

§ 404.640

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

(i) An application on which we have made a previous final determination or decision awarding the benefits, but only if the claimant continues to be entitled to benefits based on that application;

(ii) An application on which we have made a previous final determination or decision denying the benefits, but only if such determination or decision is reopened under § 404.988; or

(iii) A new application on which we have not made a final determination or decision.

(2) The establishment of a deemed filing date of an application for benefits based on misinformation could result in the claimant becoming entitled to benefits or to additional benefits.

(3) We have not made a previous final determination or decision to which you were a party on a claim for benefits based on alleged misinformation involving the same facts and issues. This provision does not apply, however, if the final determination or decision may be reopened under § 404.988.

(g) *Effective date.* This section applies only to misinformation which we provided after December 1982. In addition, this section is effective only for benefits payable for months after December 1982.

[59 FR 44924, Aug. 31, 1994]

WITHDRAWAL OF APPLICATION

§ 404.640 Withdrawal of an application.

(a) *Request for withdrawal filed before a determination is made.* An application may be withdrawn before we make a determination on it if—

(1) A written request for withdrawal is filed at a place described in § 404.614 by the claimant or a person who may sign an application for the claimant under § 404.612; and

(2) The claimant is alive at the time the request is filed.

(b) *Request for withdrawal filed after a determination is made.* An application may be withdrawn after we make a determination on it if—

(1) The conditions in paragraph (a) of this section are met;

(2) Any other person whose entitlement would be rendered erroneous because of the withdrawal consents in writing to it. Written consent for the

person may be given by someone who could sign an application for him or her under § 404.612; and

(3) All benefits already paid based on the application being withdrawn are repaid or we are satisfied that they will be repaid.

(c) *Request for withdrawal filed after the claimant's death.* An application may be withdrawn after the claimant's death, regardless of whether we have made a determination on it, if—

(1) The claimant's application was for old-age benefits that would be reduced because of his or her age;

(2) The claimant died before we certified his or her benefit entitlement to the Treasury Department for payment;

(3) A written request for withdrawal is filed at a place described in § 404.614 by or for the person eligible for widow's or widower's benefits based on the claimant's earnings; and

(4) The conditions in paragraphs (b) (2) and (3) of this section are met.

(d) *Effect of withdrawal.* If we approve a request to withdraw an application, the application will be considered as though it was never filed. If we disapprove a request for withdrawal, the application is treated as though the request was never filed.

[44 FR 37209, June 26, 1979, as amended at 48 FR 21931, May 16, 1983; 51 FR 37720, Oct. 24, 1986]

§ 404.641 Cancellation of a request to withdraw.

A request to withdraw an application may be cancelled and the application reinstated if—

(a) A written request for cancellation is filed at a place described in § 404.614 by the claimant or someone who may sign an application for the claimant under § 404.612;

(b) The claimant is alive at the time the request for cancellation is filed; and

(c) For a cancellation request received after we have approved the withdrawal, the request is filed no later than 60 days after the date of the notice of approval.