

relationship with the person on whose earnings record the entitlement is based. The spousal relationship over the required period can be that of wife, husband, widow, widower, divorced wife, divorced husband, surviving divorced wife, surviving divorced husband, surviving divorced mother, surviving divorced father, or a combination of two or more of these categories.

(4) An alien who is entitled to parent's benefits must have resided in the United States for 5 or more years as a parent of the person on whose earnings record the entitlement is based.

(5) Individuals eligible for benefits before January 1, 1985 (including those eligible for one category of benefits on a particular worker's earnings record after December 31, 1984, but also eligible for a different category of benefits on the same worker's earnings record before January 1, 1985), will not have to meet the residency requirement.

(6) Definitions applicable to paragraph (d) of this section are as follows:

*Eligible for benefits* means that an individual satisfies the criteria described in subpart D of this part for benefits at a particular time except that the person need not have applied for those benefits at that time.

*Other parent* for purposes of paragraph (d)(1)(ii) of this section means any other living parent who is of the opposite sex of the worker and who is the adoptive parent by whom the child was adopted before the child attained age 16 and who is or was the spouse of the person on whose earnings record the child is entitled; or the natural mother or natural father of the child; or the step-parent of the child by a marriage, contracted before the child attained age 16, to the natural or adopting parent on whose earnings record the child is entitled. (Note: Based on this definition, a child may have more than one living *other parent*. However, the child's benefit will be payable for a month if in that month he or she has one *other parent* who had resided in the U.S. for at least 5 years.)

*Resided in the United States* for satisfying the residency requirement means presence in the United States with the intention of establishing at least a temporary home. A period of residence begins upon arrival in the United

States with that intention and continues so long as an attachment to an abode in the United States is maintained, accompanied by actual physical presence in the United States for a significant part of the period, and ending the day of departure from the United States with the intention to reside elsewhere. The period need not have been continuous and the requirement is satisfied if the periods of U.S. residence added together give a total of 5 full years.

(7) The provisions described in paragraph (d) of this section shall not apply if the beneficiary is a citizen or resident of a country with which the United States has a totalization agreement in force, except to the extent provided by that agreement.

[32 FR 19159, Dec. 20, 1967, as amended at 34 FR 13366, Aug. 19, 1969; 52 FR 8249, Mar. 17, 1987; 52 FR 26145, July 13, 1987; 60 FR 17445, Apr. 6, 1995; 62 FR 38450, July 18, 1997; 69 FR 51555, Aug. 20, 2004]

**§ 404.461 Nonpayment of lump sum after death of alien outside United States for more than 6 months.**

Where an individual dies outside the United States after January 1957 and no monthly benefit was or could have been paid to him for the month preceding the month in which he died because of the provisions described in § 404.460, no lump-sum death payment may be made upon the basis of the individual's earnings record.

**§ 404.462 Nonpayment of hospital and medical insurance benefits of alien outside United States for more than 6 months.**

No payments may be made under part A (hospital insurance benefits) of title XVIII for items or services furnished to an individual in any month for which the prohibition described in § 404.460 against payment of benefits to an individual outside the United States for more than six full consecutive calendar months is applicable (or would be if he were entitled to any such benefits). Also, no payments may be made under part B (supplementary medical insurance benefits) of title XVIII for expenses incurred by an individual during any month the individual is not paid a monthly benefit by reason of the provisions described in § 404.460 or for