the period described in § 404.2115 and which meet the criteria in § 404.2111 or § 404.2112, but subject to the following limitations:

(a) The cost must have been incurred by the State VR agency or alternate participant;

(b) The cost must not have been paid or be payable from some other source. For this purpose, State VR agencies or alternate participants will be required to seek payment or services from other sources in accordance with the "similar benefit" provisions under 34 CFR part 361, including making maximum efforts to secure grant assistance in whole or part from other sources for training or training services in institutions of higher education. Alternate participants will not be required to consider State VR services a similar benefit.

(c)(1) The cost must be reasonable and necessary, in that it complies with the written cost-containment policies of the State VR agency or, in the case of an alternate participant, it complies with similar written policies established under a negotiated plan. A cost which complies with these policies will be considered necessary only if the cost is for a VR service described in § 404.2114. The State VR agency or alternate participant must maintain and use these cost-containment policies,

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including any reasonable and appropriate fee schedules, to govern the costs incurred for all VR services, including the rates of payment for all purchased services, for which payment will be requested under this subpart. For the purpose of this subpart, the written cost-containment policies must provide guidelines designed to ensure—

(i) The lowest reasonable cost for such services; and

(ii) Sufficient flexibility so as to allow for an individual's needs.

(2) The State VR agency shall submit to us before the end of the first calendar quarter of each year a written statement certifying that cost-containment policies are in effect and are adhered to in procuring and providing goods and services for which the State VR agency requests payment under this subpart. Such certification must be signed by the State's chief financial official or the head of the VR agency. Each certification must specify the basis upon which it is made, e.g., a recent audit by an authorized State, Federal or private auditor (or other independent compliance review) and the date of such audit (or compliance review). In the case of an alternate participant, these certification requirements shall be incorporated into the negotiated agreement or contract. We may request the State VR agency or alternate participant to submit to us a copy(ies) of its specific written cost-containment policies and procedures (e.g., any guidelines and fee schedules for a given year) if we determine that such additional information is necessary to ensure compliance with the requirements of this subpart. The State VR agency or alternate participant shall provide such information when requested by us.

(d) The total payment in each case, including any prior payments related to earlier continuous 9-month periods of SGA made under this subpart, must not be so high as to preclude a "net saving" to the trust funds (a "net saving" is the difference between the estimated saving to the trust funds, if disability benefits eventually terminate, and the total amount we pay to the State VR agency or alternate participant);

(e) Any payment to the State VR agency for either direct or indirect VR expenses must be consistent with the cost principles described in OMB Circular No. A-87, published at 46 FR 9548 on January 28, 1981 (see § 404.2118(a) for cost principles applicable to alternate participants);

(f) Payment for VR services or costs may be made under more than one of the VR payment provisions described in §§ 404.2111 and 404.2112 of this subpart and similar provisions in §§ 416.2211 and 416.2212 of subpart V of part 416. However, payment will not be made more than once for the same VR service or cost; and

(g) Payment will be made for administrative costs and for counseling and placement costs. This payment may be on a formula basis, or on an actual cost basis, whichever the State VR agency prefers. The formula will be negotiated. The payment will also be subject to the preceding limitations.

[48 FR 6293, Feb. 10, 1983. Redesignated and amended at 55 FR 8454, 8455, Mar. 8, 1990; 59 FR 11915, Mar. 15, 1994; 62 FR 38452, July 18, 1997; 68 FR 40124, July 7, 2003]

ADMINISTRATIVE PROVISIONS

§ 404.2118 Applicability of these provisions to alternate participants.

When an alternate participant provides rehabilitation services under this subpart, the payment procedures stated herein shall apply except that:

(a) Payment must be consistent with the cost principles described in 45 CFR part 74 or 41 CFR parts 1-15 as appropriate; and

(b) Any disputes, including appeals of audit determinations, shall be resolved in accordance with applicable statutes and regulations which will be specified in the negotiated agreement or contract.

[48 FR 6293, Feb. 10, 1983. Redesignated at 55 FR 8454, Mar. 8, 1990]

§ 404.2119 Method of payment.

Payment to the State VR agencies or alternate participants pursuant to this subpart will be made either by advancement of funds or by payment for services provided (with necessary adjustments for any overpayments and