

Social Security Administration

§ 416.999b

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.

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§ 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

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meet the non-medical requirements for eligibility for benefits.

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§ 416.999c How do we determine provisional benefits?

(a) You may receive up to six consecutive months of provisional cash benefits and Medicaid during the provisional benefit period, while we determine whether we can reinstate your disability benefit eligibility under § 416.999a—

(1) We will pay you provisional benefits beginning with the month after you file your request for reinstatement under § 416.999a(a).

(2) If you are an eligible spouse, you can receive provisional benefits with the month your spouse's provisional benefits begin.

(3) If you do not have an eligible spouse, we will pay you a monthly provisional benefit amount equal to the monthly amount that would be payable to an eligible individual under §§ 416.401 through 416.435 with the same kind and amount of income as you have.

(4) If you have an eligible spouse, we will pay you and your spouse a monthly provisional benefit amount equal to the monthly amount that would be payable to an eligible individual and eligible spouse under § 416.401 through 416.435 with the same kind and amount of income as you and your spouse have.

(5) Your provisional benefits will not include state supplementary payments payable under §§ 416.2001 through 416.2176.

(b) You cannot receive provisional cash benefits or Medicaid a second time under this section when—

(1) You request reinstatement under § 416.999a;

(2) You previously received provisional cash benefits or Medicaid under this section based upon a prior request for reinstatement filed under § 416.999a(a); and

(3) Your requests under paragraphs (b)(1) and (b)(2) are for the same previous disability eligibility referred to in § 416.999a(a)(2) of this section.

(4) *Examples:*

Example 1: Mr. K files a request for reinstatement in April 2004. His disability benefit had previously terminated in January 2003. Since Mr. K meets the other factors for

possible reinstatement (*i.e.*, his prior eligibility was terminated within the last 60 months because of his work activity) we start paying him provisional benefits beginning May 2004 while we determine whether he is disabled and whether his current impairment(s) is the same as or related to the impairment(s) that we used as the basis for the benefit that was terminated in January 2003. In July 2004 we determine that Mr. K cannot be reinstated because he is not disabled under the medical improvement review standard; therefore we stop his provisional benefits. Mr. K does not request review of the determination. In January 2005 Mr. K again requests reinstatement on the eligibility that terminated in January 2003. Since this request again meets all the other factors for possible reinstatement mentioned above, and his request is still within 60 months from January 2003, we will make a new determination on whether he is disabled and whether his current impairment(s) is the same as or related to the impairment(s) that we used as the basis for the benefit that was terminated in January 2003. Since the January 2005 request and the April 2004 request both request reinstatement on the same benefit that terminated in January 2003, and since we already paid Mr. K provisional benefits based upon the April 2004 request, we will not pay additional provisional benefits on the January 2005 request for reinstatement.

Example 2: Assume the same facts as shown in Example 1 of this section, with the addition of these facts. We approve Mr. K's January 2005 request for reinstatement and start his reinstated benefits beginning February 2005. Mr. K subsequently returns to work and his benefits are again terminated due to his work activity in January 2008. Mr. K again stops work and requests reinstatement in January 2010. Since Mr. K meets the other factors for possible reinstatement (*i.e.*, his prior eligibility was terminated within the last 60 months because of his work activity) we start paying him provisional benefits beginning February 2010 while we determine whether he is disabled and whether his current impairment(s) is the same as or related to the impairment(s) that we used as the basis for the benefit that was terminated in January 2008.

(c) We will not pay you a provisional benefit for a month where you are not eligible for a payment under §§ 416.1322, 416.1323, 416.1325, 416.1327, 416.1329, 416.1330, 416.1334, and 416.1339.

(d) We will not pay you a provisional benefit for any month that is after the earliest of either: the month we send you notice of our determination on your request for reinstatement; or, the