

§ 404.390

Veterans Administration payments for a service-connected disability or death.

(d) *Amount of reduction because of a government pension.* If you are eligible for a government pension, the amount of the pension will be subtracted from your special age 72 payment. If your spouse is eligible for a government pension but is not entitled to the special payment, your special payment is reduced (after any reduction due to your own government pension) by the difference between the pension amount and the full special payment amount. If both you and your spouse are entitled to the special payment, each spouse's payment is first reduced by the amount of his or her own government pension (if any). Then, the wife's special payment is reduced by the amount that the husband's government pension exceeds the full special payment. The husband's special payment is also reduced by the amount that the wife's government pension exceeds the full special payment.

(e) *Nonpayment of special age 72 payments when you are not residing in the United States.* No special payment is due you for any month you are not a resident of one of the 50 States, the District of Columbia, or the Northern Mariana Islands. Also, payment to you may not be permitted under the rules in § 404.463 if you are an alien living outside the United States.

[44 FR 34481, June 15, 1979, as amended at 49 FR 24116, June 12, 1984]

LUMP-SUM DEATH PAYMENT

§ 404.390 General.

If a person is fully or currently insured when he or she dies, a lump-sum death payment of \$255 may be paid to the widow or widower of the deceased if he or she was living in the same household with the deceased at the time of his or her death. If the insured is not survived by a widow(er) who meets this requirement, all or part of the \$255 payment may be made to someone else as described in § 404.392.

[44 FR 34481, June 15, 1979, as amended at 48 FR 21929, May 16, 1983; 61 FR 41330, Aug. 8, 1996]

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

§ 404.391 Who is entitled to the lump-sum death payment as a widow or widower who was living in the same household.

You are entitled to the lump-sum death payment as a widow or widower who was living in the same household if—

(a) You are the widow or widower of the deceased insured individual based upon a relationship described in § 404.345 or § 404.346;

(b) You apply for this payment within two years after the date of the insured's death. You need not apply again if, in the month prior to the death of the insured, you were entitled to wife's or husband's benefits on his or her earnings record; and

(c) You were living in the same household with the insured at the time of his or her death. The term *living in the same household* is defined in § 404.347.

[44 FR 34481, June 15, 1979, as amended at 48 FR 21929, May 16, 1983]

§ 404.392 Who is entitled to the lump-sum death payment when there is no widow(er) who was living in the same household.

(a) *General.* If the insured individual is not survived by a widow(er) who meets the requirements of § 404.391, the lump-sum death payment shall be paid as follows:

(1) To a person who is entitled (or would have been entitled had a timely application been filed) to widow's or widower's benefits (as described in § 404.335) or mother's or father's benefits (as described in § 404.339) on the work record of the deceased worker for the month of that worker's death; or

(2) If no person described in (1) survives, in equal shares to each person who is entitled (or would have been entitled had a timely application been filed) to child's benefits (as described in § 404.350) on the work record of the deceased worker for the month of that worker's death.

(b) *Application requirement.* A person who meets the requirements of paragraph (a)(1) of this section need not apply to receive the lump-sum death payment if, for the month prior to the death of the insured, that person was entitled to wife's or husband's benefits

on the insured's earnings record. Otherwise, an application must be filed within 2 years of the insured's death.

[48 FR 21929, May 16, 1983; 61 FR 41330, Aug. 8, 1996]

Subpart E—Deductions; Reductions; and Nonpayments of Benefits

AUTHORITY: Secs. 202, 203, 204(a) and (e), 205(a) and (c), 216(l), 222(c), 223(e), 224, 225, 702(a)(5), and 1129A of the Social Security Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 416(l), 422(c), 423(e), 424a, 425, 902(a)(5), and 1320a-8a and 48 U.S.C. 1801.

SOURCE: 32 FR 19159, Dec. 20, 1967, unless otherwise noted.

§ 404.401 Deduction, reduction, and nonpayment of monthly benefits or lump-sum death payments.

Under certain conditions, the amount of a monthly insurance benefit (see §§ 404.380 through 404.384 of this part for provisions concerning special payments at age 72) or the lump-sum death payment as calculated under the pertinent provisions of sections 202 and 203 of the Act (including reduction for age under section 202(q) of a monthly benefit) must be increased or decreased to determine the amount to be actually paid to a beneficiary. Increases in the amount of a monthly benefit or lump-sum death payment are based upon recomputation and recalculations of the primary insurance amount (see subpart C of this part). A decrease in the amount of a monthly benefit or lump-sum death payment is required in the following instances:

(a) *Reductions.* A reduction of a person's monthly benefit is required where:

(1) The total amount of the monthly benefits payable on an earnings record exceeds the maximum that may be paid (see § 404.403);

(2) An application for monthly benefits is effective for a month during a retroactive period, and the maximum has already been paid for that month or would be exceeded if such benefit were paid for that month (see § 404.406);

(3) An individual is entitled to old-age or disability insurance benefits in addition to any other monthly benefit (see § 404.407);

(4) An individual under age 65 is concurrently entitled to disability insurance benefits and to certain public disability benefits (see § 404.408);

(5) An individual is entitled in a month to a widow's or widower's insurance benefit that is reduced under section 202 (e)(4) or (f)(5) of the Act and to any other monthly insurance benefit other than an old-age insurance benefit (see § 404.407(b)); or

(6) An individual is entitled in a month to old-age, disability, wife's, husband's, widow's, or widower's insurance benefit and reduction is required under section 202(q) of the Act (see § 404.410).

(b) *Deductions.* A deduction from a monthly benefit or a lump-sum death payment may be required because of:

(1) An individual's earnings or work (see §§ 404.415 and 404.417);

(2) Failure of certain beneficiaries receiving wife's or mother's insurance benefits to have a child in her care (see § 404.421);

(3) The earnings or work of an old-age insurance beneficiary where a wife, husband, or child is also entitled to benefits (see §§ 404.415 and 404.417);

(4) Failure to report within the prescribed period either certain work outside the United States or not having the care of a child (see § 404.451);

(5) Failure to report within the prescribed period earnings from work in employment or self-employment (see § 404.453); or

(6) Certain taxes which were neither deducted from the wages of maritime employees nor paid to the Federal Government (see § 404.457).

(c) *Adjustments.* We may adjust your benefits to correct errors in payments under title II of the Act. We may also adjust your benefits if you received more than the correct amount due under titles VIII or XVI of the Act. For the title II rules on adjustment to your benefits, see subpart F of this part. For the rules on adjusting your benefits to recover title VIII overpayments, see § 408.930 of this chapter. For the rules on adjusting your benefits to recover title XVI overpayments, see § 416.572 of this chapter.

(d) *Nonpayments.* Nonpayment of monthly benefits may be required because: