

**Social Security Administration**

**§ 404.446**

	Original benefit	Fraction of original	Benefit <sup>1</sup>
Total .....	247.50	.....	199

<sup>1</sup> After deductions for excess earnings and after rounding per § 404.304(f).

[38 FR 9429, Apr. 16, 1973, as amended at 38 FR 17717, July 3, 1973; 43 FR 8133, Feb. 28, 1978; 48 FR 46149, Oct. 11, 1983]

**§ 404.440 Partial monthly benefits; prorated share of partial payment exceeds the benefit before deduction for excess earnings.**

Where, under the apportionment described in § 404.439, a person's prorated share of the partial benefit exceeds the benefit rate to which he was entitled before excess earnings of the insured individual were charged, such person's share of the partial benefit is reduced to the amount he would have been paid had there been no deduction for excess earnings (see example). The remainder of the partial benefit is then paid to other persons eligible to receive benefits in the proportion that the benefit

of each such other person bears to the total of the benefits to which all such other persons are entitled (before reduction for the family maximum). Thus, if only two beneficiaries are involved, payment is made to one as if no deduction had been imposed; and the balance of the partial benefit is paid to the other. If three or more beneficiaries are involved, however, reapportionment of the excess of the beneficiary's share of the partial benefit over the amount he would have been paid without the deduction is made in proportion to his original entitlement rate (before reduction for the family maximum). If the excess amount involved at any point totals less than \$1, it is not reapportioned; instead, each beneficiary is paid on the basis of the last calculation.

*Example:* Family maximum is \$150. Insured individual's excess earnings charged to the month are \$25. The remaining \$125 is prorated as partial payment.

	Original benefit	Fraction of original total benefit	Benefit after deductions for excess earnings but before reduction for family maximum	Benefit reduced for maximum but without deductions for excess earnings	Benefit payable after both deductions and reductions (and rounded)
Insured Individual .....	\$100	2/5	50	100.00	75
Wife .....	50	1/5	25	16.60	16
Child .....	50	1/5	25	16.60	16
Child .....	50	1/5	25	16.60	16

[32 FR 19159, Dec. 20, 1967, as amended at 48 FR 46149, Oct. 11, 1983]

**§ 404.441 Partial monthly benefits; insured individual and another person entitled (or deemed entitled) on the same earnings record both have excess earnings.**

Where both the insured individual and another person entitled (or deemed entitled) on the same earnings record have excess earnings (as described in § 404.430), their excess earnings are charged, and their partial monthly benefit is apportioned, as follows:

*Example:* M and his wife are initially entitled to combined total benefits of \$264 per month based on M's old-age insurance benefit of \$176. For the taxable year in question, M's excess earnings were \$1,599 and his wife's excess earnings were \$265. Both were under age 65. M had wages of more than \$340 in all months of the year except February, while

his wife had wages of more than \$340 in all months of the year. After M's excess earnings have been charged to the appropriate months (all months through July except February), there remains a partial benefit payment for August of \$249, which is allocated to M and his wife in the ratio that the original benefit of each bears to the sum of their original benefits: \$166 and \$83. His wife's excess earnings are charged against her full benefit for February (\$88), her partial benefit for August (\$83), her full benefit for September, and from \$6 of her October benefit, leaving an \$82 benefit payable to her for that month.

[48 FR 46149, Oct. 11, 1983]

**§ 404.446 Definition of "substantial services" and "services."**

(a) *General.* In general, the substantial services test will be applicable