

§ 404.415

20 CFR Ch. III (4–1–08 Edition)

individual has been adjusted at full retirement age (age 62 and full retirement age for widows or widowers), any increase to which the individual becomes entitled thereafter is reduced by the adjusted percentage.

(2) *Entitlement to reduced benefits before 1978.* For an individual, who became entitled to a benefit reduced for age before 1978, whose benefit may be increased as a result of an increase in the primary insurance amount after 1977, we increase the amount of the benefit by the same percentage as the increase in the primary insurance amount.

(d) *How was the reduction computed for increases prior to 1978?* When the individual's primary insurance amount increased, the amount of the increase was reduced separately under §§ 404.410 and 404.411. The separate reduction was based on the number of months from the effective date of the increase through the month of attainment of age 65. This reduced increase amount was then added to the reduced benefit that was in effect in the month before the effective date of the increase. The result was the new monthly benefit amount.

[68 FR 4710, Jan. 30, 2003]

§ 404.415 Deductions because of excess earnings.

(a) *Deductions because of insured individual's earnings.* Under the annual earnings test, we will reduce your monthly benefits (except disability insurance benefits based on the beneficiary's disability) by the amount of your excess earnings (as described in § 404.434), for each month in a taxable year (calendar year or fiscal year) in which you are under full retirement age (as defined in § 404.409(a)).

(b) *Deductions from husband's, wife's, and child's benefits because of excess earnings of the insured individual.* We will reduce husband's, wife's, and child's insurance benefits payable (or deemed payable—see § 404.420) on the insured individual's earnings record because of the excess earnings of the insured individual. However, beginning with January 1985, we will not reduce the benefits payable to a divorced wife or a divorced husband who has been di-

vorced from the insured individual for at least 2 years.

(c) *Deductions because of excess earnings of beneficiary other than the insured.* If benefits are payable to you (or deemed payable—see § 404.420) on the earnings record of an insured individual and you have excess earnings (as described in § 404.430) charged to a month, we will reduce only your benefits for that month under the annual earnings test. Child's insurance benefits payable by reason of being disabled will be evaluated using Substantial Gainful Activity guidelines (as described in § 404.1574 or § 404.1575). This deduction equals the amount of the excess earnings. (See § 404.434 for charging of excess earnings where both the insured individual and you, a beneficiary, have excess earnings.)

[70 FR 28811, May 19, 2005]

§ 404.417 Deductions because of non-covered remunerative activity outside the United States; 45 hour and 7-day work test.

(a) *Deductions because of individual's activity—(1) Prior to May 1983.* For months prior to May 1983, a 7-day work test applies in a month before benefit deductions are made for noncovered remunerative activity outside the United States. A deduction is made from any monthly benefit (except disability insurance benefits, child's insurance benefits based on the child's disability, or widow's or widower's insurance benefits based on the widow's or widower's disability) payable to an individual for each month in a taxable year beginning after December 1954 in which the beneficiary, while under age 72 (age 70 after December 1982), engages in noncovered remunerative activity (see § 404.418) outside the United States on 7 or more different calendar days. The deduction is for an amount equal to the benefit payable to the individual for that month.

(2) *From May 1983 on.* Effective May 1983, a 45-hour work test applies before a benefit deduction is made for the non-covered remunerative activity performed outside the United States in a month by the type of beneficiary described in paragraph (a)(1) of this section.