

## § 410.610

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§ 410.110(n)), as to the date the total disability began, and as to the date the total disability ceases, shall be made by the Administration on behalf of the Commissioner. The Administration shall make such determinations for individuals in any State which has not entered into an agreement to make such determinations, for any class or classes of individuals to which such an agreement is not applicable, or for any individuals outside the United States. In addition, all other determinations as to entitlement to and the amounts of benefits shall be made by the Administration on behalf of the Commissioner.

(c) *Review by Administration of State agency determinations.* The Administration may review a determination made by a State agency that a miner is under a total disability and, as a result of such review, may determine that such individual is not under a total disability, or that the total disability began on a date later than that determined by the State agency, or that the total disability ceased on a date earlier than that determined by the State agency.

(d) *Initial determinations as to entitlement or termination of entitlement.* After any determination as to whether an individual is under a total disability or has ceased to be under a total disability, the Administration shall make an initial determination (see § 410.610) with respect to entitlement to benefits.

(e) *Simultaneous claims.* The adjudication of any claim under this part shall not be delayed for the adjudication of any other benefit claim by the same individual pending before the Administration.

[36 FR 23760, Dec. 14, 1971, as amended at 37 FR 20651, Sept. 30, 1972; 62 FR 38453, July 18, 1997; 65 FR 16814, Mar. 30, 2000]

### **§ 410.610 Administrative actions that are initial determinations.**

(a) *Entitlement to benefits.* The Administration, subject to the limitations of a Federal-State agreement pursuant to section 413(b) of the Act (see § 410.601 (a)), shall make findings, setting forth the pertinent facts and conclusions, and an initial determination with respect to entitlement to benefits of any individual who has filed a claim for benefits. The determination shall in-

clude the amount, if any, to which the individual is entitled and, where applicable, such amount as reduced (see § 410.515), augmented or otherwise increased (see § 410.510).

(b) *Modification of the amount of benefits.* The Administration shall, under the circumstances hereafter stated in this paragraph, make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether:

(1) There should be a reduction under section 412(b) (or section 412(a)(5)) of the Act, and if a reduction is to be made, the amount thereof (see § 410.515(a)); or

(2) There has been an overpayment (see § 410.560) or an underpayment (see § 410.570) of benefits and, if so, the amount thereof, and the adjustment to be made by increasing or decreasing the monthly benefits to which a beneficiary is entitled (see § 410.515(b)), and, in the case of an underpayment due a deceased beneficiary, the person to whom the underpayment should be paid.

(c) *Termination of benefits.* The Administration, subject to the limitations of a Federal-State agreement pursuant to section 413(b) of the Act (see § 410.601 (a)), shall, with respect to a beneficiary who has been determined to be entitled to benefits, make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether, under the applicable provisions of part B of title IV of the Act, such beneficiary's entitlement to benefits has ended and, if so, the effective date of such termination.

(d) *Reinstatement of benefits.* The Administration shall, with respect to a beneficiary whose benefits have been determined to have ended under paragraph (c) of this section, make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether the individual is entitled to a reinstatement of benefits thus ended, and if so, the effective date of such reinstatement. Such findings of fact and determination shall be made whenever a party makes a written request for reinstatement or whenever evidence is received which justifies such reinstatement (see for example §§ 410.671 through 410.673).

(e) *Augmentation of benefits.* The Administration shall make findings, setting forth the pertinent facts and conclusions, and an initial determination, as to whether a beneficiary has or continues to have dependents who, at the appropriate time, qualify under the relationship, dependency, and other applicable requirements of subpart C of this part, for purposes of entitling such beneficiary to an augmentation of his benefits pursuant to §410.510(b).

(f) *Other increases in benefit amounts.* The Administration shall make findings, setting forth the pertinent facts and conclusions, and an initial determination, as to whether a beneficiary is entitled to an increase in benefits (other than an augmentation) pursuant to section 412(a) of the Act.

(g) *Applicant's failure to submit evidence.* If an individual fails to submit in support of his claim for benefits or request for augmentation or other increase of benefits, such evidence as may be requested by the Administration pursuant to §410.240 or any provision of the Act, the Administration may make an initial determination disallowing the individual's claim or his request for such augmentation or other increase. The initial determination, however, shall specify the conditions of entitlement to benefits or to an augmentation or other increase of benefits that the individual has failed to satisfy because of his failure to submit the requested evidence (see §410.240).

(h) *Failure to file or prosecute claim under applicable State workmen's compensation law.* The Administration shall make findings, setting forth the pertinent facts and conclusions, and an initial determination, as to whether an individual has failed to file or to prosecute a claim under the applicable State workmen's compensation law pursuant to §410.219.

(i) *Withdrawal of claim or cancellation of withdrawal request.* When a request for withdrawal of a claim, or a request for cancellation of a "request for withdrawal" of a claim, is denied by the Administration, the Administration shall make findings setting forth the pertinent facts and conclusions and an initial determination of denial.

(j) *Request for reimbursement for medical expenses—amount in controversy \$100 or more.* The Administration shall, with respect to a claimant who requests reimbursement for medical expenses (see §410.240(h)), make findings, setting forth the pertinent facts and conclusions and, where the amount in controversy is \$100 or more, an initial determination as to whether and the extent to which the expenses for which the reimbursement request is made are medical expenses reasonably incurred by the claimant in establishing his claim. (Also see §410.615(e).)

(k) *Waiver of adjustment or recovery of monthly benefits.* The Administration shall make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether there shall be no adjustment or recovery where an overpayment with respect to an individual has been made (see §410.561).

(l) *Need for representative payment.* The Social Security Administration shall make findings, setting forth the pertinent facts and conclusions and an initial determination in accordance with section 205(j) of the Social Security Act (42 U.S.C. 405(j)), as to:

(1) Whether representative payment shall serve the interests of an individual by reason of his incapacity to manage his benefit payments (see §410.581) except that findings as to incapacity with respect to an individual under age 18 or with respect to an individual adjudged legally incompetent shall not be considered initial determinations; and,

(2) Who shall be appointed or continued as representative payee on behalf of a beneficiary under this part.

(m) *Separate certification of payment to dependent.* Where the benefit of a miner or of a widow is increased ("augmented") because he or she has a qualified dependent (see §410.510(c)), and it appears to the Administration that it would be in the best interest of any such dependent to have the amount of the augmentation (to the extent attributable to such dependent) certified separately to such dependent (see §410.511(a)) or to a representative payee on his behalf (see §410.581), the Administration shall make findings, setting

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forth the pertinent facts and conclusions, and an initial determination, as to whether separate payment of an augmented amount should be certified (see § 410.511(a)).

(n) *Support of parent, brother, or sister.* The Administration shall make findings, setting forth the pertinent facts and conclusions, and an initial determination, as to whether a parent, brother, or sister, meets the requirements for support from the miner set forth in the pertinent provisions of section 412(a)(5) of the Act and whether proof of support was submitted to the Administration within the time limits set forth in the Act or under the provisions described in § 410.214(d).

[36 FR 23760, Dec. 14, 1971, as amended at 37 FR 20651, Sept. 30, 1972; 41 FR 30114, July 22, 1976]

### § 410.615 Administrative actions that are not initial determinations.

Administrative actions which shall not be considered initial determinations, but which may receive administrative review include, but are not limited to, the following:

(a) The suspension of benefits pursuant to the criteria in section 203(h)(3) of the Social Security Act (42 U.S.C. 403 (h)(3)), pending investigation and determination of any factual issue as to the applicability of a reduction under section 412(b) of the Act equivalent to the amount of a deduction because of excess earnings under section 203(b) of the Social Security Act (42 U.S.C. 403(b)) (see §§ 410.515(d) and 410.530).

(b) The denial of an application to be made representative payee for and on behalf of a beneficiary under part B of title IV of the Act (see § 410.581).

(c) The certification of any two or more individuals of the same family for joint payment of the total benefits payable to such individuals (see § 410.505).

(d) The withholding by the Administration in any month, for the purpose of recovering an overpayment, of less than the full amount of benefits otherwise payable in that month (see § 410.560(c)).

(e) The authorization approving or regulating the amount of the fee that may be charged or received by a rep-

resentative for services before the Administration (see § 410.686b(e)).

(f) The disqualification or suspension of an individual from acting as a representative in a proceeding before the Administration (see § 410.688).

(g) The determination by the Administration under the authority of the Federal Claims Collection Act (31 U.S.C. 951-953) not to compromise a claim for overpayment under part B of title IV of the Act, or not to suspend or terminate collection of such a claim, or the determination to compromise such a claim, including the compromise amount and the time and manner of payment (see § 410.565).

(h) Where the amount in controversy is less than \$100, the denial of a request for reimbursement of medical expenses (see § 410.240(h)) which are claimed to have been incurred by the claimant in establishing his claim for benefits, or the approval of such request for reimbursement in an amount less than the amount requested. (Also see § 410.610(j).)

(i) The determination by the Social Security Administration that an individual is not qualified for use of the expedited appeals process, as provided in § 410.629a.

(j) The denial by the Administration of a request to readjudicate a claim and apply an Acquiescence Ruling.

[37 FR 20651, Sept. 30, 1972, as amended at 40 FR 53387, Nov. 18, 1975; 41 FR 30114, July 22, 1976; 55 FR 1019, Jan. 11, 1990]

### § 410.620 Notice of initial determination.

Written notice of an initial determination shall be mailed to the party to the determination at his last known address, except that no such notice shall be required in the case of a determination that a party's entitlement to benefits has ended because of such party's death (see § 410.610(c)). If the initial determination disallows, in whole or in part, the claim of a party, or if the initial determination is to the effect that a party's entitlement to benefits has ended, or that a reduction or adjustment is to be made in benefits, the notice of the determination sent to the party shall state the specific reasons for the determination. Such notice shall also inform the party of the right