

subchapter, see section 702 of Pub. L. 94-12, set out as a note under section 402 of this title.

LUMP-SUM PAYMENT OF DISABILITY INSURANCE BENEFITS FOR PERIOD BEGINNING AFTER 1959 AND ENDING PRIOR TO 1964; FILING OF APPLICATION

Pub. L. 92-603, title I, §133, Oct. 30, 1972, 86 Stat. 1361, provided that:

“(a) If an individual would (upon the timely filing of an application for a disability determination under section 216(i) of the Social Security Act [42 U.S.C. 416(i)] and of an application for disability insurance benefits under section 223 of such Act [42 U.S.C. 423]) have been entitled to disability insurance benefits under such section 223 for a period which began after 1959 and ended prior to 1964, such individual shall, upon filing application for disability insurance benefits under such section 223 with respect to such period not later than 6 months after the date of enactment of this section [Oct. 30, 1972], be entitled, notwithstanding any other provision of title II of the Social Security Act [42 U.S.C. 401 et seq.], to receive in a lump sum as disability insurance benefits payable under section 223, an amount equal to the total amounts of disability insurance benefits which would have been payable to him for such period if he had timely filed such an application for a disability determination and such an application for disability insurance benefits with respect to such period; but only if—

“(1) prior to the date of enactment of this section and after the date of enactment of the Social Security Amendments of 1967 [Jan. 2, 1968] such period was determined (under section 216(i) of the Social Security Act [42 U.S.C. 416(i)]) to be a period of disability as to such individual; and

“(2) the application giving rise to the determination (under such section 216(i)) that such period is a period of disability as to such individual would not have been accepted as an application for such a determination except for the provisions of section 216(i)(2)(F).

“(b) No payment shall be made to any individual by reason of the provisions of subsection (a) except upon the basis of an application filed after the date of enactment of this section.”

SPECIAL INSURED STATUS TEST IN CERTAIN CASES FOR DISABILITY PURPOSES

Individuals not insured for disability benefits as determined under subsec. (c)(1) of this section with respect to any month in a quarter deemed to have met such requirements in certain cases, see section 404 of Pub. L. 86-778, set out as a note under section 416 of this title.

§ 424. Repealed. Pub. L. 85-840, title II, § 206, Aug. 28, 1958, 72 Stat. 1025

Section, act Aug. 14, 1935, ch. 531, title II, §224, as added Aug. 1, 1956, ch. 836, title I, §103(a), 70 Stat. 816; amended July 17, 1957, Pub. L. 85-109, §2(a), 71 Stat. 308, related to reduction of benefits based on disability.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to monthly benefits under this subchapter for August 1958 and succeeding months, see section 207(a) of Pub. L. 85-840, set out as an Effective Date of 1958 Amendment note under section 416 of this title.

§ 424a. Reduction of disability benefits

(a) Conditions for reduction; computation

If for any month prior to the month in which an individual attains the age of 65—

(1) such individual is entitled to benefits under section 423 of this title, and

(2) such individual is entitled for such month to—

(A) periodic benefits on account of his or her total or partial disability (whether or not permanent) under a workmen's compensation law or plan of the United States or a State, or

(B) periodic benefits on account of his or her total or partial disability (whether or not permanent) under any other law or plan of the United States, a State, a political subdivision (as that term is used in section 418(b)(2) of this title), or an instrumentality of two or more States (as that term is used in section 418(g) of this title), other than (i) benefits payable under title 38, (ii) benefits payable under a program of assistance which is based on need, (iii) benefits based on service all or substantially all of which was included under an agreement entered into by a State and the Commissioner of Social Security under section 418 of this title, and (iv) benefits under a law or plan of the United States based on service all or substantially all of which is employment as defined in section 410 of this title,

the total of his benefits under section 423 of this title for such month and of any benefits under section 402 of this title for such month based on his wages and self-employment income shall be reduced (but not below zero) by the amount by which the sum of—

(3) such total of benefits under sections 423 and 402 of this title for such month, and

(4) such periodic benefits payable (and actually paid) for such month to such individual under such laws or plans,

exceeds the higher of—

(5) 80 per centum of his “average current earnings”, or

(6) the total of such individual's disability insurance benefits under section 423 of this title for such month and of any monthly insurance benefits under section 402 of this title for such month based on his wages and self-employment income, prior to reduction under this section.

In no case shall the reduction in the total of such benefits under sections 423 and 402 of this title for a month (in a continuous period of months) reduce such total below the sum of—

(7) the total of the benefits under sections 423 and 402 of this title, after reduction under this section, with respect to all persons entitled to benefits on the basis of such individual's wages and self-employment income for such month which were determined for such individual and such persons for the first month for which reduction under this section was made (or which would have been so determined if all of them had been so entitled in such first month), and

(8) any increase in such benefits with respect to such individual and such persons, before reduction under this section, which is made effective for months after the first month for which reduction under this section is made.

For purposes of clause (5), an individual's average current earnings means the largest of (A) the average monthly wage (determined under section 415(b) of this title as in effect prior to

January 1979) used for purposes of computing his benefits under section 423 of this title, (B) one-sixtieth of the total of his wages and self-employment income (computed without regard to the limitations specified in sections 409(a)(1) and 411(b)(1) of this title) for the five consecutive calendar years after 1950 for which such wages and self-employment income were highest, or (C) one-twelfth of the total of his wages and self-employment income (computed without regard to the limitations specified in sections 409(a)(1) and 411(b)(1) of this title) for the calendar year in which he had the highest such wages and income during the period consisting of the calendar year in which he became disabled (as defined in section 423(d) of this title) and the five years preceding that year.

(b) Reduction where benefits payable on other than monthly basis

If any periodic benefit for a total or partial disability under a law or plan described in subsection (a)(2) of this section is payable on other than a monthly basis (excluding a benefit payable as a lump sum except to the extent that it is a commutation of, or a substitute for, periodic payments), the reduction under this section shall be made at such time or times and in such amounts as the Commissioner of Social Security finds will approximate as nearly as practicable the reduction prescribed by subsection (a) of this section.

(c) Reductions and deductions under other provisions

Reduction of benefits under this section shall be made after any reduction under subsection (a) of section 403 of this title, but before deductions under such section and under section 422(b)¹ of this title.

(d) Exception

The reduction of benefits required by this section shall not be made if the law or plan described in subsection (a)(2) of this section under which a periodic benefit is payable provides for the reduction thereof when anyone is entitled to benefits under this subchapter on the basis of the wages and self-employment income of an individual entitled to benefits under section 423 of this title, and such law or plan so provided on February 18, 1981.

(e) Conditions for payment

If it appears to the Commissioner of Social Security that an individual may be eligible for periodic benefits under a law or plan which would give rise to reduction under this section, the Commissioner may require, as a condition of certification for payment of any benefits under section 423 of this title to any individual for any month and of any benefits under section 402 of this title for such month based on such individual's wages and self-employment income, that such individual certify (i) whether he has filed or intends to file any claim for such periodic benefits, and (ii) if he has so filed, whether there has been a decision on such claim. The Commissioner of Social Security may, in the absence of evidence to the contrary, rely upon such a cer-

tification by such individual that he has not filed and does not intend to file such a claim, or that he has so filed and no final decision thereon has been made, in certifying benefits for payment pursuant to section 405(i) of this title.

(f) Redetermination of reduction

(1) In the second calendar year after the year in which reduction under this section in the total of an individual's benefits under section 423 of this title and any benefits under section 402 of this title based on his wages and self-employment income was first required (in a continuous period of months), and in each third year thereafter, the Commissioner of Social Security shall redetermine the amount of such benefits which are still subject to reduction under this section; but such redetermination shall not result in any decrease in the total amount of benefits payable under this subchapter on the basis of such individual's wages and self-employment income. Such redetermined benefit shall be determined as of, and shall become effective with, the January following the year in which such redetermination was made.

(2) In making the redetermination required by paragraph (1), the individual's average current earnings (as defined in subsection (a) of this section) shall be deemed to be the product of—

(A) his average current earnings as initially determined under subsection (a) of this section; and

(B) the ratio of (i) the national average wage index (as defined in section 409(k)(1) of this title) for the calendar year before the year in which such redetermination is made to (ii) the national average wage index (as so defined) for the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability).

Any amount determined under this paragraph which is not a multiple of \$1 shall be reduced to the next lower multiple of \$1.

(g) Proportionate reduction; application of excess

Whenever a reduction in the total of benefits for any month based on an individual's wages and self-employment income is made under this section, each benefit, except the disability insurance benefit, shall first be proportionately decreased, and any excess of such reduction over the sum of all such benefits other than the disability insurance benefits shall then be applied to such disability insurance benefit.

(h) Furnishing of information

(1) Notwithstanding any other provision of law, the head of any Federal agency shall provide such information within its possession as the Commissioner of Social Security may require for purposes of making a timely determination of the amount of the reduction, if any, required by this section in benefits payable under this subchapter, or verifying other information necessary in carrying out the provisions of this section.

(2) The Commissioner of Social Security is authorized to enter into agreements with States, political subdivisions, and other organizations that administer a law or plan subject to the pro-

¹ See References in Text note below.

visions of this section, in order to obtain such information as the Commissioner may require to carry out the provisions of this section.

(Aug. 14, 1935, ch. 531, title II, § 224, as added Pub. L. 89-97, title III, § 335, July 30, 1965, 79 Stat. 406; amended Pub. L. 90-248, title I, § 159(a), Jan. 2, 1968, 81 Stat. 869; Pub. L. 92-603, title I, § 119(a), (b), Oct. 30, 1972, 86 Stat. 1352; Pub. L. 94-202, § 8(j), Jan. 2, 1976, 89 Stat. 1140; Pub. L. 95-216, title II, § 205(d), title III, § 353(c), Dec. 20, 1977, 91 Stat. 1529, 1553; Pub. L. 97-35, title XXII, § 2208(a), Aug. 13, 1981, 95 Stat. 839; Pub. L. 99-272, title XII, § 12109(a), Apr. 7, 1986, 100 Stat. 286; Pub. L. 99-509, title IX, § 9002(c)(2)(F), Oct. 21, 1986, 100 Stat. 1972; Pub. L. 101-239, title X, § 10208(b)(2)(A), (C), (d)(2)(A)(i), (iii), Dec. 19, 1989, 103 Stat. 2477, 2478, 2480, 2481; Pub. L. 103-296, title I, § 107(a)(4), title III, § 321(e)(2)(H), Aug. 15, 1994, 108 Stat. 1478, 1540.)

REFERENCES IN TEXT

Section 422(b) of this title, referred to in subsec. (c), was repealed by Pub. L. 106-170, title I, § 101(b)(1)(C), Dec. 17, 1999, 113 Stat. 1873.

PRIOR PROVISIONS

A prior section 224 of act Aug. 14, 1935, was classified to section 424 of this title prior to repeal by Pub. L. 85-840, title II, § 206, Aug. 28, 1958, 72 Stat. 1025.

AMENDMENTS

1994—Subsecs. (a)(2)(B), (b), (e), (f)(1). Pub. L. 103-296, § 107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing and “the Commissioner may require” for “he may require” in subsec. (e).

Subsec. (f)(2). Pub. L. 103-296, § 321(e)(2)(H), inserted “and” at end of subpar. (A), added subpar. (B), and struck out former subpars. (B) and (C) which read as follows:

“(B) the ratio of (i) the deemed average total wages (as defined in section 409(k)(1) of this title) for the calendar year before the year in which such redetermination is made to (ii)(I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a)(1) of this title) reported to the Secretary of the Treasury or his delegate for calendar year 1977 or, if later, the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability), if such calendar year is before 1991, or (II) the deemed average total wages (as defined in section 409(k)(1) of this title) for the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability), if such calendar year is after 1990; and

“(C) in any case in which the reduction was first computed before 1978, the ratio of (i) the average of the taxable wages reported to the Secretary for the first calendar quarter of 1977 to (ii) the average of the taxable wages reported to the Secretary for the first calendar quarter of the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability).”

Subsec. (h). Pub. L. 103-296, § 107(a)(4), substituted “Commissioner of Social Security” for “Secretary” in pars. (1) and (2) and “the Commissioner may” for “he may” in par. (2).

1989—Subsec. (a). Pub. L. 101-239, § 10208(d)(2)(A)(iii), substituted “409(a)(1)” for “409(a)” in cls. (B) and (C) of last sentence.

Subsec. (f)(2)(B)(i). Pub. L. 101-239, § 10208(b)(2)(A), substituted “the deemed average total wages (as de-

finied in section 409(k)(1) of this title)” for “the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a)(1) of this title) reported to the Secretary of the Treasury or his delegate”.

Pub. L. 101-239, § 10208(d)(2)(A)(i), substituted “409(a)(1)” for “409(a)”.

Subsec. (f)(2)(B)(ii). Pub. L. 101-239, § 10208(b)(2)(C), inserted “(I)” after “(ii)”, substituted “(as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a)(1) of this title)” for “as so defined and computed)” and inserted “; if such calendar year is before 1991, or (II) the deemed average total wages (as defined in section 409(k)(1) of this title) for the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability), if such calendar year is after 1990” before “; and” at end.

1986—Subsec. (a)(2). Pub. L. 99-272, § 12109(a)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “such individual is entitled for such month to periodic benefits on account of such individual’s total or partial disability (whether or not permanent) under—

“(A) a workmen’s compensation law or plan of the United States or a State, or

“(B) any other law or plan of the United States, a State, a political subdivision (as that term is used in section 418(b)(2) of this title), or an instrumentality of two or more States (as that term is used in section 418(k) of this title),

other than benefits payable under title 38, benefits payable under a program of assistance which is based on need, benefits based on service all, or substantially all, of which was included under an agreement entered into by a State and the Secretary under section 418 of this title, and benefits under a law or plan of the United States based on service all or part of which is employment as defined in section 410 of this title.”

Subsec. (a)(2)(B). Pub. L. 99-509 substituted “section 418(g)” for “section 418(k)”.

Pub. L. 99-272, § 12109(a)(2), substituted “all or substantially all of which” for “all or part of which” in cl. (iv).

1981—Subsec. (a). Pub. L. 97-35, § 2208(a)(2)–(4), in provision preceding par. (1) substituted “age of 65” for “age of 62”, in par. (2) inserted provisions including periodic benefits under any other law or plan of the United States, a State, a political subdivision, or an instrumentality of two or more States and excluding specified benefits and struck out provision requiring that the Secretary receive notice, in a prior month, of the entitlement for such month, and in par. (4) substituted “such laws or plans” for “the workmen’s compensation law or plan”.

Subsec. (b). Pub. L. 97-35, § 2208(a)(5), substituted “for a total or partial disability under a law or plan described in subsection (a)(2) of this section” for “under a workmen’s compensation law or plan”.

Subsec. (d). Pub. L. 97-35, § 2208(a)(6), substituted “law or plan described in subsection (a)(2) of this section” for “workmen’s compensation law or plan” and “section 423 of this title, and such law or plan so provided on February 18, 1981” for “section 423 of this title”.

Subsec. (e). Pub. L. 97-35, § 2208(a)(7), struck out “workmen’s compensation” after “periodic benefits under a”.

Subsec. (h). Pub. L. 97-35, § 2208(a)(8), added subsec. (h).

1977—Subsec. (a). Pub. L. 95-216, §§ 205(d), 353(c)(1), struck out provisions following par. (8) under which the Secretary, in cases where an individual’s wages and self-employment income reported to the Secretary for a calendar year reached the limitations specified in sections 409(a) and 411(b)(1) of this title, was required to estimate the total of such wages and self-employment income on the basis of such information as might be available to him indicating the extent (if any) by which the wages and self-employment income exceeded limi-

tations, and, effective with respect to monthly benefits under this subchapter payable for months after Dec. 1978, and with respect to lump-sum death payments with respect to death occurring after Dec. 1978, inserted “(determined under section 415(b) of this title as in effect prior to January 1979)” after “(A) the average monthly wage” in provisions following par. (8).

Subsec. (f)(2). Pub. L. 95-216, §353(c)(2), divided existing provisions into subpars. (A) and (B), added subpar. (C), and in subpar. (B) as so redesignated substituted “(i) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 409(a) of this title) reported to the Secretary of the Treasury or his delegate for the calendar year before the year in which such redetermination is made to (ii) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for calendar year 1977 or, if later, the calendar year before the year” for “(i) the average of the taxable wages of all persons for whom taxable wages were reported to the Secretary for the first calendar quarter of the calendar year before the calendar year in which the redetermination is made, to (ii) the average of the taxable wages of such persons reported to the Secretary for the first calendar quarter of the taxable year before the calendar year”.

1976—Subsec. (f)(2). Pub. L. 94-202 substituted “calendar year before the calendar year” for “calendar year” and “taxable year before the calendar year” for “taxable year”.

1972—Subsec. (a). Pub. L. 92-603 added cl. (C) in provisions for the determination of an individual's average current earnings so as to introduce into the formula a factor of one-twelfth of the total wages and self-employment income for the calendar year in which he had the highest such wages and income during the year in which he became disabled and the five years preceding that year.

1968—Subsec. (a). Pub. L. 90-248 inserted in cl. (B) of first sentence following par. (8) “(computed without regard to the limitations specified in sections 409(a) and 411(b)(1) of this title)” before “for the five”, and inserted last sentence authorizing the Secretary, in certain cases, to estimate the total of wages and self-employment income for purposes of cl. (B) indicating the extent such earnings exceed the limitations in sections 409(a) and 411(b)(1) of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 107(a)(4) of 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 1989 AMENDMENT

Amendment by section 10208(b)(2)(A), (C) of Pub. L. 101-239 applicable with respect to computation of average total wage amounts (under amended provisions) for calendar years after 1990, see section 10208(c) of Pub. L. 101-239, set out as a note under section 430 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-509 effective with respect to payments due with respect to wages paid after Dec. 31, 1986, including wages paid after such date by a State (or political subdivision thereof) that modified its agreement pursuant to section 418(e)(2) of this title prior to Oct. 21, 1986, with certain exceptions, see section 9002(d) of Pub. L. 99-509 set out as a note under section 418 of this title.

Pub. L. 99-272, title XII, §12109(b), Apr. 7, 1986, 100 Stat. 287, provided that:

“(1) The amendment made by subsection (a)(1) [amending this section] shall be effective as though it had been included or reflected in the amendment made by section 2208(a)(3) of the Omnibus Budget Reconciliation Act of 1981 [Pub. L. 97-35, amending this section].

“(2) The amendment made by subsection (a)(2) [amending this section] shall apply only with respect to

monthly benefits payable on the basis of the wages and self-employment income of individuals who become disabled (within the meaning of section 223(d) of the Social Security Act [42 U.S.C. 423(d)]) after the month in which this Act is enacted [April 1986].”

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title XXII, §2208(b), Aug. 13, 1981, 95 Stat. 840, provided that: “The amendments made by subsection (a) [amending this section] shall be effective with respect to individuals who first become entitled to benefits under section 223(a) of the Social Security Act [42 U.S.C. 423(a)] for months beginning after the month in which this Act is enacted [August 1981], but only in the case of an individual who became disabled within the meaning of section 223(d) of such Act after the sixth month preceding the month in which this Act is enacted.”

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 205(d) of Pub. L. 95-216 effective with respect to monthly benefits under this subchapter payable for months after December 1978 and with respect to lump-sum death payments with respect to deaths occurring after December 1978, see section 206 of Pub. L. 95-216, set out as a note under section 402 of this title.

Pub. L. 95-216, title III, §353(c)(1), Dec. 20, 1977, 91 Stat. 1553, provided that the amendment made by that section is effective with respect to the estimates for calendar years beginning after Dec. 31, 1977.

Amendment by section 353(c)(2) of Pub. L. 95-216 effective Jan. 1, 1979, see section 353(g) of Pub. L. 95-216, set out as a note under section 418 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92-603, title I, §119(c), Oct. 30, 1972, 86 Stat. 1352, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to monthly benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] for months after December 1972.”

EFFECTIVE DATE OF 1968 AMENDMENTS; DETERMINATION OF AVERAGE CURRENT EARNINGS UPON REDETERMINATION OF BENEFITS SUBJECT TO REDUCTION

Pub. L. 90-248, title I, §159(b), Jan. 2, 1968, 81 Stat. 869, provided that:

“(1) The amendments made by subsection (a) [amending this section] shall apply only with respect to monthly benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] for months after January 1968.

“(2) For purposes of any redetermination which is made under section 224(f) of the Social Security Act [42 U.S.C. 424a(f)] in the case of benefits subject to reduction under section 224 of such Act, where such reduction as first computed was effective with respect to benefits for the month in which this Act is enacted [January 1968] or a prior month, the amendments made by subsection (a) of this section [amending subsec. (a) of this section] shall also be deemed to have applied in the initial determination of the ‘average current earnings’ of the individual whose wages and self-employment income are involved.”

EFFECTIVE DATE

Pub. L. 89-97, title III, §335, July 30, 1965, 79 Stat. 406, provided that this section is effective with respect to benefits under this subchapter for months after December 1965 based on the wages and self-employment income of individuals entitled to benefits under section 423 of this title whose period of disability (as defined in this subchapter) began after June 1, 1965.

§ 425. Additional rules relating to benefits based on disability

(a) Suspension of benefits

If the Commissioner of Social Security, on the basis of information obtained by or submitted to