

§416.1339

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(2) If you are a student age 18 through 21 receiving services under an individualized education program described in paragraph (c)(4) of this section, you are participating in your program when you are taking part in the activities and services outlined in your program or plan.

(3) You are participating in your program under paragraph (d)(1) or (2) of this section during temporary interruptions in your program. For an interruption to be considered temporary, you must resume taking part in the activities and services outlined in your plan or program, as appropriate, no more than three months after the month the interruption occurred.

(e) *How will we determine whether or not your completion of the program, or your continuation in the program for a specified period of time, will increase the likelihood that you will not have to return to the disability or blindness benefit rolls?*

(1) We will determine that your completion of the program, or your continuation in the program for a specified period of time, will increase the likelihood that you will not have to return to the disability or blindness benefit rolls if your completion of or your continuation in the program will provide you with—

(i) Work experience (see §416.965) so that you would more likely be able to do past relevant work (see §416.960(b)), despite a possible future reduction in your residual functional capacity (see §416.945); or

(ii) Education (see §416.964) and/or skilled or semi-skilled work experience (see §416.968) so that you would more likely be able to adjust to other work that exists in the national economy (see §416.960(c)), despite a possible future reduction in your residual functional capacity (see §416.945).

(2) If you are a student age 18 through age 21 participating in an individualized education program described in paragraph (c)(4) of this section, we will find that your completion of or continuation in the program will increase the likelihood that you will not have to return to the disability or blindness benefit rolls.

(3) If you are receiving transition services after having completed an individualized education program as de-

scribed in paragraph (e)(2) of this section, we will determine that the transition services will increase the likelihood that you will not have to return to the disability benefit rolls if they meet the requirements in paragraph (e)(1) of this section.

[70 FR 36508, June 24, 2005]

**§416.1339 Suspension due to flight to avoid criminal prosecution or custody or confinement after conviction, or due to violation of probation or parole.**

(a) *Basis for suspension.* An individual is ineligible for SSI benefits for any month during which he or she is—

(1) Fleeing to avoid prosecution for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

(2) Fleeing to avoid custody or confinement after conviction for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

(3) Violating a condition of probation or parole imposed under Federal or State law.

(b) *Suspension effective date.* (1) Suspension of benefit payments because an individual is a fugitive as described in paragraph (a)(1) or (a)(2) of this section or a probation or parole violator as described in paragraph (a)(3) of this section is effective with the first day of whichever of the following months is earlier—

(i) The month in which a warrant or order for the individual's arrest or apprehension, an order requiring the individual's appearance before a court or other appropriate tribunal (e.g., a parole board), or similar order is issued by a court or other duly authorized tribunal on the basis of an appropriate finding that the individual—

(A) Is fleeing, or has fled, to avoid prosecution as described in paragraph (a)(1) of this section;

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(B) Is fleeing, or has fled, to avoid custody or confinement after conviction as described in paragraph (a)(2) of this section;

(C) Is violating, or has violated, a condition of his or her probation or parole as described in paragraph (a)(3) of this section; or

(ii) The first month during which the individual fled to avoid such prosecution, fled to avoid such custody or confinement after conviction, or violated a condition of his or her probation or parole, if indicated in such warrant or order, or in a decision by a court or other appropriate tribunal.

(2) An individual will not be considered to be ineligible for SSI benefits and benefit payments will not be suspended under this section for any month prior to August 1996.

(c) *Resumption of payments.* If benefits are otherwise payable, they will be resumed effective with the first month throughout which the individual is determined to be no longer fleeing to avoid such prosecution, fleeing to avoid such custody or confinement after conviction, or violating a condition of his or her probation or parole.

[65 FR 40495, June 30, 2000]

### § 416.1340 Penalty for making false or misleading statements or withholding information.

(a) *Why would SSA penalize me?* You will be subject to a penalty if:

(1) You make, or cause to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to, or the amount of, monthly insurance benefits under title II or benefits or payments under title XVI, that you know or should know is false or misleading; or

(2) You make a statement or representation of a material fact for use as described in paragraph (a)(1) of this section with knowing disregard for the truth; or

(3) You omit from a statement or representation made for use as described in paragraph (a)(1) of this section, or otherwise withhold disclosure (for example, fail to come forward to notify us) of, a fact which you know or should know is material to the determination of any initial or continuing right to, or the amount of, monthly insurance ben-

efits under title II or benefits or payments under title XVI, if you know, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading.

(b) *What is the penalty?* The penalty is ineligibility for cash benefits under title XVI (including State supplementary payments made by SSA according to § 416.2005) and nonpayment of any benefits under title II that we would otherwise pay you.

(c) *How long will the penalty last?* The penalty will last—

(1) Six consecutive months the first time we penalize you;

(2) Twelve consecutive months the second time we penalize you; and

(3) Twenty-four consecutive months the third or subsequent time we penalize you.

(d) *Will this penalty affect any of my other government benefits?* If we penalize you, the penalty will apply only to your eligibility for benefits under titles II and XVI (including State supplementary payments made by us according to § 416.2005). The penalty will not affect—

(1) Your eligibility for benefits that you would otherwise be eligible for under titles XVIII and XIX but for the imposition of the penalty; and

(2) The eligibility or amount of benefits payable under titles II or XVI to another person. For example, if you and your spouse are receiving title XVI benefits, those benefit payments to your spouse based on the benefit rate for a couple will not be affected because of the penalty. Your spouse will receive one half of the couple rate.

(e) *How will SSA make its decision to penalize me?* In order to impose a penalty on you, we must find that you knowingly (knew or should have known or acted with knowing disregard for the truth) made a false or misleading statement or omitted or failed to report a material fact if you knew, or should have known, that the omission or failure to disclose was misleading. We will base our decision to penalize you on the evidence and the reasonable inferences that can be drawn from that evidence, not on speculation or suspicion. Our decision to penalize you