

comes certifiable as a qualified railroad retirement beneficiary. An individual who would have met the preceding requirements of this subsection in any month had he filed application under paragraph (5) hereof before the end of such month shall be deemed to have met such requirements in such month if he files such application before the end of the twelfth month following such month. No application under this section which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraphs (1), (2), (3), and (4) shall be accepted as an application for purposes of this section.

**(b) Persons ineligible**

The provisions of subsection (a) of this section shall not apply to any individual who—

(1) is, at the beginning of the first month in which he meets the requirements of subsection (a), a member of any organization referred to in section 410(a)(17) of this title,

(2) has, prior to the beginning of such first month, been convicted of any offense listed in section 402(u) of this title, or

(3)(A) at the beginning of such first month is covered by an enrollment in a health benefits plan under chapter 89 of title 5,

(B) was so covered on February 16, 1965, or

(C) could have been so covered for such first month if he or some other person had availed himself of opportunities to enroll in a health benefits plan under such chapter and to continue such enrollment (but this subparagraph shall not apply unless he or such other person was a Federal employee at any time after February 15, 1965).

Paragraph (3) shall not apply in the case of any individual for the month (or any month thereafter) in which coverage under such a health benefits plan ceases (or would have ceased if he had had such coverage) by reason of his or some other person's separation from Federal service, if he or such other person was not (or would not have been) eligible to continue such coverage after such separation.

**(c) Authorization of appropriations**

There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund (established by section 1395i of this title) from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

(1) payments made or to be made during such fiscal year from such Trust Fund under part A of subchapter XVIII of this chapter with respect to individuals who are entitled to hospital insurance benefits under section 426 of this title solely by reason of this section,

(2) the additional administrative expenses resulting or expected to result therefrom, and

(3) any loss in interest to such Trust Fund resulting from the payment of such amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year in which it would have been if the preceding subsections of this section had not been enacted.

(Pub. L. 89-97, title I, §103, July 30, 1965, 79 Stat. 333; Pub. L. 90-248, title I, §139, title IV, §403(h), Jan. 2, 1968, 81 Stat. 854, 932.)

REFERENCES IN TEXT

Sections 228e(1) and 228s-2 of title 45, referred to in subsec. (a)(2), (3), are references to sections 5(1) and 21 of the Railroad Retirement Act of 1937. That Act was amended in its entirety and completely revised by Pub. L. 93-445, Oct. 16, 1974, 88 Stat. 1305. That Act, as thus amended and revised, was redesignated the Railroad Retirement Act of 1974, and is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45, Railroads. Sections 228e and 228s-2 of title 45 are covered by sections 231e and 231f of Title 45, respectively.

CODIFICATION

Section was not enacted as part of the Social Security Act which comprises this chapter.

AMENDMENTS

1968—Subsec. (a)(2)(B). Pub. L. 90-248, §139, substituted "1966" for "1965".

Subsec. (b)(3)(A), (C). Pub. L. 90-248, §403(h)(1), (2), substituted "chapter 89 of title 5" and "such chapter" for "the Federal Employees Health Benefits Act of 1959" and "such Act" in subpars. (A) and (C), respectively.

**§ 427. Transitional insured status for purposes of old-age and survivors benefits**

**(a) Determination of entitlement to benefits under section 402(a) to (c) of this title**

In the case of any individual who attains the age of 72 before 1969 but who does not meet the requirements of section 414(a) of this title, the 6 quarters of coverage referred to in paragraph (1) of section 414(a) of this title shall, instead, be 3 quarters of coverage for purposes of determining entitlement of such individual to benefits under section 402(a) of this title, and of the spouse to benefits under section 402(b) or section 402(c) of this title, but, in the case of such spouse, only if he or she attains the age of 72 before 1969 and only with respect to spouse's insurance benefits under section 402(b) or section 402(c) of this title for and after the month in which he or she attains such age. For each month before the month in which any such individual meets the requirements of section 414(a) of this title, the amount of the old-age insurance benefit shall, notwithstanding the provisions of section 402(a) of this title, be the larger of \$64.40 or the amount most recently established in lieu thereof under section 415(i) of this title and the amount of the spouse's insurance benefit of the spouse shall, notwithstanding the provisions of section 402(b) or section 402(c) of this title, be the larger of \$32.20 or the amount most recently established in lieu thereof under section 415(i) of this title.

**(b) Determination of entitlement to surviving spouse's benefits under section 402(e) or (f) of this title**

In the case of any individual who has died, who does not meet the requirements of section 414(a) of this title, and whose surviving spouse attains age 72 before 1969, the 6 quarters of coverage referred to in paragraph (3) of section 414(a) of this title and in paragraph (1) thereof shall, for purposes of determining the entitlement to surviving spouse's insurance benefits under section 402(e) or section 402(f) of this title, instead be—

(1) 3 quarters of coverage if such surviving spouse attains the age of 72 in or before 1966,

(2) 4 quarters of coverage if such surviving spouse attains the age of 72 in 1967, or

(3) 5 quarters of coverage if such surviving spouse attains the age of 72 in 1968.

The amount of the surviving spouse's insurance benefit for each month shall, notwithstanding the provisions of section 402(e) or section 402(f) of this title (and section 402(m)<sup>1</sup> of this title), be the larger of \$64.40 or the amount most recently established in lieu thereof under section 415(i) of this title.

**(c) Deceased individual entitled to benefits by reason of subsection (a) deemed to meet requirements of subsection (b)**

In the case of any individual who becomes, or upon filing application therefor would become, entitled to benefits under section 402(a) of this title by reason of the application of subsection (a) of this section, who dies, and whose surviving spouse attains the age of 72 before 1969, such deceased individual shall be deemed to meet the requirements of subsection (b) of this section for purposes of determining entitlement of such surviving spouse to surviving spouse's insurance benefits under section 402(e) or section 402(f) of this title.

(Aug. 14, 1935, ch. 531, title II, § 227, as added Pub. L. 89-97, title III, § 309(a), July 30, 1965, 79 Stat. 379; amended Pub. L. 90-248, title I, § 102(a), Jan. 2, 1968, 81 Stat. 827; Pub. L. 91-172, title X, § 1003(a), Dec. 30, 1969, 83 Stat. 740; Pub. L. 92-5, title II, § 202(a), Mar. 17, 1971, 85 Stat. 10; Pub. L. 92-336, title II, § 201(g)(1), July 1, 1972, 86 Stat. 411; Pub. L. 92-603, title I, § 104 (e), (f), Oct. 30, 1972, 86 Stat. 1340; Pub. L. 93-233, § 2(b)(1), Dec. 31, 1973, 87 Stat. 952; Pub. L. 98-21, title III, § 304(a), (b), Apr. 20, 1983, 97 Stat. 112.)

REFERENCES IN TEXT

Section 402(m) of this title, referred to in subsec. (b), was repealed by Pub. L. 97-35, title XXII, § 2201(b)(10), Aug. 13, 1981, 95 Stat. 831.

AMENDMENTS

1983—Subsec. (a). Pub. L. 98-21, § 304(a), substituted "spouse" for "wife", "spouse's" for "wife's", and "he or she" for "she", wherever appearing, substituted "the" for "his" after "402(a) of this title, and of" and preceding "spouse" in two places and preceding "old-age insurance", and inserted "or section 402(c)" after "section 402(b)" wherever appearing.

Subsec. (b). Pub. L. 98-21, § 304(b), substituted "surviving spouse" for "widow" and "surviving spouse's" for "widow's" wherever appearing, substituted "the" for "her" after "determining" and "The amount of", and inserted "or section 402(f)" after "section 402(e)" wherever appearing.

Subsec. (c). Pub. L. 98-21, § 304(b)(1), (2), (4), substituted "surviving spouse" for "widow" wherever appearing and "surviving spouse's" for "widow's", and inserted "or section 402(f)" after "section 402(e)".

1973—Subsec. (a). Pub. L. 93-233, § 2(b)(1), substituted "the larger of \$64.40 or the amount most recently established in lieu thereof under section 415(i) of this title" for "\$58.00" and "the larger of \$32.20 or the amount most recently established in lieu thereof under section 415(i) of this title" for "\$29.00".

Subsec. (b). Pub. L. 93-233, § 2(b)(1), substituted "the larger of \$64.40 or the amount most recently established in lieu thereof under section 415(i) of this title" for "\$58.00".

1972—Subsec. (a). Pub. L. 92-336, § 201(g)(1)(A), substituted "\$58.00" for "\$48.30" and "\$29.00" for "\$24.20".

Subsec. (a)(1). Pub. L. 92-603, § 104(e), substituted "paragraph (1) of section 414(a) of this title" for "so much of paragraph (1) of section 414(a) of this title as follows clause (C)".

Subsec. (b). Pub. L. 92-336, § 201(g)(1)(B), substituted "\$58.00" for "\$48.30".

Subsec. (b)(1). Pub. L. 92-603, § 104(f), substituted "paragraph (1) thereof" for "so much of paragraph (1) thereof as follows clause (C)".

1971—Subsec. (a). Pub. L. 92-5, § 202(a)(1), substituted "\$48.30" for "\$46" and "\$24.20" for "\$23".

Subsec. (b). Pub. L. 92-5, § 202(a)(2), substituted "\$48.30" for "\$46".

1969—Subsec. (a). Pub. L. 91-172, § 1003(a)(1), substituted "\$46" for "\$40", and "\$23" for "\$20".

Subsec. (b). Pub. L. 91-172, § 1003(a)(2), substituted "\$46" for "\$40".

1968—Subsec. (a). Pub. L. 90-248, § 102(a)(1), substituted "\$40" for "\$35" and "\$20" for "\$17.50".

Subsec. (b). Pub. L. 90-248, § 102(a)(2), substituted "\$40" for "\$35".

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-21 applicable only with respect to monthly payments payable under this subchapter for months after April 1983, see section 310 of Pub. L. 98-21 set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 2(b)(1) of Pub. L. 93-233 provided that the amendment made by that section is effective June 1, 1974.

Amendment by Pub. L. 93-233 applicable with respect to monthly benefits under this subchapter for months after May 1974, and with respect to lump-sum death payments under section 402(i) of this title, see section 2(c) of Pub. L. 93-233, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1972 AMENDMENTS

Amendment by Pub. L. 92-603 applicable only in the case of a man who attains (or would attain) age 62 after December 1974, see section 104(j) of Pub. L. 92-603, set out as a note under section 414 of this title.

Amendment by Pub. L. 92-336 applicable with respect to monthly benefits under subchapter II of this chapter for months after August 1972, see section 201(i) of Pub. L. 92-336, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 202(c) of Pub. L. 92-5 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 428 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1970."

EFFECTIVE DATE OF 1969 AMENDMENT

Section 1003(c) of Pub. L. 91-172 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 428 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1969."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 102(c) of Pub. L. 90-248 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 428 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after January 1968."

EFFECTIVE DATE

Section 309(b) of Pub. L. 89-97 provided that: "The amendment made by subsection (a) [enacting this sec-

<sup>1</sup> See References in Text note below.

tion] shall apply in the case of monthly benefits under title II of the Social Security Act [this subchapter] for and after the second month following the month [July 1965] in which this Act is enacted on the basis of applications filed in or after the month in which this Act is enacted."

REPEAL OF AMENDMENT OF SUBSECS. (a) AND (b) PRIOR TO EFFECTIVE DATE

Section 202(a)(4) of Pub. L. 92-336, title II, July 1, 1972, 86 Stat. 416, which, effective Jan. 1, 1975, substituted "the larger of \$58.00 or the amount most recently established in lieu thereof under section 415(i) of this title" for "\$58.00" and "the larger of \$29.00 or the amount most recently established in lieu thereof under section 415(i) of this title" for "\$29.00", was repealed prior to its effective date by Pub. L. 93-233, §2(b)(2), Dec. 31, 1973, 87 Stat. 952, applicable with respect to monthly benefits under this subchapter for months after May 1974, and with respect to lump-sum death payments under section 402(i) of this title. See section 2(c) of Pub. L. 93-233, set out as an Effective Date of 1973 Amendment note under section 415 of this title.

**§ 428. Benefits at age 72 for certain uninsured individuals**

**(a) Eligibility**

Every individual who—

(1) has attained the age of 72,

(2)(A) attained such age before 1968, or (B)(i) attained such age after 1967 and before 1972, and (ii) has not less than 3 quarters of coverage, whenever acquired, for each calendar year elapsing after 1966 and before the year in which he or she attained such age,

(3) is a resident of the United States (as defined in subsection (e) of this section), and is (A) a citizen of the United States or (B) an alien lawfully admitted for permanent residence who has resided in the United States (as defined in section 410(i) of this title) continuously during the 5 years immediately preceding the month in which he or she files application under this section, and

(4) has filed application for benefits under this section,

shall (subject to the limitations in this section) be entitled to a benefit under this section for each month beginning with the first month after September 1966 in which he or she becomes so entitled to such benefits and ending with the month preceding the month in which he or she dies. No application under this section which is filed by an individual more than 3 months before the first month in which he or she meets the requirements of paragraphs (1), (2), and (3) shall be accepted as an application for purposes of this section.

**(b) Amount of benefits**

The benefit amount to which an individual is entitled under this section for any month shall be the larger of \$64.40 or the amount most recently established in lieu thereof under section 415(i) of this title.

**(c) Reduction for government pension system benefits**

(1) The benefit amount of any individual under this section for any month shall be reduced (but not below zero) by the amount of any periodic benefit under a governmental pension system for which he or she is eligible for such month.

(2) In the case of a husband and wife only one of whom is entitled to benefits under this section for any month, the benefit amount, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the spouse who is not entitled to benefits under this section is eligible for such month, over (B) the benefit amount as determined without regard to this subsection.

(3) In the case of a husband or wife both of whom are entitled to benefits under this section for any month, the benefit amount of each spouse, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the other spouse is eligible for such month, over (B) the benefit amount of such other spouse as determined without regard to this subsection.

(4) For purposes of this subsection, in determining whether an individual is eligible for periodic benefits under a governmental pension system—

(A) such individual shall be deemed to have filed application for such benefits,

(B) to the extent that entitlement depends on an application by such individual's spouse, such spouse shall be deemed to have filed application, and

(C) to the extent that entitlement depends on such individual or his or her spouse having retired, such individual and his or her spouse shall be deemed to have retired before the month for which the determination of eligibility is being made.

(5) For purposes of this subsection, if any periodic benefit is payable on any basis other than a calendar month, the Commissioner of Social Security shall allocate the amount of such benefit to the appropriate calendar months.

(6) If, under the foregoing provisions of this section, the amount payable for any month would be less than \$1, such amount shall be reduced to zero. In the case of a husband and wife both of whom are entitled to benefits under this section for the month, the preceding sentence shall be applied with respect to the aggregate amount so payable for such month.

(7) If any benefit amount computed under the foregoing provisions of this section is not a multiple of \$0.10, it shall be raised to the next higher multiple of \$0.10.

(8) Under regulations prescribed by the Commissioner of Social Security, benefit payments under this section to an individual (or aggregate benefit payments under this section in the case of a husband and wife) of less than \$5 may be accumulated until they equal or exceed \$5.

**(d) Suspension for months in which cash payments are made under public assistance or in which supplemental security income benefits are payable**

The benefit to which any individual is entitled under this section for any month shall not be paid for such month if—

(1) such individual receives aid or assistance in the form of money payments in such month