

§ 410.361

than 3 months immediately prior to the day on which he died.

(2) *Accidental death.* For purposes of paragraph (b)(1)(i) of this section, the death of a miner is accidental if such individual receives bodily injuries solely through violent, external, and accidental means and, as a direct result of the bodily injuries and independently of all other causes, loses his life not later than 3 months after the day on which he receives such bodily injuries. The term *accident* means an event that was unpremeditated and unforeseen from the standpoint of the deceased individual. To determine whether the death of an individual did, in fact, result from an accident the Administration will consider all the circumstances surrounding the casualty. An intentional and voluntary suicide will not be considered to be death by accident; however, suicide by an individual who is so insane as to be incapable of acting intentionally and voluntarily will be considered to be death by accident. In no event will the death of an individual resulting from violent and external causes be considered a suicide unless there is direct proof that the fatal injury was self-inflicted.

(3) *Applicability.* The provisions of this paragraph shall not apply if the Administration determines that at the time of the marriage involved, the miner could not reasonably have been expected to live for 9 months.

[37 FR 20639, Sept. 30, 1972]

§ 410.361 Determination of dependency; surviving divorced wife.

An individual who is the miner's surviving divorced wife (see § 410.321) will be determined to have been dependent on the miner if, for the month preceding the month in which the miner died:

- (a) She was receiving at least one-half of her support from the miner (see § 410.395(g)); or
- (b) She was receiving substantial contributions from the miner pursuant to a written agreement (see § 410.395 (c) and (f)); or
- (c) There was in effect a court order for substantial contributions to her

support to be furnished by such miner (see § 410.395 (c) and (e)).

[37 FR 20639, Sept. 30, 1972]

§ 410.370 Determination of dependency; child.

For purposes of augmenting the benefits of a miner or widow (see § 410.510 (c)), the term *beneficiary* as used in this section means only a miner or widow entitled to benefits (see §§ 410.201 and 410.210); or, for purposes of an individual's entitlement to benefits as a surviving child (see § 410.212), the term *beneficiary* as used in this section means only a deceased miner (see § 410.200) or a deceased widow who was entitled to benefits for the month prior to the month of her death (see §§ 410.210 and 410.211). An individual who is the beneficiary's child (see § 410.330) will, as applicable, be determined to be, or to have been, dependent on the beneficiary, if the child:

- (a) Is unmarried; and
- (b)(1) Is under 18 years of age; or
- (2) Is 18 years of age or older and is under a disability as defined in section 223(d) of the Social Security Act, 42 U.S.C. 423(d) (see subpart P of part 404 of this chapter). For purposes of entitlement to benefits as a surviving child (see § 410.212), such disability must have begun:
 - (i) Before the child attained age 22; however, no entitlement to child's benefits may be established for any month before January 1973, based on a disability which began after attainment of age 18; or
 - (ii) In the case of a student, before he ceased to be a student (see paragraph (c) of this section); or
 - (3) Is 18 years of age or older and is a student.
 - (c)(1) The term *student* means a *full-time student* as defined in section 202(d)(7) of the Social Security Act, 42 U.S.C. 402(d)(7) (see § 404.320(c) of this chapter), or an individual under 23 years of age who has not completed 4 years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution which is:
 - (i) A school, college, or university operated or directly supported by the United States, or by a State or local