

(d) For further information about some of the forms used in the administration of part B of title IV of the Act, see §§ 422.505(b), 422.515, 422.525, and 422.527 of this chapter.

[37 FR 20637, Sept. 30, 1972]

**§ 410.222 Execution of a claim.**

The Administration determines who is the proper party to execute a claim in accordance with the following rules:

(a) If the claimant has attained the age of 18, is mentally competent, and is physically able to execute the claim, the claim shall be executed by him. Where, however, paragraph (d) of this section applies, the claim may also be executed by the claimant's legal guardian, committee, or other representative.

(b) If the claimant is between the ages of 16 and 18, is mentally competent, has no legally appointed guardian, committee, or other representative, and is not in the care of any person, such claimant may execute the claim upon filing a statement on the prescribed form indicating capacity to act on his own behalf.

(c) If the claimant is mentally competent but has not attained age 18 and is in the care of a person, the claim may be executed by such person.

(d) If the claimant (regardless of his age) has a legally appointed guardian, committee, or other representative, the claim may be executed by such guardian committee, or representative.

(e) If the claimant (regardless of his age) is mentally incompetent or is physically unable to execute the claim, it may be executed by the person who has the claimant in his care or by a legally appointed guardian, committee, or other representative.

(f) Where the claimant is in the care of an institution and is not mentally competent or physically able to execute a claim, the manager or principal officer of such institution may execute the claim.

(g) For good cause shown, the Administration may accept a claim executed by a person other than one described in paragraph (a), (b), (c), (d), (e), or (f) of this section.

[37 FR 20637, Sept. 30, 1972]

**§ 410.223 Evidence of authority to execute a claim on behalf of another.**

Where the claim is executed by a person other than the claimant, such person shall, at the time of filing the claim or within a reasonable time thereafter, file evidence of his authority to execute the claim on behalf of such claimant in accordance with the following rules:

(a) If the person executing the claim is the legally appointed guardian, committee, or other legal representative of such claimant, the evidence shall be a certificate executed by the proper official of the court of appointment.

(b) If the person executing the claim is not such a legal representative, the evidence shall be a statement describing his relationship to the claimant, the extent to which he has the care of such claimant, or his position as an officer of the institution of which the claimant is an inmate. The Administration may, at any time, require additional evidence to establish the authority of any such person.

**§ 410.224 Claimant must be alive when claim is filed.**

For a claim to be effective, the claimant must be alive at the time a properly executed claim (see § 410.222) is filed with the Administration (see § 410.227). (See §§ 410.229 and 410.230 concerning the filing of a prescribed application form after submittal of a written statement.)

**§ 410.226 Periods for which claims are effective.**

(a) *Application effective for entire month of filing.* Benefits are payable for full calendar months. If the claimant meets all the requirements for entitlement to benefits in the same calendar month in which his application is filed, the application will be effective for the whole month. If a miner dies in the first month for which he meets all the requirements for entitlement to benefits, he will, notwithstanding the provisions of § 410.202(b), be considered to be entitled to benefits for that month.

(b) *Prospective life of claims.* A claim which is filed before the claimant meets all the requirements for entitlement to such benefits will be deemed a valid claim if the claimant meets such

**§ 410.227**

requirements of entitlement (1) before the Administration makes a final decision on such claim or (2) if the claimant has timely requested judicial review of such final decision before such review is completed. If the claimant first meets the requirements for entitlement to benefits in a month after the month of actual filing but before a final administrative or judicial decision is rendered on his claim, his claim will be deemed to have been effectively filed in such first month of entitlement.

(c) *Retroactive life of claims.* Except in the case of a claim for benefits as a surviving child (see § 410.212) a claim for benefits has no retroactive effect. (See, however, § 410.230.) Generally, a claim for benefits for a surviving child is effective (depending on the first month of eligibility) for up to 12 months preceding the month in which such claim is filed. However, if such claim is filed before December 1972, such claim may be effective retroactively (depending on the first month of eligibility) to December 1969.

[37 FR 20637, Sept. 30, 1972]

**§ 410.227 When a claim is considered to have been filed; time and place of filing.**

(a) *Date of receipt.* Except as otherwise provided in this part, a claim is considered to have been filed only as of the date it is received at an office of the Administration or by an employee of the Administration who is authorized to receive such claims.

(b) *Date of mailing.* If the claim is deposited in and transmitted by the U.S. mail and the fixing of the date of delivery as the date of filing would result in a loss or impairment of benefit rights, it will be considered to have been filed as of the date of mailing. The date appearing on the postmark (when available and legible) shall be prima facie evidence of the date of mailing. If there is no postmark or it is not legible, other evidence may be used to establish the mailing date.

[36 FR 23752, Dec. 14, 1971, as amended at 37 FR 20637, Sept. 30, 1972]

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

**§ 410.228 Requests and notices to be in writing.**

Except as otherwise provided in this part, any request to the Administration for a determination or a decision relating to a person's right to benefits, the withdrawal of a claim, the cancellation of a request for such withdrawal, or any notice provided for pursuant to the regulations in this part 410, shall be in writing and shall be signed by the person authorized to execute a claim under § 410.222.

**§ 410.229 When written statement is considered a claim; general.**

(a) *Written statement filed by claimant on his own behalf.* Where an individual files a written statement with the Administration (see § 410.227) which indicates an intention to claim benefits, and such statement bears his signature or his mark properly witnessed, the filing of such written statement, unless otherwise indicated by the regulations in this part, shall be considered to be the filing of a claim for benefits: *Provided, That:*

(1) The claimant or a proper party on his behalf (see § 410.222) executes a prescribed application form (see § 410.221) that is filed with the Administration during the claimant's lifetime and within the period prescribed in paragraph (c)(1) of this section; or

(2) In the case of a claimant who dies prior to the filing of such prescribed application form within the period prescribed in paragraph (c)(1) of this section, a prescribed application form is filed with the Administration within the period prescribed in paragraph (c)(2) of this section by a party acting on behalf of the deceased claimant's estate.

(b) *Written statement filed by individual on behalf of another.* A written statement filed by an individual which indicates an intention to claim benefits on behalf of another person shall, unless otherwise indicated thereon, be considered to be the filing of a claim for such purposes: *Provided, That:*

(1) The written statement bears the signature (or mark properly witnessed) of the individual filing the statement; and

(2) The individual filing the statement is the spouse of the claimant on