

Pub. L. 98-460, set out as a note under section 423 of this title.

PROMULGATION OF REGULATIONS

For provisions requiring the Secretary of Health and Human Services to prescribe regulations necessary to implement amendment to subsec. (i)(2)(D) of this section by section 2(b) of Pub. L. 98-460 not later than 180 days after Oct. 9, 1984, see section 2(g) of Pub. L. 98-460, set out as a note under section 423 of this title.

STUDY OF EFFECT OF RAISING RETIREMENT AGE ON THOSE UNLIKELY TO BENEFIT FROM IMPROVEMENTS IN LONGEVITY

Pub. L. 98-21, title II, §201(d), Apr. 20, 1983, 97 Stat. 109, required the Secretary to conduct a comprehensive study and analysis of the implications of the changes made by this section (amending sections 402, 403, 415, 416, and 423 of this title) in retirement age in the case of certain individuals and submit to Congress no later than January 1, 1986, a full report on the study and analysis, including any recommendations for legislative changes.

SPECIAL INSURED STATUS TEST IN CERTAIN CASES FOR DISABILITY PURPOSES

Pub. L. 86-778, title IV, §404, Sept. 13, 1960, 74 Stat. 970, provided that:

“(a) In the case of any individual who does not meet the requirements of section 216(i)(3) of the Social Security Act [subsec. (i)(3) of this section] with respect to any quarter, or who is not insured for disability insurance benefits as determined under section 223(c)(1) of such Act [section 423(c)(1) of this title] with respect to any month in a quarter, such individual shall be deemed to have met such requirements with respect to such quarter or to be so insured with respect to such month of such quarter, as the case may be, if—

“(1) he had a total of not less than twenty quarters of coverage (as defined in section 213 of such Act [section 413 of this title]) during the period ending with the close of such quarter, and

“(2) all of the quarters elapsing after 1950 and up to but excluding such quarter were quarters of coverage with respect to him and there were not fewer than six such quarters of coverage.

“(b) Subsection (a) shall apply only in the case of applications for disability insurance benefits under section 223 of the Social Security Act, or for disability determinations under section 216(i) of such Act, filed in or after the month in which this Act is enacted [September 1960], and then only with respect to an individual who, but for such subsection (a), would not meet the requirements for a period of disability under section 216(i) with respect to the quarter in which this Act is enacted or any prior quarter and would not meet the requirements for benefits under section 223 with respect to the month in which this Act is enacted or any prior month. No benefits under title II of the Social Security Act [this subchapter] for the month in which this Act is enacted or any prior month shall be payable or increased by reason of the amendment made by such subsection.”

§ 417. Benefits for veterans

(a) Determination of benefits

(1) For purposes of determining entitlement to and the amount of any monthly benefit for any month after August 1950, or entitlement to and the amount of any lump-sum death payment in case of a death after such month, payable under this subchapter on the basis of the wages and self-employment income of any World War II veteran, and for purposes of section 416(i)(3) of this title, such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of \$160 in each month

during any part of which he served in the active military or naval service of the United States during World War II. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon the active military or naval service of such veteran during World War II is determined by any agency or wholly owned instrumentality of the United States (other than the Department of Veterans Affairs) to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) of this paragraph shall not apply in the case of any monthly benefit or lump-sum death payment under this subchapter if its application would reduce by \$0.50 or less the primary insurance amount (as computed under section 415 of this title prior to any recomputation thereof pursuant to section 415(f) of this title) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) of this paragraph shall also not apply for purposes of section 416(i)(3) of this title.

(2) Upon application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any World War II veteran, the Commissioner of Social Security shall make a decision without regard to clause (B) of paragraph (1) of this subsection unless the Commissioner has been notified by some other agency or instrumentality of the United States that, on the basis of the military or naval service of such veteran during World War II, a benefit described in clause (B) of paragraph (1) of this subsection has been determined by such agency or instrumentality to be payable by it. If the Commissioner has not been so notified, the Commissioner of Social Security shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (1) of this subsection is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Commissioner of Social Security, and the Commissioner of Social Security shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection.

(3) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on military or naval service during World War II shall, at the request of the Commissioner of Social Security, certify to the Commissioner, with respect to any veteran, such information as the Commissioner of Social Security deems necessary to carry out the Commissioner's functions under paragraph (2) of this subsection.

(b) Determination of insurance status

(1) Subject to paragraph (3), any World War II veteran who died during the period of three years immediately following his separation from the active military or naval service of the United States shall be deemed to have died a fully insured individual whose primary insurance amount is the amount determined under section 415(c) of this title as in effect in December 1978. Notwithstanding section 415(d) of this title as in effect in December 1978, the primary insurance benefit (for purposes of section 415(c) of this title as in effect in December 1978) of such veteran shall be determined as provided in this subchapter as in effect prior to August 28, 1950, except that the 1 per centum addition provided for in section 409(a)(4)(B) of this title as in effect prior to August 28, 1950, shall be applicable only with respect to calendar years prior to 1951. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application;

(B) any pension or compensation is determined by the Secretary of Veterans Affairs to be payable by him on the basis of the death of such veteran;

(C) the death of the veteran occurred while he was in the active military or naval service of the United States; or

(D) such veteran has been discharged or released from the active military or naval service of the United States subsequent to July 26, 1951.

(2) Upon an application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any World War II veteran, the Commissioner of Social Security shall make a decision without regard to paragraph (1)(B) of this subsection unless the Commissioner has been notified by the Secretary of Veterans Affairs that pension or compensation is determined to be payable by that Secretary by reason of the death of such veteran. The Commissioner of Social Security shall thereupon report such decision to the Secretary of Veterans Affairs. If the Secretary of Veterans Affairs in any such case has made an adjudication or thereafter makes an adjudication that any pension or compensation is payable under any law administered by it, the Secretary of Veterans Affairs shall notify the Commissioner of Social Security, and the Commissioner of Social Security shall certify no further benefits for payment, or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection. Any payments theretofore certified by the Commissioner of Social Security on the basis of paragraph (1) of this subsection to any individual, not exceeding the amount of any accrued pension or compensation payable to him by the Secretary of Veterans Affairs, shall (notwithstanding the provisions of section 5301 of title 38) be deemed to have been paid to him by that Secretary on account of such accrued pension or compensation. No such payment certified by the Commissioner of Social Security, and no payment certified by

the Commissioner for any month prior to the first month for which any pension or compensation is paid by the Secretary of Veterans Affairs shall be deemed by reason of this subsection to have been an erroneous payment.

(3)(A) The preceding provisions of this subsection shall apply for purposes of determining the entitlement to benefits under section 402 of this title, based on the primary insurance amount of the deceased World War II veteran, of any surviving individual only if such surviving individual makes application for such benefits before the end of the 18-month period after November 1990.

(B) Subparagraph (A) shall not apply if any person is entitled to benefits under section 402 of this title based on the primary insurance amount of such veteran for the month preceding the month in which such application is made.

(c) Filing proof of support

In the case of any World War II veteran to whom subsection (a) of this section is applicable, proof of support required under section 402(h) of this title may be filed by a parent at any time prior to July 1951 or prior to the expiration of two years after the date of the death of such veteran, whichever is the later.

(d) Definitions

For the purposes of this section—

(1) The term “World War II” means the period beginning with September 16, 1940, and ending at the close of July 24, 1947.

(2) The term “World War II veteran” means any individual who served in the active military or naval service of the United States at any time during World War II and who, if discharged or released therefrom, was so discharged or released under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty; but such term shall not include any individual who died while in the active military or naval service of the United States if his death was inflicted (other than by an enemy of the United States) as lawful punishment for a military or naval offense.

(e) Determination based on wages and self-employment

(1) For purposes of determining entitlement to and the amount of any monthly benefit or lump-sum death payment payable under this subchapter on the basis of wages and self-employment income of any veteran (as defined in paragraph (4) of this subsection), and for purposes of section 416(i)(3) of this title, such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of \$160 in each month during any part of which he served in the active military or naval service of the United States on or after July 25, 1947, and prior to January 1, 1957. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump sum unless it is a commutation of, or

a substitute for, periodic payments) which is based, in whole or in part, upon the active military or naval service of such veteran on or after July 25, 1947, and prior to January 1, 1957, is determined by any agency or wholly owned instrumentality of the United States (other than the Department of Veterans Affairs) to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) of this paragraph shall not apply in the case of any monthly benefit or lump-sum death payment under this subchapter if its application would reduce by \$0.50 or less the primary insurance amount (as computed under section 415 of this title prior to any recomputation thereof pursuant to subsection (f) of section 415 of this title) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) of this paragraph shall also not apply for purposes of section 416(i)(3) of this title. In the case of monthly benefits under this subchapter for months after December 1956 (and any lump-sum death payment under this subchapter with respect to a death occurring after December 1956) based on the wages and self-employment income of a veteran who performed service (as a member of a uniformed service) to which the provisions of section 410(l)(1) of this title are applicable, wages which would, but for the provisions of clause (B) of this paragraph, be deemed under this subsection to have been paid to such veteran with respect to his active military or naval service performed after December 1950 shall be deemed to have been paid to him with respect to such service notwithstanding the provisions of such clause, but only if the benefits referred to in such clause which are based (in whole or in part) on such service are payable solely by the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, National Oceanic and Atmospheric Administration Corps, or Public Health Service.

(2) Upon application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any veteran, the Commissioner of Social Security shall make a decision without regard to clause (B) of paragraph (1) of this subsection unless the Commissioner has been notified by some other agency or instrumentality of the United States that, on the basis of the military or naval service of such veteran on or after July 25, 1947, and prior to January 1, 1957, a benefit described in clause (B) of paragraph (1) of this subsection has been determined by such agency or instrumentality to be payable by it. If the Commissioner has not been so notified, the Commissioner of Social Security shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (1) of this subsection is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Commissioner of Social Security, and the Commissioner of Social Security shall certify no further benefits for payment or shall recompute the amount of any further bene-

fits payable, as may be required by paragraph (1) of this subsection.

(3) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on military or naval service on or after July 25, 1947, and prior to January 1, 1957, shall, at the request of the Commissioner of Social Security, certify to the Commissioner, with respect to any veteran, such information as the Commissioner of Social Security deems necessary to carry out the Commissioner's functions under paragraph (2) of this subsection.

(4) For the purposes of this subsection, the term "veteran" means any individual who served in the active military or naval service of the United States at any time on or after July 25, 1947, and prior to January 1, 1957, and who, if discharged or released therefrom, was so discharged or released under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty; but such term shall not include any individual who died while in the active military or naval service of the United States if his death was inflicted (other than by an enemy of the United States) as lawful punishment for a military or naval offense.

(f) Right to annuity; waiver

(1) In any case where a World War II veteran (as defined in subsection (d)(2) of this section) or a veteran (as defined in subsection (e)(4) of this section) has died or shall hereafter die, and his or her surviving spouse or child is entitled under subchapter III of chapter 83 of title 5 to an annuity in the computation of which his or her active military or naval service was included, clause (B) of subsection (a)(1) of this section or clause (B) of subsection (e)(1) of this section shall not operate (solely by reason of such annuity) to make such subsection inapplicable in the case of any monthly benefit under section 402 of this title which is based on his or her wages and self-employment income; except that no such surviving spouse or child shall be entitled under section 402 of this title to any monthly benefit in the computation of which such service is included by reason of this subsection (A) unless such surviving spouse or child after December 1956 waives his or her right to receive such annuity, or (B) for any month prior to the first month with respect to which the Director of the Office of Personnel Management certifies to the Commissioner of Social Security that (by reason of such waiver) no further annuity will be paid to such surviving spouse or child under such subchapter III on the basis of such veteran's military or civilian service. Any such waiver shall be irrevocable.

(2) Whenever a surviving spouse waives his or her right to receive such annuity such waiver shall constitute a waiver on his or her own behalf; a waiver by a legal guardian or guardians, or, in the absence of a legal guardian, the person (or persons) who has the child in his or her care, of the child's right to receive such annuity shall constitute a waiver on behalf of such child. Such a waiver with respect to an annuity based on a

veteran's service shall be valid only if the surviving spouse and all children, or, if there is no surviving spouse, all the children, waive their rights to receive annuities under subchapter III of chapter 83 of title 5 based on such veteran's military or civilian service.

(g) Appropriation to trust funds

(1) Within thirty days after April 20, 1983, the Commissioner of Social Security shall determine the amount equal to the excess of—

(A) the actuarial present value as of April 20, 1983, of the past and future benefit payments from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund under this subchapter and subchapter XVIII of this chapter, together with associated administrative costs, resulting from the operation of this section (other than this subsection) and section 410 of this title as in effect before the enactment of the Social Security Amendments of 1950,¹ over

(B) any amounts previously transferred from the general fund of the Treasury to such Trust Funds pursuant to the provisions of this subsection as in effect immediately before April 20, 1983.

Such actuarial present value shall be based on the relevant actuarial assumptions set forth in the report of the Board of Trustees of each such Trust Fund for 1983 under sections 401(c) and 1395i(b) of this title. Within thirty days after April 20, 1983, the Secretary of the Treasury shall transfer the amount determined under this paragraph with respect to each such Trust Fund to such Trust Fund from amounts in the general fund of the Treasury not otherwise appropriated.

(2) The Commissioner of Social Security shall revise the amount determined under paragraph (1) with respect to each such Trust Fund in 1985 and each fifth year thereafter, as determined appropriate by the Commissioner of Social Security from data which becomes available to the Commissioner after the date of the determination under paragraph (1) on the basis of the amount of benefits and administrative expenses actually paid from such Trust Fund under this subchapter or subchapter XVIII of this chapter and the relevant actuarial assumptions set forth in the report of the Board of Trustees of such Trust Fund for such year under section 401(c) or 1395i(b) of this title. Within 30 days after any such revision, the Secretary of the Treasury, to the extent provided in advance in appropriation Acts, shall transfer to such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, or from such Trust Fund to the general fund of the Treasury, such amounts as the Secretary of the Treasury determines necessary to take into account such revision.

(h) Determination of veterans status

(1) For the purposes of this section, any individual who the Commissioner of Social Security finds—

(A) served during World War II (as defined in subsection (d)(1) of this section) in the active

military or naval service of a country which was on September 16, 1940, at war with a country with which the United States was at war during World War II;

(B) entered into such active service on or before December 8, 1941;

(C) was a citizen of the United States throughout such period of service or lost his United States citizenship solely because of his entrance into such service;

(D) had resided in the United States for a period or periods aggregating four years during the five-year period ending on the day of, and was domiciled in the United States on the day of, such entrance into such active service; and

(E)(i) was discharged or released from such service under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty, or

(ii) died while in such service,

shall be considered a World War II veteran (as defined in subsection (d)(2) of this section) and such service shall be considered to have been performed in the active military or naval service of the United States.

(2) In the case of any individual to whom paragraph (1) applies, proof of support required under section 402(f) or (h) of this title may be filed at any time prior to the expiration of two years after the date of such individual's death or August 28, 1958, whichever is the later.

(Aug. 14, 1935, ch. 531, title II, §217, as added Aug. 28, 1950, ch. 809, title I, §105, 64 Stat. 512; amended July 18, 1952, ch. 945, §5(a), (d)(1), 66 Stat. 773, 775; Aug. 14, 1953, ch. 483, §1, 67 Stat. 580; Sept. 1, 1954, ch. 1206, title I, §106(e), 68 Stat. 1081; Aug. 9, 1955, ch. 685, §1, 69 Stat. 621; Aug. 1, 1956, ch. 837, title IV, §§404(a), (b), 406, 70 Stat. 872, 873, 875; Pub. L. 85-840, title III, §314(a), (b), Aug. 28, 1958, 72 Stat. 1036, 1037; Pub. L. 85-857, §13(i)(2), Sept. 2, 1958, 72 Stat. 1265; Pub. L. 86-778, title I, §103(j)(2)(C), Sept. 13, 1960, 74 Stat. 937; Pub. L. 89-97, title III, §322, July 30, 1965, 79 Stat. 396; Pub. L. 90-248, title IV, §403(c), Jan. 2, 1968, 81 Stat. 932; Pub. L. 94-273, §§2(23), 16, Apr. 21, 1976, 90 Stat. 376, 379; Pub. L. 95-216, title II, §205(c), Dec. 20, 1977, 91 Stat. 1529; Pub. L. 97-35, title XXII, §2201(c)(7), Aug. 13, 1981, 95 Stat. 832; Pub. L. 97-123, §2(g), Dec. 29, 1981, 95 Stat. 1661; Pub. L. 98-21, title I, §151(a), title III, §308, Apr. 20, 1983, 97 Stat. 103, 115; Pub. L. 98-369, div. B, title VI, §2663(a)(12), (j)(3)(A)(ii), July 18, 1984, 98 Stat. 1164, 1170; Pub. L. 101-239, title X, §10208(d)(2)(A)(iv), Dec. 19, 1989, 103 Stat. 2481; Pub. L. 101-508, title V, §5117(b), Nov. 5, 1990, 104 Stat. 1388-277; Pub. L. 102-40, title IV, §402(d)(2), May 7, 1991, 105 Stat. 239; Pub. L. 102-54, §13(q)(3)(A)(i), (D), (E), June 13, 1991, 105 Stat. 279; Pub. L. 103-296, title I, §107(a)(4), Aug. 15, 1994, 108 Stat. 1478.)

REFERENCES IN TEXT

The Social Security Amendments of 1950, referred to in subsec. (g)(1)(A), probably means act Aug. 28, 1950, ch. 809, 64 Stat. 477, known as the Social Security Act Amendments of 1950. For complete classification of this Act to the Code, see Short Title of 1950 Amendment note set out under section 1305 of this title and Tables.

¹ See References in Text note below.

AMENDMENTS

1994—Subsec. (a)(2), (3). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing, “unless the Commissioner” for “unless he” and “If the Commissioner” for “If he” in par. (2), and “to the Commissioner” for “to him” and “the Commissioner’s functions” for “his functions” in par. (3).

Subsec. (b)(2). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing except where appearing before “of Veterans Affairs” or after “that” and substituted “unless the Commissioner” for “unless he” and “certified by the Commissioner” for “certified by him”.

Subsec. (e)(2), (3). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing, “the Commissioner has” for “he has” in two places in par. (2), and “certify to the Commissioner” for “certify to him” and “the Commissioner’s” for “his” in par. (3).

Subsec. (f)(1). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary”.

Subsec. (g). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing, except where appearing before “of the Treasury” and substituted “the Commissioner after” for “him after” in par. (2).

Subsec. (h)(1). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” in introductory provisions.

1991—Subsec. (a)(1)(B). Pub. L. 102-54, §13(q)(3)(A)(i), substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

Subsec. (b)(1)(B). Pub. L. 102-54, §13(q)(3)(D), substituted “Secretary of Veterans Affairs to be payable by him” for “Veterans’ Administration to be payable by it”.

Subsec. (b)(2). Pub. L. 102-54, §13(q)(3)(E), substituted references to Secretary of Veterans Affairs and Secretary for references to Veterans’ Administration and Administration, wherever appearing.

Pub. L. 102-40 substituted “section 5301 of title 38” for “section 3101 of title 38”.

Subsec. (e)(1)(B). Pub. L. 102-54, §13(q)(3)(A)(i), substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

1990—Subsec. (b)(1). Pub. L. 101-508, §5117(b)(1), substituted “Subject to paragraph (3), any” for “Any”.

Subsec. (b)(3). Pub. L. 101-508, §5117(b)(2), added par. (3).

1989—Subsec. (b)(1). Pub. L. 101-239 substituted “409(a)(4)(B)” for “409(e)(2)” in introductory provisions.

1984—Subsecs. (a)(2), (3), (b)(2). Pub. L. 98-369, §2663(j)(3)(A)(ii), struck out “of Health, Education, and Welfare” after “Secretary” wherever appearing.

Subsec. (d). Pub. L. 98-369, §2663(a)(12)(A), realigned margins of subsec. (d).

Subsec. (e)(1). Pub. L. 98-369, §2663(a)(12)(B), inserted reference to National Oceanic and Atmospheric Administration.

Subsec. (e)(2), (3). Pub. L. 98-369, §2663(j)(3)(A)(ii), struck out “of Health, Education, and Welfare” after “Secretary” wherever appearing.

Subsec. (f)(1). Pub. L. 98-369, §2663(a)(12)(C), substituted “Director of the Office of Personnel Management” for “Civil Service Commission”.

Pub. L. 98-369, §2663(j)(3)(A)(ii), struck out “of Health, Education, and Welfare” after “Secretary”.

1983—Subsec. (f). Pub. L. 98-21, §308(2), substituted “his or her” for “his” and “her” wherever appearing, except in cl. (A) of par. (1).

Pub. L. 98-21, §308(1), substituted “surviving spouse” for “widow” wherever appearing.

Subsec. (g). Pub. L. 98-21, §151(a), amended subsec. generally, substituting provisions relating to determination of amounts to be appropriated to trust funds and to revisions of such amounts for provisions which had formerly required that, in September of 1965, 1970, and 1975, and in October 1980 and in every fifth October

thereafter up to and including October 2010, the Secretary determine the amount which, if paid in equal installments at the beginning of each fiscal year in the period beginning (A) with July 1, 1965, in the case of the first such determination, and (B) with the beginning of the first fiscal year commencing after the determination in the case of all other such determinations, and ending with the close of September 30, 2015, would accumulate, with interest compounded annually, to an amount equal to the amount needed to place each of the Trust Funds and the Federal Hospital Insurance Trust Fund in the same position at the close of September 30, 2015, as he estimated they would otherwise be in at the close of that date if section 410 of this title as in effect prior to the Social Security Act Amendments of 1950, and this section, had not been enacted, with the interest to be used in determining such amount to be the rate determined under section 401(d) of this title for public-debt obligations which were or could have been issued for purchase by the Trust Funds in the June preceding the September in which the determinations in 1965, 1970, and 1975 were made and in the September preceding the October in which all other determinations were made.

1981—Subsec. (b)(1). Pub. L. 97-123 struck out “, and as modified by the application of section 415(a)(6) of this title”.

Pub. L. 97-35 inserted “, and as modified by the application of section 415(a)(6) of this title”.

1977—Subsec. (b)(1). Pub. L. 95-216 substituted “section 415(c) of this title as in effect in December 1978” for “section 415(c) of this title” in two places and “section 415(d) of this title as in effect in December 1978” for “section 415(d) of this title”.

1976—Subsec. (g)(1). Pub. L. 94-273, §16, substituted provisions relating to determination of the required amount for payment in September of 1965, 1970, and 1975, and in October 1980 and in every fifth October thereafter up to and including October 2010, and ending with the close of September 30, 2015, for provisions relating to determination of the required amount for payment in September 1965, and in every fifth September thereafter up to and including September 2010, and ending with the close of June 30, 2015, and inserted provisions relating to the rate of interest for the determination of the required amount in the Septembers preceding the Octobers for all the other determinations subsequent to the 1975 determination.

Subsec. (g)(2)(B), (3), (4). Pub. L. 94-273, §2(23), substituted “September” for “June” wherever appearing.

1968—Subsec. (f)(1). Pub. L. 90-248, §403(c)(1), substituted “subchapter III of chapter 83 of title 5” and “such subchapter III” for “the Civil Service Retirement Act of May 29, 1930, as amended,” and “such Act of May 29, 1930, as amended,” respectively.

Subsec. (f)(2). Pub. L. 90-248, §403(c)(2), substituted “subchapter III of chapter 83 of title 5” for “the Civil Service Retirement Act of May 29, 1930, as amended”.

1965—Subsec. (g)(1). Pub. L. 89-97 substituted provisions requiring the Secretary to determine, in September 1965, and every fifth September thereafter, up to and including September 2010, the amount necessary to place each of the Trust Funds and the Federal Hospital Insurance Trust Fund in the same position at the close of June 30, 2015, as they would otherwise have been in at the close of that date if section 410 of this title, as in effect prior to the Social Security Act Amendments of 1950, and this section had not been enacted and providing for determination of interest in accordance with section 401(d) of this title, for provisions authorizing the appropriation of sums necessary to meet additional costs resulting from payment of benefits after June 1956 under subsecs. (a), (b), and (e), including lump-sum death payments.

Subsec. (g)(2). Pub. L. 89-97 substituted provisions authorizing appropriation to the Trust Funds and the Federal Hospital Insurance Trust Fund in the fiscal years ending with the close of June 30, 2015, for provisions requiring the Secretary to determine before October 1, 1958, the amount necessary to place the Federal

Old-Age and Survivors Insurance Trust Fund in the same position it would have been at the close of June 30, 1956, if section 410 of this title, as in effect prior to the Social Security Act Amendments of 1950, and this section had not been enacted and authorizing appropriations during the first ten years beginning after such determination had been made aggregating the sum so determined plus interest.

Subsec. (g)(3), (4). Pub. L. 89-97 added pars. (3) and (4). 1960—Subsec. (e)(1). Pub. L. 86-778 substituted “section 410(l)(1) of this title” for “section 410(m)(1) of this title”.

1958—Subsec. (b)(2). Pub. L. 85-857 substituted “section 3101 of title 38” for “section 454a of title 38”.

Subsec. (g). Pub. L. 85-840, §314(b), substituted “Trust Funds” for “Trust Fund” in par. (1), and “the Federal Old-Age and Survivors Insurance Trust Fund in” for “the Trust Fund in”, “such Trust Fund annually”, for “the Trust Fund annually”, and “such Trust Fund during” for “the Trust Fund during” in par. (2).

Subsec. (h). Pub. L. 85-840, §314(a), added subsec. (h). 1956—Subsec. (e). Act Aug. 1, 1956, §404(a), amended subsec. (e) generally, substituting “January 1, 1957” for “April 1, 1956” in five places, and inserting provisions in par. (1) relating to monthly benefits for months after December 1956 and any lump-sum death payment under this subchapter with respect to a death occurring after December 1956.

Subsecs. (f), (g). Act Aug. 1, 1956, §§404(b), 406, added subsecs. (f) and (g), respectively.

1955—Subsec. (e). Act Aug. 9, 1955, substituted “April 1, 1956” for “July 1, 1955” wherever appearing.

1954—Subsec. (a)(1). Act Sept. 1, 1954, §106(e)(1), (3), inserted “and for purposes of section 416(i)(3) of this title” after “World War II veteran” in first sentence, and inserted sentence at end.

Subsec. (e)(1). Act Sept. 1, 1954, §106(e)(2), (3), inserted “and for purposes of section 416(i)(3) of this title” after “veteran (as defined in paragraph (4) of this subsection)” and inserted sentence at end.

1953—Subsec. (e). Act Aug. 14, 1953, substituted “July 1, 1955” for “January 1, 1954” wherever appearing.

1952—Act July 18, 1952, §5(a), struck out reference to World War II veterans in section catchline.

Subsec. (a)(1). Act July 5, 1952, §5(d)(1), inserted provision following cl. (B) that cl. (B) not apply in the case of any monthly benefits or lump-sum death payments under this subchapter.

Subsec. (e). Act July 18, 1952, §5(a), added subsec. (e).

CHANGE OF NAME

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to Title 5, Government Organization and Employees. Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, abolished Environmental Science Services Administration, established National Oceanic and Atmospheric Administration, and redesignated Commissioned Officer Corps of ESSA as Commissioned Officer Corps of NOAA. For further details, see Transfer of Functions note set out under section 851 of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 308 of 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 1981 AMENDMENT

Amendment by section 2201(c)(7) of Pub. L. 97-35 and by section 2(g) of Pub. L. 97-123 applicable with respect to benefits for months after December 1981 with certain exceptions, see section 2(j)(2)-(4) of Pub. L. 97-123, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-216 effective with respect to monthly benefits and lump-sum death payments for deaths occurring after December 1978, see section 206 of Pub. L. 95-216, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-778 effective Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as an Effective Date note preceding Part I of Title 38, Veterans' Benefits.

Pub. L. 85-840, title III, §314(c)(1), Aug. 28, 1958, 72 Stat. 1037, provided that: “The amendment made by subsection (a) [amending this section] shall apply only with respect to (A) monthly benefits under sections 202 and 223 of the Social Security Act [sections 402 and 423 of this title] for months after the month in which this Act is enacted [August 1958], (B) lump-sum death payments under such section 202 in the case of deaths occurring after the month in which this Act is enacted, and (C) periods of disability under section 216(i) [section 416(i) of this title] in the case of applications for a disability determination filed after the month in which this Act is enacted.”

EFFECTIVE DATE OF 1956 AMENDMENT

Act Aug. 1, 1956, ch. 837, title IV, §404(d), 70 Stat. 874, provided that: “Except for the last sentence of section 217(e)(1) of the Social Security Act [subsec. (e)(1) of this section] as amended by subsection (a) of this section, the amendments made by such subsection (a) [amending this section] shall be effective as though they had been enacted on March 31, 1956. Such last sentence of section 217(e)(1) of the Social Security Act shall become effective January 1, 1957.”

Amendment by section 406 of act Aug. 1, 1956, effective Jan. 1, 1957, see act Aug. 1, 1956, ch. 837, title VI, §603(a), 70 Stat. 887.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by section 106(e) of act Sept. 1, 1954, applicable with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 415(f) of this title, see section 106(h) of act Sept. 1, 1954, set out as a note under section 413 of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Act of July 18, 1952, ch. 945, §5(c), 66 Stat. 775, as amended by Pub. L. 86-778, title III, §304(d), Sept. 13, 1960, 74 Stat. 966, provided that:

“(1) The amendments made by subsections (a) and (b) [amending this section and section 405 of this title] shall apply with respect to monthly benefits under sec-

tion 202 of the Social Security Act [section 402 of this title] for months after August 1952, and with respect to lump-sum death payments in the case of deaths occurring after August 1952, except that, in the case of any individual who is entitled, on the basis of the wages and self-employment income of any individual to whom section 217(e) of the Social Security Act [subsec. (e) of this section] applies, to monthly benefits under such section 202 for August 1952, such amendments shall apply (A) only if an application for recomputation by reason of such amendments is filed by such individual, or any other individual, entitled to benefits under such section 202 on the basis of such wages and self-employment income, and (B) only with respect to such benefits for months after whichever of the following is the later: August 1952 of the seventh month before the month in which such application was filed. Recomputations of benefits as required to carry out the provisions of this paragraph shall be made notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title]; but no such recomputation shall be regarded as a recomputation for purposes of section 215(f) of such Act. Notwithstanding the preceding provisions of this paragraph, the primary insurance amount of an individual shall not be recomputed under such provisions unless such individual files the application referred to in clause (A) of the first sentence of this paragraph prior to January 1961 or, if he dies without filing such application, his death occurred prior to January 1961.

“(2) In the case of any veteran (as defined in section 217(e)(4) of the Social Security Act [subsec. (e)(4) of this section]) who died prior to September 1952, the requirement in subsections (f) and (h) of section 202 of the Social Security Act that proof of support be filed within two years of the date of such death shall not apply if such proof is filed prior to September 1954.”

Act July 18, 1952, ch. 945, §5(d)(2), 66 Stat. 775, provided that: “The amendment made by paragraph (1) of this subsection [amending this section] shall apply only in the case of applications for benefits under section 202 of the Social Security Act [section 402 of this title] filed after August 1952.”

EFFECTIVE DATE

Act Aug. 28, 1950, ch. 809, title I, §105, 64 Stat. 512, provided that this section is effective Sept. 1, 1950.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, set out as a note under section 542 of Title 6.

Coast Guard transferred to Department of Transportation, and functions, powers, and duties relating to Coast Guard, of Secretary of the Treasury and of other officers and offices of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89-670, §6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

RECOMPUTATION OF PRIMARY INSURANCE AMOUNT OF CERTAIN INDIVIDUALS

Pub. L. 85-840, title III, §314(c)(2), Aug. 28, 1958, 72 Stat. 1037, provided that: “In the case of any individual—

“(A) who is a World War II veteran (as defined in section 217(d)(2) of the Social Security Act [subsec. (d)(2) of this section]) wholly or partly by reason of service described in section 217(h)(1)(A) of such Act; and

“(B) who (i) became entitled to old-age insurance benefits under section 202(a) of the Social Security Act [section 402(a) of this title] or to disability insurance benefits under section 223 of such Act [section 423 of this title] prior to the first day of the month following the month in which this Act is enacted [August 1958], or (i) died prior to such first day, and whose widow, former wife divorced, widower, child, or parent is entitled for the month in which this Act is enacted, on the basis of his wages and self-employment income, to a monthly benefit under section 202 of such Act; and

“(C) any part of whose service described in section 217(h)(1)(A) of the Social Security Act was not included in the computation of his primary insurance amount under section 215 of such Act [section 415 of this title] but would have been included in such computation if the amendment made by subsection (a) of this section had been effective prior to the date of such computation,

the Secretary of Health, Education, and Welfare [now Health and Human Services] shall, notwithstanding the provisions of section 215(f)(1) of the Social Security Act, recompute the primary insurance amount of such individual upon the filing of an application, after the month in which this Act is enacted [Aug. 1958], by him or (if he has died without filing such an application) by any person entitled to monthly benefits under section 202 of the Social Security Act on the basis of his wages and self-employment income. Such recomputation shall be made only in the manner provided in title II of the Social Security Act [this subchapter] as in effect at the time of the last previous computation or recomputation of such individual's primary insurance amount, and as though application therefor was filed in the month in which application for such last previous computation or recomputation was filed. No recomputation made under this subsection shall be regarded as a recomputation under section 215(f) of the Social Security Act. Any such recomputation shall be effective for and after the twelfth month before the month in which the application is filed, but in no case for the month in which this Act is enacted or any prior month.”

RECOMPUTATION OF SOCIAL SECURITY BENEFITS OF WIDOWS AND CHILDREN WHO WAIVE RIGHT TO ANNUITY UNDER CIVIL SERVICE RETIREMENT ACT

Act Aug. 1, 1956, ch. 837, title IV, §404(c), 70 Stat. 874, provided that: “In the case of any deceased individual—

“(1) who is a World War II veteran (as defined in section 217(d)(2) of the Social Security Act [subsec. (d)(2) of this section]) or a veteran (as defined in section 217(e)(4) of such Act); and

“(2) whose widow or child is entitled under the Civil Service Retirement Act of May 29, 1930, as amended [see section 8301 et seq. of Title 5, Government Organization and Employees], to an annuity in the computation of which his active military or naval service after September 15, 1940, and before January 1, 1957, was included; and

“(3) whose widow or child is entitled under section 202 of the Social Security Act [section 402 of this title], on the basis of his wages and self-employment income, to a monthly benefit in the computation of which such active military or naval service was excluded (under clause (B) of subsection (a)(1) or (e)(1) of section 217 of such Act) solely by reason of the annuity described in the preceding paragraph; and

“(4) whose widow or child is entitled by reason of section 217(f) of the Social Security Act to have such active military or naval service included in the computation of such monthly benefit,

the Secretary of Health, Education, and Welfare [now Health and Human Services] shall, notwithstanding the provisions of section 215(f)(1) of the Social Security Act [section 415(f)(1) of this title], recompute the primary insurance amount of such individual upon the filing of an application, after December 1956, by or on behalf of such widow or child. Such recomputation shall be made only in the manner provided in title II of the Social Se-

curity Act [this subchapter] as in effect at the time of such individual's death, and as though application therefor was filed in the month in which he died. No recomputation made under this subsection shall be regarded as a recomputation under section 215(f) of the Social Security Act. Any such recomputation shall be effective for and after the twelfth month before the month in which the application is filed, but in no case for any month before the first month with respect to which such widow or child is entitled by reason of section 217(f) of the Social Security Act to have such active military or naval service included in the computation of such monthly benefits. The terms used in this subsection shall have the same meaning as when used in title II of the Social Security Act [this subchapter]."

§ 418. Voluntary agreements for coverage of State and local employees

(a) Purpose of agreement

(1) The Commissioner of Social Security shall, at the request of any State, enter into an agreement with such State for the purpose of extending the insurance system established by this subchapter to services performed by individuals as employees of such State or any political subdivision thereof. Each such agreement shall contain such provisions, not inconsistent with the provisions of this section, as the State may request.

(2) Notwithstanding section 410(a) of this title, for the purposes of this subchapter the term "employment" includes any service included under an agreement entered into under this section.

(b) Definitions

For the purposes of this section—

(1) The term "State" does not include the District of Columbia, Guam, or American Samoa.

(2) The term "political subdivision" includes an instrumentality of (A) a State, (B) one or more political subdivisions of a State, or (C) a State and one or more of its political subdivisions.

(3) The term "employee" includes an officer of a State or political subdivision.

(4) The term "retirement system" means a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof.

(5) The term "coverage group" means (A) employees of the State other than those engaged in performing service in connection with a proprietary function; (B) employees of a political subdivision of a State other than those engaged in performing service in connection with a proprietary function; (C) employees of a State engaged in performing service in connection with a single proprietary function; or (D) employees of a political subdivision of a State engaged in performing service in connection with a single proprietary function. If under the preceding sentence an employee would be included in more than one coverage group by reason of the fact that he performs service in connection with two or more proprietary functions or in connection with both a proprietary function and a nonproprietary function, he shall be included in only one such coverage group. The determination of the coverage group in which such employee shall be

included shall be made in such manner as may be specified in the agreement. Persons employed under section 709 of title 32, who elected under section 6 of the National Guard Technicians Act of 1968 to remain covered by an employee retirement system of, or plan sponsored by, a State or the Commonwealth of Puerto Rico, shall, for the purposes of this chapter, be employees of the State or the Commonwealth of Puerto Rico and (notwithstanding the preceding provisions of this paragraph), shall be deemed to be a separate coverage group. For purposes of this section, individuals employed pursuant to an agreement, entered into pursuant to section 1624 of title 7 or section 499n of title 7, between a State and the United States Department of Agriculture to perform services as inspectors of agricultural products may be deemed, at the option of the State, to be employees of the State and (notwithstanding the preceding provisions of this paragraph) shall be deemed to be a separate coverage group.

(c) Services covered

(1) An agreement under this section shall be applicable to any one or more coverage groups designated by the State.

(2) In the case of each coverage group to which the agreement applies, the agreement must include all services (other than services excluded by or pursuant to subsection (d) or paragraph (3), (5), or (6) of this subsection) performed by individuals as members of such group.

(3) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any one or more of the following:

(A) All services in any class or classes of (i) elective positions, (ii) part-time positions, or (iii) positions the compensation for which is on a fee basis;

(B) All services performed by individuals as members of a coverage group in positions covered by a retirement system on the date such agreement is made applicable to such coverage group, but only in the case of individuals who, on such date (or, if later, the date on which they first occupy such positions), are not eligible to become members of such system and whose services in such positions have not already been included under such agreement pursuant to subsection (d)(3) of this section.

(4) The Commissioner of Social Security shall, at the request of any State, modify the agreement with such State so as to (A) include any coverage group to which the agreement did not previously apply, or (B) include, in the case of any coverage group to which the agreement applies, services previously excluded from the agreement; but the agreement as so modified may not be inconsistent with the provisions of this section applicable in the case of an original agreement with a State. A modification of an agreement pursuant to clause (B) of the preceding sentence may apply to individuals to whom paragraph (3)(B) of this subsection is applicable (whether or not the previous exclusion of the service of such individuals was pursuant to such paragraph), but only if such individuals are, on the effective date specified in such modification, ineligible to be members of any retirement sys-