

§ 416.998

month of nonpayment based on the prior administrative law judge hearing decision or dismissal order. Our notice explaining continued benefits will also tell you to report to us any changes or events that affect your receipt of benefits.

(3) When your case is remanded to an administrative law judge, and if you did *not* previously elect to have benefits continued pending an administrative law judge decision, we will send you a notice telling you that if you want to change that election, you must request to do so no later than 10 days after you receive our notice. If you do make this new election, and after we verify that you meet all the nonmedical requirements as explained in paragraph (e)(1) of this section, benefits will begin with the month of the Appeals Council remand order and will continue as stated in paragraph (e)(2) of this section.

(4) If a court orders that your case be sent back to us (remanded) and your case is sent to an administrative law judge for further action under the rules provided in § 416.1483, the administrative law judge's decision or dismissal order on your medical cessation appeal is vacated and is no longer in effect. You may be eligible for continued benefits pending a new decision by the administrative law judge or final action by the Appeals Council on the administrative law judge's recommended decision. In these court-remanded cases reaching the administrative law judge, we will follow the same rules provided in paragraph (e) (1), (2), and (3) of this section.

(f) *What if your benefits are suspended, reduced or terminated for other reasons.* If we determine that your payments should be reduced, suspended or terminated for reasons not connected with your medical condition (see subpart M of Regulations No. 16) benefits may be continued under the procedure described in § 416.1336.

(g) *Responsibility to pay back continued benefits.* (1) If the final decision of the Secretary affirms the determination that you are not entitled to benefits, you will be asked to pay back any continued benefits you receive. However, you will have the right to ask that you not be required to pay back the bene-

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fits as described in the overpayment recovery and waiver provisions of subpart E of this part.

(2) Waiver of recovery of an overpayment resulting from continued benefits to you may be considered as long as the cessation determination was appealed in good faith. We will assume that your appeal was made in good faith and, therefore, you have the right to waiver consideration *unless* you fail to cooperate in connection with the appeal, e.g., if you fail (without good reason) to give us medical or other evidence we request, or to go for a physical or mental examination when requested, in connection with the appeal. In determining whether you have good cause for failure to cooperate and, thus, whether an appeal was made in good faith, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) you may have which may have caused your failure to cooperate.

[53 FR 29023, Aug. 2, 1988; 53 FR 39015, Oct. 4, 1988, as amended at 59 FR 1637, Jan. 12, 1994]

§ 416.998 If you become disabled by another impairment(s).

If a new severe impairment(s) begins in or before the month in which your last impairment(s) ends, we will find that your disability is continuing. The new impairment(s) need not be expected to last 12 months or to result in death, but it must be severe enough to keep you from doing substantial gainful activity, or severe enough so that you are still disabled under § 416.994, or, if you are a child, to result in marked and severe functional limitations.

[62 FR 6432, Feb. 11, 1997]

§ 416.999 What is expedited reinstatement?

The expedited reinstatement provision provides you another option for regaining eligibility for benefits when we previously terminated your eligibility for disability benefits due to your work activity. The expedited reinstatement provision provides you the option of requesting that your prior eligibility for disability benefits be reinstated, rather than filing a new application for a new period of eligibility.

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Since January 1, 2001, you can request to be reinstated to benefits if you stop doing substantial gainful activity within 60 months of your prior termination. You must not be able to do substantial gainful activity because of your medical condition. Your current impairment must be the same as or related to your prior impairment and you must be disabled. To determine if you are disabled, we will use our medical improvement review standard that we use in our continuing disability review process. The advantage of using the medical improvement review standard is that we will generally find that you are disabled unless your impairment has improved so that you are able to work or unless an exception under the medical improvement review standard process applies. We explain the rules for expedited reinstatement in §§ 416.999a through 416.999d.

[70 FR 57144, Sept. 30, 2005]

§ 416.999a Who is eligible for expedited reinstatement?

(a) You can have your eligibility to benefits reinstated under expedited reinstatement if—

(1) You were previously eligible for a benefit based on disability or blindness as explained in § 416.202;

(2) Your disability or blindness eligibility referred to in paragraph (a)(1) of this section was terminated because of earned income or a combination of earned and unearned income;

(3) You file your request for reinstatement timely under § 416.999b; and

(4) In the month you file your request for reinstatement—

(i) You are not able to do substantial gainful activity because of your medical condition, as determined under paragraph (c) of this section,

(ii) Your current impairment is the same as or related to the impairment that we used as the basis for your previous eligibility referred to in paragraph (a)(2) of this section,

(iii) You are disabled or blind, as determined under the medical improvement review standard in §§ 416.994 or 416.994a, and

(iv) You meet the non-medical requirements for eligibility as explained in § 416.202.

(b) You are eligible for reinstatement if you are the spouse of an individual who can be reinstated under § 416.999a if—

(1) You were previously an eligible spouse of the individual;

(2) You meet the requirements for eligibility as explained in § 416.202 except the requirement that you must file an application; and

(3) You request reinstatement.

(c) We will determine that you are not able to do substantial gainful activity because of your medical condition, under paragraph (a)(4)(i) of this section, when:

(1) You certify under § 416.999b(e) that you are unable to do substantial gainful activity because of your medical condition;

(2) You do not do substantial gainful activity in the month you file your request for reinstatement; and

(3) We determine that you are disabled under paragraph (a)(4)(iii) of this section.

[70 FR 57144, Sept. 30, 2005]

§ 416.999b How do I request reinstatement?

(a) You must make your request for reinstatement in writing.

(b) You must have filed your request on or after January 1, 2001.

(c) You must provide the information we request so that we can determine whether you meet the eligibility requirements listed in § 416.999a.

(d) We must receive your request within the consecutive 60-month period that begins with the month in which your eligibility terminated due to earned income, or a combination of earned and unearned income. If we receive your request after the 60-month period, we can grant you an extension if we determine you had good cause, under the standards explained in § 416.1411, for not filing the request timely.

(e) You must certify that you are disabled, that your current impairment(s) is the same as or related to the impairment(s) that we used as the basis for the eligibility you are requesting to be reinstated, that you are unable to do substantial gainful activity because of your medical condition, and that you