

BENEFITS IN CERTAIN CASES OF DEATHS BEFORE  
SEPTEMBER 1950

Act Sept. 1, 1954, ch. 1206, title I, §109, 68 Stat. 1084, as amended by Pub. L. 86-778, title II, §204(c), Sept. 13, 1960, 74 Stat. 948, provided that in the case of an individual who died prior to Sept. 1, 1950, and was not a fully insured individual when he died and who had at least six quarters of coverage under this subchapter, such individual was generally to be deemed to have died fully insured, his primary insurance amount was to be deemed to be computed under subsec. (a)(2) of this section, the proof of support requirement in section 402(h) of this title was not to be applicable where such proof was filed before Sept. 1956, and that the provisions of this section were to apply to monthly benefits under section 402 of this title for months after Aug. 1954 and in or prior to Sept. 1960.

COMPUTATION OF PRIMARY INSURANCE AMOUNT OF  
INDIVIDUALS WHO DIED PRIOR TO 1940

Pub. L. 86-778, title II, §205(c), Sept. 13, 1960, 74 Stat. 949, provided that: "The primary insurance amount (for purposes of title II of the Social Security Act [42 U.S.C. 401 et seq.] of any individual who died prior to 1940, and who had not less than six quarters of coverage (as defined in section 213 of such Act [42 U.S.C. 413]), shall be computed under section 215(a)(2) of such Act [42 U.S.C. 415(a)(2)]."

[Section 205(c) of Pub. L. 86-778 as applicable only in the case of monthly benefits under this subchapter for months after September 1960, on the basis of applications filed in or after such month, see section 205(d) of Pub. L. 86-778, set out as an Effective Date of 1960 Amendment note under section 402 of this title.]

**§ 416. Additional definitions**

For the purposes of this subchapter—

**(a) Spouse; surviving spouse**

(1) The term "spouse" means a wife as defined in subsection (b) of this section or a husband as defined in subsection (f) of this section.

(2) The term "surviving spouse" means a widow as defined in subsection (c) of this section or a widower as defined in subsection (g) of this section.

**(b) Wife**

The term "wife" means the wife of an individual, but only if she (1) is the mother of his son or daughter, (2) was married to him for a period of not less than one year immediately preceding the day on which her application is filed, or (3) in the month prior to the month of her marriage to him (A) was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (b), (e), or (h) of section 402 of this title, (B) had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (C) was entitled to, or upon application therefor and attainment of the required age (if any) would have been entitled to, a widow's, child's (after attainment of age 18), or parent's insurance annuity under section 231a of title 45. For purposes of clause (2), a wife shall be deemed to have been married to an individual for a period of one year throughout the month in which occurs the first anniversary of her marriage to such individual. For purposes of subparagraph (C) of section 402(b)(1) of this title, a divorced wife shall be deemed not to be mar-

ried throughout the month in which she becomes divorced.

**(c) Widow**

(1) The term "widow" (except when used in the first sentence of section 402(i) of this title) means the surviving wife of an individual, but only if (A) she is the mother of his son or daughter, (B) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of eighteen, (C) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen, (D) she was married to him at the time both of them legally adopted a child under the age of eighteen, (E) except as provided in paragraph (2), she was married to him for a period of not less than nine months immediately prior to the day on which he died, or (F) in the month prior to the month of her marriage to him (i) she was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (b), (e), or (h) of section 402 of this title, (ii) she had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (iii) she was entitled to, or upon application therefor and attainment of the required age (if any) would have been entitled to, a widow's, child's (after attainment of age 18), or parent's insurance annuity under section 231a of title 45.

(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

(A) the individual had been married prior to the individual's marriage to the surviving wife,

(B) the prior wife was institutionalized during the individual's marriage to the prior wife due to mental incompetence or similar incapacity,

(C) during the period of the prior wife's institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

(D) the prior wife continued to remain institutionalized up to the time of her death, and

(E) the individual married the surviving wife within 60 days after the prior wife's death.

**(d) Divorced spouses; divorce**

(1) The term "divorced wife" means a woman divorced from an individual, but only if she had been married to such individual for a period of 10 years immediately before the date the divorce became effective.

(2) The term "surviving divorced wife" means a woman divorced from an individual who has died, but only if she had been married to the individual for a period of 10 years immediately before the date the divorce became effective.

(3) The term "surviving divorced mother" means a woman divorced from an individual who

has died, but only if (A) she is the mother of his son or daughter, (B) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of 18, (C) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of 18, or (D) she was married to him at the time both of them legally adopted a child under the age of 18.

(4) The term “divorced husband” means a man divorced from an individual, but only if he had been married to such individual for a period of 10 years immediately before the date the divorce became effective.

(5) The term “surviving divorced husband” means a man divorced from an individual who has died, but only if he had been married to the individual for a period of 10 years immediately before the divorce became effective.

(6) The term “surviving divorced father” means a man divorced from an individual who has died, but only if (A) he is the father of her son or daughter, (B) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of 18, (C) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of 18, or (D) he was married to her at the time both of them legally adopted a child under the age of 18.

(7) The term “surviving divorced parent” means a surviving divorced mother as defined in paragraph (3) of this subsection or a surviving divorced father as defined in paragraph (6).

(8) The terms “divorce” and “divorced” refer to a divorce a vinculo matrimonii.

**(e) Child**

The term “child” means (1) the child or legally adopted child of an individual, (2) a stepchild who has been such stepchild for not less than one year immediately preceding the day on which application for child’s insurance benefits is filed or (if the insured individual is deceased) not less than nine months immediately preceding the day on which such individual died, and (3) a person who is the grandchild or step-grandchild of an individual or his spouse, but only if (A) there was no natural or adoptive parent (other than such a parent who was under a disability, as defined in section 423(d) of this title) of such person living at the time (i) such individual became entitled to old-age insurance benefits or disability insurance benefits or died, or (ii) if such individual had a period of disability which continued until such individual became entitled to old-age insurance benefits or disability insurance benefits, or died, at the time such period of disability began, or (B) such person was legally adopted after the death of such individual by such individual’s surviving spouse in an adoption that was decreed by a court of competent jurisdiction within the United States and such person’s natural or adopting parent or stepparent was not living in such individual’s household and making regular contributions toward such person’s support at the time such individual died. For purposes of clause (1), a person shall be deemed, as of the date of death of an individual, to be the legally adopted child of such individual if such person

was either living with or receiving at least one-half of his support from such individual at the time of such individual’s death and was legally adopted by such individual’s surviving spouse after such individual’s death but only if (A) proceedings for the adoption of the child had been instituted by such individual before his death, or (B) such child was adopted by such individual’s surviving spouse before the end of two years after (i) the day on which such individual died or (ii) August 28, 1958. For purposes of clause (2), a person who is not the stepchild of an individual shall be deemed the stepchild of such individual if such individual was not the mother or adopting mother or the father or adopting father of such person and such individual and the mother or adopting mother, or the father or adopting father, as the case may be, of such person went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of subsection (h)(1)(B) of this section, would have been a valid marriage. For purposes of clause (2), a child shall be deemed to have been the stepchild of an individual for a period of one year throughout the month in which occurs the expiration of such one year. For purposes of clause (3), a person shall be deemed to have no natural or adoptive parent living (other than a parent who was under a disability) throughout the most recent month in which a natural or adoptive parent (not under a disability) dies.

**(f) Husband**

The term “husband” means the husband of an individual, but only if (1) he is the father of her son or daughter, (2) he was married to her for a period of not less than one year immediately preceding the day on which his application is filed, or (3) in the month prior to the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (c), (f) or (h) of section 402 of this title, (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (C) he was entitled to, or upon application therefor and attainment of the required age (if any) he would have been entitled to, a widower’s, child’s (after attainment of age 18), or parent’s insurance annuity under section 231a of title 45. For purposes of clause (2), a husband shall be deemed to have been married to an individual for a period of one year throughout the month in which occurs the first anniversary of his marriage to her. For purposes of subparagraph (C) of section 402(c)(1) of this title, a divorced husband shall be deemed not to be married throughout the month which he becomes divorced.

**(g) Widower**

(1) The term “widower” (except when used in the first sentence of section 402(i) of this title) means the surviving husband of an individual, but only if (A) he is the father of her son or daughter, (B) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of eight-

een, (C) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of eighteen, (D) he was married to her at the time both of them legally adopted a child under the age of eighteen, (E) except as provided in paragraph (2), he was married to her for a period of not less than nine months immediately prior to the day on which she died, or (F) in the month before the month of his marriage to her (i) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (c), (f) or (h) of section 402 of this title, (ii) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section (subject, however, to section 402(s) of this title), or (iii) he was entitled to, or on application therefor and attainment of the required age (if any) he would have been entitled to, a widower's, child's (after attainment of age 18), or parent's insurance annuity under section 231a of title 45.

(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

(A) the individual had been married prior to the individual's marriage to the surviving husband,

(B) the prior husband was institutionalized during the individual's marriage to the prior husband due to mental incompetence or similar incapacity,

(C) during the period of the prior husband's institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

(D) the prior husband continued to remain institutionalized up to the time of his death, and

(E) the individual married the surviving husband within 60 days after the prior husband's death.

**(h) Determination of family status**

(1)(A)(i) An applicant is the wife, husband, widow, or widower of a fully or currently insured individual for purposes of this subchapter if the courts of the State in which such insured individual is domiciled at the time such applicant files and application, or, if such insured individual is dead, the courts of the State in which he was domiciled at the time of death, or, if such insured individual is or was not so domiciled in any State, the courts of the District of Columbia, would find that such applicant and such insured individual were validly married at the time such applicant files such application or, if such insured individual is dead, at the time he died.

(ii) If such courts would not find that such applicant and such insured individual were validly married at such time, such applicant shall, nevertheless be deemed to be the wife, husband,

widow, or widower, as the case may be, of such insured individual if such applicant would, under the laws applied by such courts in determining the devolution of intestate personal property, have the same status with respect to the taking of such property as a wife, husband, widow, or widower of such insured individual.

(B)(i) In any case where under subparagraph (A) an applicant is not (and is not deemed to be) the wife, widow, husband, or widower of a fully or currently insured individual, or where under subsection (b), (c), (d), (f), or (g) of this section such applicant is not the wife, divorced wife, widow, surviving divorced wife, husband, divorced husband, widower, or surviving divorced husband of such individual, but it is established to the satisfaction of the Commissioner of Social Security that such applicant in good faith went through a marriage ceremony with such individual resulting in a purported marriage between them which, but for a legal impediment not known to the applicant at the time of such ceremony, would have been a valid marriage, then, for purposes of subparagraph (A) and subsections (b), (c), (d), (f), and (g) of this section, such purported marriage shall be deemed to be a valid marriage. Notwithstanding the preceding sentence, in the case of any person who would be deemed under the preceding sentence a wife, widow, husband, or widower of the insured individual, such marriage shall not be deemed to be a valid marriage unless the applicant and the insured individual were living in the same household at the time of the death of the insured individual or (if the insured individual is living) at the time the applicant files the application. A marriage that is deemed to be a valid marriage by reason of the preceding sentence shall continue to be deemed a valid marriage if the insured individual and the person entitled to benefits as the wife or husband of the insured individual are no longer living in the same household at the time of the death of such insured individual.

(ii) The provisions of clause (i) shall not apply if the Commissioner of Social Security determines, on the basis of information brought to the Commissioner's attention, that such applicant entered into such purported marriage with such insured individual with knowledge that it would not be a valid marriage.

(iii) The entitlement to a monthly benefit under subsection (b) or (c) of section 402 of this title, based on the wages and self-employment income of such insured individual, of a person who would not be deemed to be a wife or husband of such insured individual but for this subparagraph, shall end with the month before the month in which such person enters into a marriage, valid without regard to this subparagraph, with a person other than such insured individual.

(iv) For purposes of this subparagraph, a legal impediment to the validity of a purported marriage includes only an impediment (I) resulting from the lack of dissolution of a previous marriage or otherwise arising out of such previous marriage or its dissolution, or (II) resulting from a defect in the procedure followed in connection with such purported marriage.

(2)(A) In determining whether an applicant is the child or parent of a fully or currently in-

sured individual for purposes of this subchapter, the Commissioner of Social Security shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such insured individual is domiciled at the time such applicant files application, or, if such insured individual is dead, by the courts of the State in which he was domiciled at the time of his death, or, if such insured individual is or was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking intestate personal property as a child or parent shall be deemed such.

(B) If an applicant is a son or daughter of a fully or currently insured individual but is not (and is not deemed to be) the child of such insured individual under subparagraph (A), such applicant shall nevertheless be deemed to be the child of such insured individual if such insured individual and the mother or father, as the case may be, of such applicant went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of paragraph (1)(B), would have been a valid marriage.

(3) An applicant who is the son or daughter of a fully or currently insured individual, but who is not (and is not deemed to be) the child of such insured individual under paragraph (2) of this subsection, shall nevertheless be deemed to be the child of such insured individual if:

(A) in the case of an insured individual entitled to old-age insurance benefits (who was not, in the month preceding such entitlement, entitled to disability insurance benefits)—

(i) such insured individual—

(I) has acknowledged in writing that the applicant is his or her son or daughter,

(II) has been decreed by a court to be the mother or father of the applicant, or

(III) has been ordered by a court to contribute to the support of the applicant because the applicant is his or her son or daughter,

and such acknowledgment, court decree, or court order was made not less than one year before such insured individual became entitled to old-age insurance benefits or attained retirement age (as defined in subsection (l) of this section), whichever is earlier; or

(ii) such insured individual is shown by evidence satisfactory to the Commissioner of Social Security to be the mother or father of the applicant and was living with or contributing to the support of the applicant at the time such applicant's application for benefits was filed;

(B) in the case of an insured individual entitled to disability insurance benefits, or who was entitled to such benefits in the month preceding the first month for which he or she was entitled to old-age insurance benefits—

(i) such insured individual—

(I) has acknowledged in writing that the applicant is his or her son or daughter,

(II) has been decreed by a court to be the mother or father of the applicant, or

(III) has been ordered by a court to contribute to the support of the applicant because the applicant is his or her son or daughter,

and such acknowledgment, court decree, or court order was made before such insured individual's most recent period of disability began; or

(ii) such insured individual is shown by evidence satisfactory to the Commissioner of Social Security to be the mother or father of the applicant and was living with or contributing to the support of that applicant at the time such applicant's application for benefits was filed;

(C) in the case of a deceased individual—

(i) such insured individual—

(I) had acknowledged in writing that the applicant is his or her son or daughter,

(II) had been decreed by a court to be the mother or father of the applicant, or

(III) had been ordered by a court to contribute to the support of the applicant because the applicant was his or her son or daughter,

and such acknowledgment, court decree, or court order was made before the death of such insured individual, or

(ii) such insured individual is shown by evidence satisfactory to the Commissioner of Social Security to have been the mother or father of the applicant, and such insured individual was living with or contributing to the support of the applicant at the time such insured individual died.

For purposes of subparagraphs (A)(i) and (B)(i), an acknowledgement, court decree, or court order shall be deemed to have occurred on the first day of the month in which it actually occurred.

**(i) Disability; period of disability**

(1) Except for purposes of sections 402(d), 402(e), 402(f), 423, and 425 of this title, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less. The provisions of paragraphs (2)(A), (2)(B), (3), (4), (5), and (6) of section 423(d) of this title shall be applied for purposes of determining whether an individual is under a disability within the meaning of the first sentence of this paragraph in the same manner as they are applied for purposes of paragraph (1) of such section. Nothing in this subchapter shall be construed as authorizing the Commissioner of Social Security or any other officer or employee of the United States to interfere in any way with the practice of medi-

cine or with relationships between practitioners of medicine and their patients, or to exercise any supervision or control over the administration or operation of any hospital.

(2)(A) The term "period of disability" means a continuous period (beginning and ending as hereinafter provided in this subsection) during which an individual was under a disability (as defined in paragraph (1)), but only if such period is of not less than five full calendar months' duration or such individual was entitled to benefits under section 423 of this title for one or more months in such period.

(B) No period of disability shall begin as to any individual unless such individual files an application for a disability determination with respect to such period; and no such period shall begin as to any individual after such individual attains retirement age (as defined in subsection (l) of this section). In the case of a deceased individual, the requirement of an application under the preceding sentence may be satisfied by an application for a disability determination filed with respect to such individual within 3 months after the month in which he died.

(C) A period of disability shall begin—

(i) on the day the disability began, but only if the individual satisfies the requirements of paragraph (3) on such day; or

(ii) if such individual does not satisfy the requirements of paragraph (3) on such day, then on the first day of the first quarter thereafter in which he satisfies such requirements.

(D) A period of disability shall end with the close of whichever of the following months is the earlier: (i) the month preceding the month in which the individual attains retirement age (as defined in subsection (l) of this section), or (ii) the month preceding (I) the termination month (as defined in section 423(a)(1) of this title), or, if earlier (II) the first month for which no benefit is payable by reason of section 423(e) of this title, where no benefit is payable for any of the succeeding months during the 36-month period referred to in such section. The provisions set forth in section 423(f) of this title with respect to determinations of whether entitlement to benefits under this subchapter or subchapter XVIII of this chapter based on the disability of any individual is terminated (on the basis of a finding that the physical or mental impairment on the basis of which such benefits are provided has ceased, does not exist, or is not disabling) shall apply in the same manner and to the same extent with respect to determinations of whether a period of disability has ended (on the basis of a finding that the physical or mental impairment on the basis of which the finding of disability was made has ceased, does not exist, or is not disabling).

(E) Except as is otherwise provided in subparagraph (F), no application for a disability determination which is filed more than 12 months after the month prescribed by subparagraph (D) as the month in which the period of disability ends (determined without regard to subparagraph (B) and this subparagraph) shall be accepted as an application for purposes of this paragraph.

(F) An application for a disability determination which is filed more than 12 months after

the month prescribed by subparagraph (D) as the month in which the period of disability ends (determined without regard to subparagraphs (B) and (E)) shall be accepted as an application for purposes of this paragraph if—

(i) in the case of an application filed by or on behalf of an individual with respect to a disability which ends after January 1968, such application is filed not more than 36 months after the month in which such disability ended, such individual is alive at the time the application is filed, and the Commissioner of Social Security finds in accordance with regulations prescribed by the Commissioner that the failure of such individual to file an application for a disability determination within the time specified in subparagraph (E) was attributable to a physical or mental condition of such individual which rendered him incapable of executing such an application, and

(ii) in the case of an application filed by or on behalf of an individual with respect to a period of disability which ends in or before January 1968—

(I) such application is filed not more than 12 months after January 1968,

(II) a previous application for a disability determination has been filed by or on behalf of such individual (1) in or before January 1968, and (2) not more than 36 months after the month in which his disability ended, and

(III) the Commissioner of Social Security finds in accordance with regulations prescribed by the Commissioner, that the failure of such individual to file an application within the then specified time period was attributable to a physical or mental condition of such individual which rendered him incapable of executing such an application.

In making a determination under this subsection, with respect to the disability or period of disability of any individual whose application for a determination thereof is accepted solely by reason of the provisions of this subparagraph (F), the provisions of this subsection (other than the provisions of this subparagraph) shall be applied as such provisions are in effect at the time such determination is made.

(G) An application for a disability determination filed before the first day on which the applicant satisfies the requirements for a period of disability under this subsection shall be deemed a valid application (and shall be deemed to have been filed on such first day) only if the applicant satisfies the requirements for a period of disability before the Commissioner of Social Security makes a final decision on the application and no request under section 405(b) of this title for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Commissioner of Social Security).

(3) The requirements referred to in clauses (i) and (ii) of paragraph (2)(C) of this subsection are satisfied by an individual with respect to any quarter only if—

(A) he would have been a fully insured individual (as defined in section 414 of this title) had he attained age 62 and filed application for

benefits under section 402(a) of this title on the first day of such quarter; and

(B)(i) he had not less than 20 quarters of coverage during the 40-quarter period which ends with such quarter, or

(ii) if such quarter ends before he attains (or would attain) age 31, not less than one-half (and not less than 6) of the quarters during the period ending with such quarter and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage, or

(iii) in the case of an individual (not otherwise insured under clause (i)) who, by reason of clause (ii), had a prior period of disability that began during a period before the quarter in which he or she attained age 31, not less than one-half of the quarters beginning after such individual attained age 21 and ending with such quarter are quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter are quarters of coverage;

except that the provisions of subparagraph (B) of this paragraph shall not apply in the case of an individual who is blind (within the meaning of "blindness" as defined in paragraph (1)). For purposes of subparagraph (B) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage.

**(j) Periods of limitation ending on nonwork days**

Where this subchapter, any provision of another law of the United States (other than the Internal Revenue Code of 1986) relating to or changing the effect of this subchapter, or any regulation issued by the Commissioner of Social Security pursuant thereto provides for a period within which an act is required to be done which affects eligibility for or the amount of any benefit or payment under this subchapter or is necessary to establish or protect any rights under this subchapter, and such period ends on a Saturday, Sunday, or legal holiday, or on any other day all or part of which is declared to be a nonwork day for Federal employees by statute or Executive order, then such act shall be considered as done within such period if it is done on the first day thereafter which is not a Saturday, Sunday, or legal holiday or any other day all or part of which is declared to be a nonwork day for Federal employees by statute or Executive order. For purposes of this subsection, the day on which a period ends shall include the day on which an extension of such period, as authorized by law or by the Commissioner of Social Security pursuant to law, ends. The provisions of this subsection shall not extend the period during which benefits under this subchapter may (pursuant to section 402(j)(1) or 423(b) of this title) be paid for months prior to the day application for such benefits is filed, or during which an application for benefits under this subchapter may (pursuant to section 402(j)(2) or 423(b) of this title) be accepted as such.

**(k) Waiver of nine-month requirement for widow, stepchild, or widower in case of accidental death or in case of serviceman dying in line of duty, or in case of remarriage to same individual**

The requirement in clause (E) of subsection (c)(1) of this section or clause (E) of subsection (g)(1) of this section that the surviving spouse of an individual have been married to such individual for a period of not less than nine months immediately prior to the day on which such individual died in order to qualify as such individual's widow or widower, and the requirement in subsection (e) of this section that the stepchild of a deceased individual have been such stepchild for not less than nine months immediately preceding the day on which such individual died in order to qualify as such individual's child, shall be deemed to be satisfied, where such individual dies within the applicable nine-month period, if—

(1) his death—

(A) is accidental, or

(B) occurs in line of duty while he is a member of a uniformed service serving on active duty (as defined in section 410(l)(2) of this title),

unless the Commissioner of Social Security determines that at the time of the marriage involved the individual could not have reasonably been expected to live for nine months, or

(2)(A) the widow or widower of such individual had been previously married to such individual and subsequently divorced and such requirement would have been satisfied at the time of such divorce if such previous marriage had been terminated by the death of such individual at such time instead of by divorce; or

(B) the stepchild of such individual had been the stepchild of such individual during a previous marriage of such stepchild's parent to such individual which ended in divorce and such requirement would have been satisfied at the time of such divorce if such previous marriage had been terminated by the death of such individual at such time instead of by divorce;

except that paragraph (2) of this subsection shall not apply if the Commissioner of Social Security determines that at the time of the marriage involved the individual could not have reasonably been expected to live for nine months. For purposes of paragraph (1)(A) of this subsection, the death of an individual is accidental if he receives bodily injuries solely through violent, external, and accidental means and, as a direct result of the bodily injuries and independently of all other causes, loses his life not later than three months after the day on which he receives such bodily injuries.

**(l) Retirement age**

(1) The term "retirement age" means—

(A) with respect to an individual who attains early retirement age (as defined in paragraph (2)) before January 1, 2000, 65 years of age;

(B) with respect to an individual who attains early retirement age after December 31, 1999, and before January 1, 2005, 65 years of age plus the number of months in the age increase fac-

tor (as determined under paragraph (3)) for the calendar year in which such individual attains early retirement age;

(C) with respect to an individual who attains early retirement age after December 31, 2004, and before January 1, 2017, 66 years of age;

(D) with respect to an individual who attains early retirement age after December 31, 2016, and before January 1, 2022, 66 years of age plus the number of months in the age increase factor (as determined under paragraph (3)) for the calendar year in which such individual attains early retirement age; and

(E) with respect to an individual who attains early retirement age after December 31, 2021, 67 years of age.

(2) The term “early retirement age” means age 62 in the case of an old-age, wife’s, or husband’s insurance benefit, and age 60 in the case of a widow’s or widower’s insurance benefit.

(3) The age increase factor for any individual who attains early retirement age in a calendar year within the period to which subparagraph (B) or (D) of paragraph (1) applies shall be determined as follows:

(A) With respect to an individual who attains early retirement age in the 5-year period consisting of the calendar years 2000 through 2004, the age increase factor shall be equal to two-twelfths of the number of months in the period beginning with January 2000 and ending with December of the year in which the individual attains early retirement age.

(B) With respect to an individual who attains early retirement age in the 5-year period consisting of the calendar years 2017 through 2021, the age increase factor shall be equal to two-twelfths of the number of months in the period beginning with January 2017 and ending with December of the year in which the individual attains early retirement age.

(Aug. 14, 1935, ch. 531, title II, § 216, as added Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492, 510; amended July 18, 1952, ch. 945, § 3(d), 66 Stat. 771; Sept. 1, 1954, ch. 1206, title I, § 106(d), 68 Stat. 1080; Aug. 1, 1956, ch. 836, title I, §§ 102(a), (d)(12), 103(c)(6), 70 Stat. 809, 815, 818; Pub. L. 85–109, § 1, July 17, 1957, 71 Stat. 308; Pub. L. 85–238, § 3(h), Aug. 30, 1957, 71 Stat. 519; Pub. L. 85–840, title II, §§ 201, 203, 204(a), title III, §§ 301(a)(2), (b)(2), (c)(2), (d), (e), 302(a), 305(b), Aug. 28, 1958, 72 Stat. 1020, 1021, 1026–1028, 1030; Pub. L. 86–778, title II, §§ 207(a)–(c), 208(a)–(c), title IV, §§ 402(e), 403(c), title VII, § 703, Sept. 13, 1960, 74 Stat. 950–952, 968, 969, 994; Pub. L. 87–64, title I, §§ 102(b)(2)(D), (c)(1), (2)(B), (3)(C), 105, June 30, 1961, 75 Stat. 134, 135, 139; Pub. L. 88–650, § 1(a)–(c), Oct. 13, 1964, 78 Stat. 1075; Pub. L. 89–97, title III, §§ 303(a)(1), (b)(1), (2), 304(l), 306(c)(13), 308(c), (d)(2)(B), 328(b), 334(a)–(d), 339(a), 344(a), July 30, 1965, 79 Stat. 366, 367, 370, 373, 377, 378, 400, 404, 405, 409, 412; Pub. L. 90–248, title I, §§ 104(d)(2), 105(a), 111(a), 150(a), 156(a)–(d), 158(d), 172(a), (b), Jan. 2, 1968, 81 Stat. 832, 833, 837, 860, 866, 869, 877; Pub. L. 92–603, title I, §§ 104(g), 113(a), 115(b), 116(d), 117(a), 118(b), 145(a), Oct. 30, 1972, 86 Stat. 1341, 1347, 1349–1351, 1370; Pub. L. 93–445, title III, § 304, Oct. 16, 1974, 88 Stat. 1358; Pub. L. 95–216, title III, § 337(a), Dec. 20, 1977, 91 Stat. 1548; Pub. L. 96–265, title III, §§ 303(b)(2)(B), 306(b), June 9, 1980, 94 Stat.

453, 457; Pub. L. 96–473, § 5(a)(2), Oct. 19, 1980, 94 Stat. 2265; Pub. L. 97–35, title XXII, §§ 2202(a)(2), 2203(b)(2), (c)(2), (d)(3), (4), Aug. 13, 1981, 95 Stat. 835–837; Pub. L. 98–21, title II, § 201(a), (c)(1)(D), title III, §§ 301(c), 303, 304(c), 306(c), 309(j), (k), 332(a), 333(a), Apr. 20, 1983, 97 Stat. 107, 109, 111, 112, 114, 117, 129; Pub. L. 98–369, div. B, title VI, §§ 2661(l), 2662(c)(1), 2663(a)(11), July 18, 1984, 98 Stat. 1158, 1159, 1164; Pub. L. 98–460, §§ 2(b), 4(a)(2), Oct. 9, 1984, 98 Stat. 1796, 1800; Pub. L. 100–203, title IX, § 9010(e)(1), Dec. 22, 1987, 101 Stat. 1330–294; Pub. L. 101–508, title V, §§ 5103(b)(1), 5104(a), 5119(a), (b), Nov. 5, 1990, 104 Stat. 1388–251, 1388–254, 1388–278, 1388–279; Pub. L. 103–296, title I, § 107(a)(4), title III, § 321(c)(6)(H), Aug. 15, 1994, 108 Stat. 1478, 1538; Pub. L. 108–203, title IV, § 414(a)–(c), Mar. 2, 2004, 118 Stat. 529, 530.)

#### REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (j), is classified generally to Title 26, Internal Revenue Code.

#### CONSTITUTIONALITY

For constitutionality of section 339(a) of Pub. L. 89–97, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

#### AMENDMENTS

2004—Subsec. (c). Pub. L. 108–203, § 414(a), designated existing provisions as par. (1), redesignated former cls. (1) to (6) as cls. (A) to (F), respectively, of par. (1), in cl. (E) inserted “except as provided in paragraph (2),” before “she was married”, in cl. (F) redesignated former subcls. (A) to (C) as subcls. (i) to (iii), respectively, and added par. (2).

Subsec. (g). Pub. L. 108–203, § 414(b), designated existing provisions as par. (1), redesignated former cls. (1) to (6) as cls. (A) to (F), respectively, of par. (1), in cl. (E) inserted “except as provided in paragraph (2),” before “he was married”, in cl. (F) redesignated former subcls. (A) to (C) as subcls. (i) to (iii), respectively, and added par. (2).

Subsec. (k). Pub. L. 108–203, § 414(c), substituted “clause (E) of subsection (c)(1) of this section or clause (E) of subsection (g)(1) of this section” for “clause (5) of subsection (c) of this section or clause (5) of subsection (g) of this section” in introductory provisions.

1994—Subsecs. (h), (i). Pub. L. 103–296, § 107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing, “the Commissioner’s” for “his” in subsec. (h)(1)(B)(ii), and “prescribed by the Commissioner” for “prescribed by him” in subsec. (i)(2)(F)(i), (ii)(III).

Subsec. (j). Pub. L. 103–296, § 321(c)(6)(H), substituted “1986” for “1954” after “Code of”.

Pub. L. 103–296, § 107(a)(4), substituted “Commissioner of Social Security” for “Secretary” in two places.

Subsec. (k). Pub. L. 103–296, § 107(a)(4), substituted “Commissioner of Social Security” for “Secretary” in two places.

1990—Subsec. (e). Pub. L. 101–508, § 5104(a), substituted “either living with or receiving at least one-half of his support from such individual at the time of such individual’s death” for “at the time of such individual’s death living in such individual’s household” and struck out before period at end of second sentence “; except that this sentence shall not apply if at the time of such individual’s death such person was receiving regular contributions toward his support from someone other than such individual or his spouse, or from any public or private welfare organization which furnishes services or assistance for children”.

Subsec. (h)(1)(A). Pub. L. 101-508, §5119(a)(1), designated first and second sentences as cls. (i) and (ii), respectively.

Subsec. (h)(1)(B)(i). Pub. L. 101-508, §5119(b), substituted “where under subsection (b), (c), (d), (f), or (g) of this section such applicant is not the wife, divorced wife, widow, surviving divorced wife, husband, divorced husband, widower, or surviving divorced husband of such individual” for “where under subsection (b), (c), (f), or (g) of this section such applicant is not the wife, widow, husband, or widower of such individual”, struck out “and such applicant and the insured individual were living in the same household at the time of the death of such insured individual or (if such insured individual is living) at the time such applicant files the application,” after “valid marriage,”, substituted “subsections (b), (c), (d), (f), and (g)” for “subsections (b), (c), (f), and (g)”, and inserted at end “Notwithstanding the preceding sentence, in the case of any person who would be deemed under the preceding sentence a wife, widow, husband, or widower of the insured individual, such marriage shall not be deemed to be a valid marriage unless the applicant and the insured individual were living in the same household at the time of the death of the insured individual or (if the insured individual is living) at the time the applicant files the application. A marriage that is deemed to be a valid marriage by reason of the preceding sentence shall continue to be deemed a valid marriage if the insured individual and the person entitled to benefits as the wife or husband of the insured individual are no longer living in the same household at the time of the death of such insured individual.”

Pub. L. 101-508, §5119(a)(2)(A), inserted “(i)” after “(B)”.

Subsec. (h)(1)(B)(ii). Pub. L. 101-508, §5119(a)(2)(B), (C), substituted “(ii) The provisions of clause (i) shall not apply” for “The provisions of the preceding sentence shall not apply (i) if another person is or has been entitled to a benefit under subsection (b), (c), (e), (f), or (g) of section 402 of this title on the basis of the wages and self-employment income of such insured individual and such other person is (or is deemed to be) a wife, widow, husband, or widower of such insured individual under subparagraph (A) at the time such applicant files the application, or (ii)”.

Subsec. (h)(1)(B)(iii). Pub. L. 101-508, §5119(a)(2)(D)–(G), substituted “(iii) The entitlement to a monthly benefit under subsection (b) or (c)” for “The entitlement to a monthly benefit under subsection (b), (c), (e), (f), or (g)”, “a wife or husband” for “a wife, widow, husband, or widower”, and “in which such person enters” for “(i) in which the Secretary certifies, pursuant to section 405(i) of this title, that another person is entitled to a benefit under subsection (b), (c), (e), (f), or (g) of section 402 of this title on the basis of the wages and self-employment income of such insured individual, if such other person is (or is deemed to be) the wife, widow, husband, or widower of such insured individual under subparagraph (A), or (ii) if the applicant is entitled to a monthly benefit under subsection (b) or (c) of section 402 of this title, in which such applicant entered”.

Subsec. (h)(1)(B)(iv). Pub. L. 101-508, §5119(a)(2)(H), (I), inserted “(iv)” before “For purposes” and substituted “(I)” and “(II)” for “(i)” and “(ii)”, respectively.

Subsec. (i)(1). Pub. L. 101-508, §5103(b)(1), substituted “(2)(B)” for “(2)(C)”.

1987—Subsec. (i)(2)(D)(ii)(II). Pub. L. 100-203 substituted “36-month period” for “15-month period”.

1984—Subsec. (f). Pub. L. 98-369, §2661(l)(1), inserted provision that for purposes of subparagraph (C) of section 402(c)(1) of this title, a divorced husband shall be deemed not to be married throughout the month which he becomes divorced.

Subsec. (h)(3). Pub. L. 98-369, §2663(a)(11)(A), made technical amendment to directory language of Pub. L. 97-35, §2203(d)(4). See 1981 Amendment Note below.

Subsec. (h)(3)(A)(i). Pub. L. 98-369, §2661(l)(2), substituted “subsection (l) of this section” for “section 416(l) of this title”.

Subsec. (i)(1). Pub. L. 98-460, §4(a)(2), inserted “(2)(C),” after “(2)(A),”.

Subsec. (i)(2)(B). Pub. L. 98-369, §2661(l)(3), substituted “subsection (l) of this section” for “section 416(l) of this title”.

Pub. L. 98-369, §2662(c)(1), made clarifying amendment to Pub. L. 98-21, §201(c)(1)(D). See 1983 Amendment note below.

Subsec. (i)(2)(D). Pub. L. 98-460, §2(b), inserted “The provisions set forth in section 423(f) of this title with respect to determinations of whether entitlement to benefits under this subchapter or subchapter XVIII of this chapter based on the disability of any individual is terminated (on the basis of a finding that the physical or mental impairment on the basis of which such benefits are provided has ceased, does not exist, or is not disabling) shall apply in the same manner and to the same extent with respect to determinations of whether a period of disability has ended (on the basis of a finding that the physical or mental impairment on the basis of which the finding of disability was made has ceased, does not exist, or is not disabling).”

Pub. L. 98-369, §2661(l)(3), substituted “subsection (l) of this section” for “section 416(l) of this title”.

Subsec. (i)(2)(F)(ii). Pub. L. 98-369, §2663(a)(11)(B), substituted a dash for a comma after “before January 1968” in provisions preceding subcl. (I).

1983—Subsec. (a). Pub. L. 98-21, §304(c), added subsec. (a).

Subsec. (d)(4), (5). Pub. L. 98-21, §301(c)(1), added pars. (4) and (5). Former par. (4) redesignated (6).

Subsec. (d)(6). Pub. L. 98-21, §306(c), added par. (6) and redesignated former par. (6) as (8).

Pub. L. 98-21, §301(c)(1), redesignated former par. (4) as (6).

Subsec. (d)(7). Pub. L. 98-21, §306(c), added par. (7).

Subsec. (d)(8). Pub. L. 98-21, §306(c), redesignated former par. (6) as (8).

Subsecs. (f)(3)(A), (g)(6)(A). Pub. L. 98-21, §309(j), (k), inserted reference to subsec. (c) of section 402 of this title.

Subsec. (h)(3). Pub. L. 98-21, §333(a), substituted “subparagraphs (A)(i) and (B)(i)” for “subparagraph (A)(i)” in provisions following subpar. (C)(ii).

Subsec. (h)(3)(A)(i). Pub. L. 98-21, §201(c)(1)(D), substituted “retirement age (as defined in subsection (l) of this section)” for “age 65”.

Subsec. (h)(3)(A)(i)(I). Pub. L. 98-21, §303(d)(1), substituted “his or her” for “his”.

Subsec. (h)(3)(A)(i)(II). Pub. L. 98-21, §303(a), inserted “mother or” before “father”.

Subsec. (h)(3)(A)(i)(III). Pub. L. 98-21, §303(d)(1), substituted “his or her” for “his”.

Subsec. (h)(3)(A)(ii). Pub. L. 98-21, §303(a), (b), inserted “mother or” before “father” and substituted “such applicant’s application for benefits was filed” for “such insured individual became entitled to benefits or attained retirement age (as defined in subsection (l) of this section), whichever first occurred”.

Pub. L. 98-21, §201(c)(1)(D), substituted “retirement age (as defined in subsection (l) of this section)” for “age 65”.

Subsec. (h)(3)(B). Pub. L. 98-21, §303(d)(2), substituted “he or she” for “he” in provisions preceding cl. (i).

Subsec. (h)(3)(B)(i)(I). Pub. L. 98-21, §303(d)(1), substituted “his or her” for “his”.

Subsec. (h)(3)(B)(i)(II). Pub. L. 98-21, §303(a), inserted “mother or” before “father”.

Subsec. (h)(3)(B)(i)(III). Pub. L. 98-21, §303(d)(1), substituted “his or her” for “his”.

Subsec. (h)(3)(B)(ii). Pub. L. 98-21, §303(c), substituted “such applicant’s application for benefits was filed” for “such period of disability began”.

Pub. L. 98-21, §303(a), inserted “mother or” before “father”.

Subsec. (h)(3)(C)(i)(I). Pub. L. 98-21, §303(d)(1), substituted “his or her” for “his”.

Subsec. (h)(3)(C)(i)(II). Pub. L. 98-21, §303(a), inserted “mother or” before “father”.

Subsec. (h)(3)(C)(i)(III). Pub. L. 98-21, §303(d)(1), substituted “his or her” for “his”.



Subsec. (h)(3)(C)(ii). Pub. L. 98-21, § 303(a), inserted "mother or" before "father".

Subsec. (i)(2)(B). Pub. L. 98-21, § 201(c)(1)(D), as amended by Pub. L. 98-369, § 2662(c)(1), substituted "retirement age (as defined in subsection (l) of this section)" for "the age of 65".

Subsec. (i)(2)(D). Pub. L. 98-21, § 201(c)(1)(D), substituted "retirement age (as defined in subsection (l) of this section)" for "age 65".

Subsec. (i)(3)(B)(iii). Pub. L. 98-21, § 332(a), added cl. (iii).

Subsec. (l). Pub. L. 98-21, § 201(a), added subsec. (l).

1981—Subsec. (b). Pub. L. 97-35, § 2203(b)(2), inserted provisions that for purposes of cl. (2), a wife be deemed to have been married to an individual for a period of one year throughout the month in which occurs the first anniversary of her marriage to such individual and for purposes of section 402(b)(1)(C) of this title, a divorced wife be deemed not to be married throughout the month in which she becomes divorced.

Subsec. (c). Pub. L. 97-35, § 2202(a)(2)(A), inserted "the first sentence of" before "section 402(i) of this title".

Subsec. (e). Pub. L. 97-35, § 2203(d)(3), inserted provisions that for purposes of cl. (2), a child be deemed to have been a stepchild of an individual for a period of one year throughout the month in which occurs the expiration of such one year and for purposes of cl. (3), a person be deemed to have no natural or adoptive parent living, other than a parent who is under a disability, throughout the most recent month in which a natural or adoptive parent, not under a disability, dies.

Subsec. (f). Pub. L. 97-35, § 2203(c)(2), inserted provision that for purposes of cl. (2), a husband be deemed to have been married to an individual for a period of one year throughout the month in which occurs the first anniversary of his marriage to her.

Subsec. (g). Pub. L. 97-35, § 2202(a)(2)(B), inserted "the first sentence of" before "section 402(i) of this title".

Subsec. (h)(3). Pub. L. 97-35, § 2203(d)(4), as amended by Pub. L. 98-369, § 2663(a)(11)(A), inserted provision that for purposes of subpar. (A)(i), an acknowledgment, court decree, or court order be deemed to have occurred on the first day of the month in which it actually occurred.

1980—Subsec. (i)(1). Pub. L. 96-473 inserted reference to section 423(d)(6) of this title.

Subsec. (i)(2)(D)(ii). Pub. L. 96-265, § 303(b)(2)(B), substituted "(ii) the month preceding (I) the termination month (as defined in section 423(a)(1) of this title), or, if earlier (II) the first month for which no benefit is payable by reason of section 423(e) of this title, where no benefit is payable for any of the succeeding months during the 15-month period referred to in such section" for "(ii) the second month following the month in which the disability ceases".

Subsec. (i)(2)(G). Pub. L. 96-265, § 306(b), inserted provisions placing limitations on the prospective effect of applications.

1977—Subsec. (d)(1), (2). Pub. L. 95-216 substituted "10" for "20" wherever appearing.

1974—Subsecs. (b), (c), (f), (g). Pub. L. 93-445 substituted "section 231a of title 45" for "section 228e of title 45".

1972—Subsec. (e). Pub. L. 92-603, § 113(a), extended definition of "child" to include grandchildren and step-grandchildren of an individual or his spouse.

Subsec. (i)(2)(A). Pub. L. 92-603, § 116(d), substituted "five" for "6".

Subsec. (i)(2)(B). Pub. L. 92-603, § 118(b), provided for the filing of an application for a disability determination after the death of the insured individual.

Subsec. (i)(3). Pub. L. 92-603, §§ 104(g), 117(a), struck out "(if a woman) or age 65 (if a man)" after "attained age 62" in subpar. (A), and substituted provisions eliminating the disability insured status requirement of substantial recent covered work in the case of individuals who are blind for provisions excepting the provisions of subpar. (A) in the case of an individual with respect to whom a period of disability would, but for such subpar., begin before 1951 in the provisions following subpar. (B).

Subsec. (k). Pub. L. 92-603, §§ 115(b), 145(a), designated existing pars. (1) and (2) as subpars. (A) and (B) of par. (1), added par. (2), in par. (1), as so redesignated, substituted "unless the Secretary determines that at the time of the marriage involved the individual could not have reasonably been expected to live for nine months" for "and he would satisfy such requirement if a three-month period were substituted for the nine-month period", and in material following par. (2) substituted "except that paragraph (2) of this subsection shall not apply" for "except that this subsection shall not apply".

1968—Subsec. (c)(5). Pub. L. 90-248, § 156(a), substituted "not less than nine months" for "not less than one year".

Subsec. (e). Pub. L. 90-248, §§ 150(a), 156(b), inserted in first sentence "not less than nine months immediately preceding" before "the day on which such individual died", and added, in second sentence, cl. (A) and incorporated existing provisions in cl. (B).

Subsec. (g)(5). Pub. L. 90-248, § 156(c), substituted "not less than nine months" for "not less than one year".

Subsec. (i)(1). Pub. L. 90-248, §§ 104(d)(2), 158(d), 172(a), (b), inserted "402(e), 402(f)," after "402(d).", redefined "blindness" to mean central visual acuity of 20/200 rather than 5/200 or less in the better eye and substituted provision deeming an eye accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees as having a central visual acuity of 20/200 or less for former provision deeming an eye in which visual field is reduced to five degrees or less concentric contraction as having a central visual acuity of 5/200 or less, respectively, and deleted former third sentence which provided that an individual was not deemed under a disability unless he furnished proof as required and added third sentence making section 423(d)(2)(A), (3), (4), and (5) of this title applicable to determine if an individual is under a disability.

Subsec. (i)(2)(E) to (G). Pub. L. 90-248, § 111(a), inserted introductory exception phrase, added subpar. (F), and redesignated former subpar. (F) as (G).

Subsec. (i)(3)(B)(ii). Pub. L. 90-248, § 105(a), struck out "and he is under a disability by reason of blindness (as defined in paragraph (1) of this subsection)" after "age 31".

Subsec. (k). Pub. L. 90-248, § 156(d), added subsec. (k). 1965—Subsec. (b). Pub. L. 89-97, §§ 306(c)(13), 308(d)(2)(B), 334(a), inserted "(subject, however, to section 402(s) of this title)", included reference to subsec. (b) of section 402 of this title, and added cl. (3)(C), respectively.

Subsec. (c). Pub. L. 89-97, §§ 306(c)(13), 308(d)(2)(B), 334(b), inserted "(subject, however, to section 402(s) of this title)", included reference to subsec. (b) of section 402 of this title, and added cl. (6)(C), respectively.

Subsec. (d). Pub. L. 89-97, § 308(c), added pars. (1), (2), and (4), defining "divorced wife", "surviving divorced wife", and "divorce" and "divorced", and incorporated definition of "former wife divorced" in par. (3), inserting "who has died" after "individual" and redesignating cls. (1) to (4) as (A) to (D), respectively.

Subsec. (f). Pub. L. 89-97, §§ 306(c)(13), 334(c), inserted "(subject, however, to section 402(s) of this title)" and added cl. (3)(C), respectively.

Subsec. (g). Pub. L. 89-97, §§ 306(c)(13), 334(d), inserted "(subject, however, to section 402(s) of this title)" and added cl. (6)(C), respectively.

Subsec. (h). Pub. L. 89-97, § 339(a), added par. (3).

Subsec. (i)(1)(A). Pub. L. 89-97, § 303(a)(1), substituted "or has lasted or can be expected to last for a continuous period of not less than 12 months" for "or to be of long-continued and indefinite duration".

Subsec. (i)(2). Pub. L. 89-97, § 303(b)(1), struck out sixth sentence providing that: "Any application for a disability determination which is filed within such three months' period or six months' period shall be deemed to have been filed on such first day or in such first month, as the case may be."

Subsec. (i)(2)(A). Pub. L. 89-97, § 303(b)(1), designated first sentence as subpar. (A).

Subsec. (i)(2)(B). Pub. L. 89-97, §303(b)(1), designated second sentence as subpar. (B), substituted therein "No period of disability" for "No such disability", and struck out ", while under such disability," after "unless such individual".

Subsec. (i)(2)(C). Pub. L. 89-97, §§303(b)(1), 304(l), designated third sentence as subpar. (C), struck out "(subject to section 423(a)(3) of this title)" before "begin", and redesignated cls. (A) and (B) thereof as (i) and (ii); and again struck out "(subject to section 423(a)(3) of this title)" before "begin", respectively.

Subsec. (i)(2)(D). Pub. L. 89-97, §303(b)(1), designated fourth sentence as subpar. (D), substituted "the close of whichever of the following months is the earlier: (i) the month preceding the month in which the individual attains age 65, or (ii) the second month following the month in which the disability ceases" for "the close of the last day of the month preceding which of the following months is the earlier: the month in which the individual attains age sixty-five or the third month following the month in which the disability ceases".

Subsec. (i)(2)(E). Pub. L. 89-97, §303(b)(1), designated fifth sentence as subpar. (E), substituted "12 months" for "three months" and "after the month prescribed by subparagraph (D) as the month in which the period of disability ends (determined without regard to subparagraph (B) and this subparagraph)" for "before the first day on which a period of disability can begin (as determined under this paragraph), or, in any case in which clause (ii) of section 423(a)(1) of this title is applicable, more than six months before the first month for which such applicant becomes entitled to benefits under section 423 of this title," and struck out ", and no such application which is filed prior to January 1, 1955, shall be accepted" after "for purposes of this paragraph".

Subsec. (i)(2)(F). Pub. L. 89-97, §328(b), added subpar. (F).

Subsec. (i)(3). Pub. L. 89-97, §§303(b)(2), 344(a), substituted "clauses (i) and (ii) of paragraph (2)(C)" for "clauses (A) and (B) of paragraph (2)", removed from existing subpar. (B) provision prohibiting the inclusion, as part of such 40-quarter period, of any quarter any part of which was included in a prior period of disability unless such quarter was a quarter of coverage, and designated such subpar., as so amended, as subpar. (B)(i), added subpar. (B)(ii), and, in the material following subpar. (B)(ii), inserted provision prohibiting inclusion of any quarter as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage and calling for reduction by one of the number of quarters in any period whenever such number of quarters is an odd number, respectively.

1964—Subsec. (i)(2). Pub. L. 88-650, §1(a), struck out provisions which directed that a period of disability shall begin if the individual satisfies the requirements of par. (3) of this subsection on such day, on the first day of the eighteen-month period which ends with the day before the day on which the individual files such application.

Subsec. (i)(3). Pub. L. 88-650, §1(b), substituted "paragraph (2) of this subsection" for "paragraphs (2) and (4) of this subsection".

Subsec. (i)(4). Pub. L. 88-650, §1(c), repealed par. (4) which related to the beginning of the period of disability for individuals who filed an application for a disability determination after Dec. 1954, and before July 1962, with respect to a disability which began before January 1961.

1961—Subsec. (a). Pub. L. 87-64, §102(c)(1), repealed subsec. (a) which defined retirement age.

Subsecs. (b), (c), (f), (g). Pub. L. 87-64, §102(c)(2)(B), substituted "attainment of age 62" for "attainment of retirement age".

Subsec. (i)(2). Pub. L. 87-64, §102(b)(2)(D), substituted "a period of disability shall (subject to section 423(a)(3) of this title) begin" for "a period of disability shall begin" in third sentence.

Subsec. (i)(3)(A). Pub. L. 87-64, §102(c)(3)(C), substituted "attainment age 62 (if a woman) or age 65 (if a man)" for "attained retirement age".

Subsec. (i)(4). Pub. L. 87-64, §105, substituted "July 1962" for "July 1961", and "January 1961" for "July 1960".

1960—Subsec. (b). Pub. L. 86-778, §207(a), substituted "one year" for "three years".

Subsec. (e). Pub. L. 86-778, §§207(b), 208(c), in first sentence, reduced the period for eligibility of a stepchild of a living individual from three years immediately preceding the day on which application for child's benefits is filed to one year immediately preceding the day on which application for child's benefits is filed, and inserted the last sentence requiring, for purposes of clause (2), that a person who is not the stepchild of an individual shall be deemed the stepchild of such individual if such individual was not the mother or adopting mother or the father or adopting father of such person and such individual and the mother or adopting mother, or the father or adopting father, as the case may be, of such person went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in last sentence of subsec. (h)(1)(B) of this section, would have been a valid marriage.

Subsec. (f). Pub. L. 86-778, §207(c), substituted "one year" for "three years".

Subsec. (h)(1). Pub. L. 86-778, §208(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (h)(2). Pub. L. 86-778, §208(b), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (i)(2). Pub. L. 86-778, §§402(e), 403(c), redefined "period of disability" to include a period of less than six full calendar months' duration if the individual was entitled to benefits under section 423 of this title for one or more months in such period, prohibited acceptance of an application, in any case in which clause (ii) of section 423(a) of this title is applicable, filed more than six months before the first month for which the applicant becomes entitled to benefits under section 423 of this title, substituted provisions requiring a period of disability to end with the close of the last day of the month preceding whichever of the following months is the earlier: the month in which the individual attains age 65 or the third month following the month in which the disability ceases, for provisions which required a period of disability to end with the close of the last day of the first month in which either the disability ceases or the individual attains the age of 65, and inserted sentence providing that any application for a disability determination which is filed within such three months' period or six months' period shall be deemed to have been filed on such first day or in such first month, as the case may be.

Subsec. (j). Pub. L. 86-778, §703, added subsec. (j).

1958—Subsec. (b). Pub. L. 85-840, §301(d), included within definition of "wife" a woman who, in the month prior to the month of her marriage, was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (e) or (h) of section 402 of this title, or had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of section 402 of this title.

Subsec. (c). Pub. L. 85-840, §301(b)(2) included within definition of "widow" a woman whose husband had legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen, and a woman who, in the month prior to the month of her marriage, was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (e) or (h) of section 402 of this title, or had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of section 402 of this title.

Subsec. (d). Pub. L. 85-840, §301(e), included within definition of "former wife divorced" a woman whose husband legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen.

Subsec. (e). Pub. L. 85-840, §302(a), struck out requirement that an adopted child of a living individual must

have been adopted for not less than three years immediately preceding the day on which application for child's benefits is filed, and inserted provisions requiring a child to be deemed, as of the date of death of an individual, to be the legally adopted child of such individual if the child was living in the decedent's household at the time of his death and was legally adopted by the surviving spouse after the individual's death but before the end of two years after the day on which the individual died or Aug. 28, 1958, and the child was not receiving regular contributions toward his support from someone other than the individual or his spouse, or from any public or private welfare organization.

Subsec. (f). Pub. L. 85-840, §301(a)(2), included within definition of "husband" a person who in the month prior to the month of his marriage was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 402 of this title, or who had attained age eighteen and was entitled to, or on application therefor would have been entitled to benefits under subsection (d) of section 402 of this title.

Subsec. (g). Pub. L. 85-840, §301(c)(2), included within definition of "widower" a person whose wife had legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of eighteen, and a person who, in the month before the month of his marriage, was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 402 of this title, or had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of section 402 of this title.

Subsec. (h)(3). Pub. L. 85-840, §305(b), repealed par. (3) which defined "living with" for purposes of section 402(i) of this title.

Subsec. (i)(2). Pub. L. 85-840, §201, substituted "while under such disability" for "while under a disability" in opening provisions, and "eighteen-month period" for "one-year period" in cl. (A)(ii).

Subsec. (i)(3). Pub. L. 85-840, §204(a), struck out provisions that required, for a period of disability to begin with respect to any quarter, an individual to have not less than six quarters of coverage during the thirteen-quarter period which ends with such quarter, and inserted provisions requiring an individual to be fully insured.

Subsec. (i)(4). Pub. L. 85-840, §203, substituted "July 1961" for "July 1958" and "July 1960" for "July 1957", and struck out provisions which required the applicant to be alive on July 1, 1955.

1957—Subsec. (h). Pub. L. 85-238 amended subsec. (h) generally to provide that the applicant is the wife, husband, widow, or widower if there is a finding that the applicant and the insured individual were validly married at the time the application for benefits is filed, or at the time the insured individual died, and to eliminate provisions which prescribed certain conditions under which a wife or husband would be deemed to have been living with his or her spouse, and which related to determination of status of parent.

Subsec. (i)(4). Pub. L. 85-109, substituted "July 1958" for "July 1957" and "July 1957" for "July 1956".

1956—Subsec. (a). Act Aug. 1, 1956, §102(a), reduced the retirement age in the case of a woman from age sixty-five to age sixty-two.

Subsec. (i)(1). Act Aug. 1, 1956, §103(c)(6), inserted "Except for purposes of sections 402(d), 423, and 425 of this title".

Subsec. (i)(2). Act Aug. 1, 1956, §102(d)(12), substituted "the age of sixty-five" for "retirement age" in two places.

1954—Subsec. (i). Act Sept. 1, 1954, §106(d), added subsec. (i). Former subsec. (i), which was added by act July 18, 1952, §3(d), ceased to be in effect at the close of June 30, 1953. See Effective and Termination Date of 1952 Amendment note set out under section 413 of this title.

1952—Subsec. (i). Act July 18, 1952, added subsec. (i).

## EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-203, title IV, §414(d), Mar. 2, 2004, 118 Stat. 530, provided that: "The amendments made by this section [amending this section] shall be effective with respect to applications for benefits under title II of the Social Security Act [this subchapter] filed during months ending after the date of the enactment of this Act [Mar. 2, 2004]."

## 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 1990 AMENDMENT

Amendment by section 5103(b)(1) of Pub. L. 101-508 applicable with respect to monthly insurance benefits for months after December 1990 for which applications are filed on or after Jan. 1, 1991, or are pending on such date, see section 5103(e) of Pub. L. 101-508, set out as a note under section 402 of this title.

Pub. L. 101-508, title V, §5104(b), Nov. 5, 1990, 104 Stat. 1388-254, provided that: "The amendments made by this section [amending this section] shall apply with respect to benefits payable for months after December 1990, but only on the basis of applications filed after December 31, 1990."

Amendment by section 5119(a), (b) of Pub. L. 101-508 applicable with respect to benefits for months after December 1990, and applicable only with respect to benefits for which application is filed with Secretary of Health and Human Services after Dec. 31, 1990, with exception from application requirement, see section 5119(e) of Pub. L. 101-508, set out as a note under section 403 of this title.

## EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 effective Jan. 1, 1988, and applicable with respect to individuals entitled to benefits under specific provisions of sections 402 and 423 of this title for any month after December 1987, and individuals entitled to benefits payable under specific provisions of sections 402 and 423 of this title for any month before January 1988 and with respect to whom the 15-month period described in the applicable provision amended by section 9010 of Pub. L. 100-203 has not elapsed as of Jan. 1, 1988, see section 9010(f) of Pub. L. 100-203, set out as a note under section 402 of this title.

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 2(b) of Pub. L. 98-460 applicable to determinations made by the Secretary on or after Oct. 9, 1984, with certain enumerated exceptions and qualifications, see section 2(d) of Pub. L. 98-460, set out as a note under section 423 of this title.

Amendment by section 4(a)(2) of Pub. L. 98-460 applicable with respect to determinations made on or after the first day of the first month beginning after 30 days after Oct. 9, 1984, see section 4(c) of Pub. L. 98-460, set out as a note under section 423 of this title.

Amendment by section 2661(l) of Pub. L. 98-369 effective as though included in the enactment of the Social Security Amendments of 1983, Pub. L. 98-21, see section 2664(a) of Pub. L. 98-369, set out as a note under section 401 of this title.

Amendment by section 2663(a)(11) of 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 sections 301(c), 303, 304(c), 306(c), and 309(j), (k) 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.

Pub. L. 98-21, title III, §332(c), Apr. 20, 1983, 97 Stat. 129, provided that: "The amendments made by this section [amending this section and section 423 of this title] shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act [42 U.S.C. 423], and for disability determinations under section 216(i) of such Act [42 U.S.C. 416(i)], filed after the date of the enactment of this Act [Apr. 20, 1983], except that no monthly benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] shall be payable or increased by reason of the amendments made by this section for months before the month following the month of enactment of this Act."

Pub. L. 98-21, title III, §333(b), Apr. 20, 1983, 97 Stat. 130, provided that: "The amendment made by subsection (a) [amending this section] shall be effective on the date of the enactment of this Act [Apr. 20, 1983]."

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 2202(a)(2) of Pub. L. 97-35 applicable only with respect to deaths occurring after August 1981, see section 2202(b) of Pub. L. 97-35, set out as a note under section 402 of this title.

Amendment by section 2203(b)(2), (c)(2) of Pub. L. 97-35 applicable only to monthly insurance benefits payable to individuals who attain age 62 after August 1981, and amendment by section 2203(d)(3), (4) of Pub. L. 97-35 applicable to monthly insurance benefits for months after August 1981, and only in the case of individuals who were not entitled to such insurance benefits for August 1981 or any preceding month, see section 2203(f)(1), (2) of Pub. L. 97-35, set out as a note under section 402 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-473 effective with respect to benefits payable for months beginning on or after Oct. 1, 1980, see section 5(d) of Pub. L. 96-473, set out as a note under section 402 of this title.

Amendment by section 303(b)(2)(B) of Pub. L. 96-265 effective on first day of sixth month which begins after June 9, 1980, to apply with respect to any individual whose disability has not been determined to have ceased prior to such first day, see section 303(d) of Pub. L. 96-265, set out as a note under section 402 of this title.

Amendment by section 306(b) of Pub. L. 96-265 applicable to applications filed after June 1980, see section 306(d) of Pub. L. 96-265, set out as a note under section 402 of this title.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-216 effective with respect to monthly benefits after Dec., 1978, and applications filed on or after Jan. 1, 1979, see section 337(c) of Pub. L. 95-216, set out as a note under section 402 of this title.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-445 effective Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as a note under section 402 of this title.

#### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 104(g) of Pub. L. 92-603 applicable only in the case of a man who attains (or would attain) age 62 after December 1974, with the figure "65" in subsec. (i)(3)(A) of this section to be deemed to read "64" in the case of a man who attains age 62 in 1973, and deemed to read "63" in the case of a man who attains age 62 in 1974, see section 104(j) of Pub. L. 92-603, set out as a note under section 414 of this title.

Amendment by section 113(a) of Pub. L. 92-603 applicable with respect to monthly benefits payable under this subchapter for months after December 1972, but only on the basis of applications filed on or after October 30, 1972, see section 113(c) of Pub. L. 92-603, set out as a note under section 402 of this title.

Pub. L. 92-603, title I, §115(c), Oct. 30, 1972, 86 Stat. 1349, provided that: "The amendments made by this

section [amending this section] shall apply only with respect to benefits payable under title II of the Social Security Act [42 U.S.C. 401 et seq.] for months after December 1972 on the basis of applications filed in or after the month in which this Act is enacted [October 1972]."

Amendment by section 116(d) of Pub. L. 92-603 effective with respect to applications for disability determinations under subsec. (i) of this section filed on or after October 1972 or before October 1972 under specified conditions, see section 116(e) of Pub. L. 92-603, set out as a note under section 423 of this title.

Amendment by section 117(a) of Pub. L. 92-603 effective with respect to applications for disability determinations under subsec. (i) of this section filed in or after October 1972 or before October 1972 under specified conditions, see section 117(c) of Pub. L. 92-603, set out as a note under section 423 of this title.

Pub. L. 92-603, title I, §118(c), Oct. 30, 1972, 86 Stat. 1351, provided that: "The amendments made by this section [amending this section and section 423 of this title] shall apply in the case of deaths occurring after December 31, 1969. For purposes of such amendments (and for purposes of sections 202(j)(1) and 223(b) of the Social Security Act [42 U.S.C. 402(j)(1), 423(b)], any application with respect to an individual whose death occurred after December 31, 1969, but before the date of the enactment of this Act [Oct. 30, 1972] which is filed in, or within 3 months after the month in which this Act is enacted [October 1972] shall be deemed to have been filed in the month in which such death occurred."

Pub. L. 92-603, title I, §145(b), Oct. 30, 1972, 86 Stat. 1370, provided that: "The amendments made by this section [amending this section] shall apply only with respect to benefits payable under title II of the Social Security Act [42 U.S.C. 401 et seq.] for months after December 1972 on the basis of applications filed in or after the month in which this Act is enacted [October 1972]."

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 104 of Pub. L. 90-248 applicable with respect to monthly benefits under this subchapter for and after the month of February 1968, but only on the basis of applications for such benefits filed in or after January 1968, see section 104(e) of Pub. L. 90-248, set out as a note under section 402 of this title.

Pub. L. 90-248, title I, §105(c), Jan. 2, 1968, 81 Stat. 833, provided that: "The amendment made by subsection (a) [amending this section] shall apply only with respect to applications for disability determinations filed under section 216(i) of the Social Security Act [42 U.S.C. 416(i)] in or after the month in which this Act is enacted [January 1968]. The amendments made by subsection (b) [amending section 423 of this title] shall apply with respect to monthly benefits under title II of such Act [42 U.S.C. 401 et seq.] for months after January 1968, but only on the basis of applications for such benefits filed in or after the month in which this Act is enacted."

Pub. L. 90-248, title I, §111(b), Jan. 2, 1968, 81 Stat. 838, provided that: "No monthly insurance benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] shall be payable or increased for any month before the month in which this Act is enacted [January 1968] by reason of amendments made by subsection (a) [amending this section]."

Pub. L. 90-248, title I, §150(b), Jan. 2, 1968, 81 Stat. 860, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to monthly benefits payable under title II of the Social Security Act [42 U.S.C. 401 et seq.] for months after January 1968, but only on the basis of an application filed in or after the month in which this Act is enacted [January 1968]."

Pub. L. 90-248, title I, §156(e), Jan. 2, 1968, 81 Stat. 867, provided that: "The amendments made by this section [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 January 1968, but only on the basis of applications filed in or after the month in which this Act is enacted [January 1968]."

Amendment by section 158(d) of Pub. L. 90-248 applicable with respect to applications for disability insurance benefits under section 423 of this title and to disability determinations under subsec. (i) of this section, see section 158(e) of Pub. L. 90-248, set out as a note under section 423 of this title.

Pub. L. 90-248, title I, §172(c), Jan. 2, 1968, 81 Stat. 877, provided that: "The amendments made by this section [amending this section] shall be effective with respect to benefits under section 223 of the Social Security Act [42 U.S.C. 423] for months after January 1968 based on applications filed after the date of enactment of this Act [Jan. 2, 1968] and with respect to disability determinations under section 216(i) of the Social Security Act [42 U.S.C. 416(i)] based on applications filed after the date of enactment of this Act."

#### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 308(c), (d)(2)(B) of Pub. L. 89-97 applicable with respect to monthly insurance benefits under this subchapter beginning with the second month following July 1965, but, in the case of an individual who was not entitled to a monthly insurance benefit under section 402 of this title for the first month following July 1965, only on the basis of an application filed in or after July 1965, see section 308(e) of Pub. L. 89-97, set out as a note under section 402 of this title.

Amendment by section 334(a)-(d) of Pub. L. 89-97 applicable only with respect to monthly insurance benefits under section 401 et seq. of this title beginning with September 1965 but only on the basis of applications filed in or after July 1965, see section 334(g) of Pub. L. 89-97, set out as a note under section 402 of this title.

Pub. L. 89-97, title III, §339(c), July 30, 1965, 79 Stat. 411, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 402 of this title] shall be applicable with respect to monthly insurance benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] beginning with the second month following the month in which this Act is enacted [July 1965] but only on the basis of an application filed in or after the month in which this Act is enacted."

Amendment by section 303(a)(1), (b)(1), (2) of Pub. L. 89-97 effective with respect to applications for disability insurance benefits under section 423 of this title, and for disability determinations under subsec. (i) of this section, filed in or after July 1965 or before July 1965, if the applicant has not died before such month, and notice of final administrative decision has not been given to the applicant before such month, except that monthly insurance benefits under this subchapter shall not be payable or increased by reason of amendments to subsecs. (i)(1)(A), (2), (3) of this section for months before the second month following July 1965, see section 303(f)(1) of Pub. L. 89-97, set out as a note under section 423 of this title.

Amendment by section 304(l) of Pub. L. 89-97 applicable with respect to monthly insurance benefits under this subchapter for and after the second month following July 1965 but only on the basis of applications filed in or after July 1965, see section 304(o) of Pub. L. 89-97, set out as a note under section 402 of this title.

Pub. L. 89-97, title III, §328(d), July 30, 1965, 79 Stat. 401, provided that: "The amendments made by this section [amending this section and sections 402 and 423 of this title] shall apply with respect to (1) applications filed on or after the date of enactment of this Act [July 30, 1965], (2) applications as to which the Secretary has not made a final decision before the date of enactment of this Act, and (3) if a civil action with respect to final decision by the Secretary has been commenced under section 205(g) of the Social Security Act [42 U.S.C. 405(g)] before the date of enactment of this Act, applications as to which there has been no final judicial decision before the date of enactment of this Act."

Pub. L. 89-97, title III, §344(e), July 30, 1965, 79 Stat. 413, provided that: "The amendments made by this section [amending this section and section 423 of this title]

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 the first month following the month in which this Act is enacted [July 1965], on the basis of applications for such benefits filed in or after the month in which this Act is enacted."

#### EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-650, §1(d), Oct. 13, 1964, 78 Stat. 1075, provided that:

"(1) The amendments made by subsections (a), (b), and (c) [amending this section] shall apply in the case of applications for disability determinations under section 216(i) of the Social Security Act [42 U.S.C. 416(i)] filed after the month following the month in which this Act is enacted [October 1964].

"(2) Except as provided in the succeeding paragraphs, such amendments shall also apply, and as though such amendments had been enacted on July 1, 1962, in the case of applications for disability determinations filed under section 216(i) of the Social Security Act [42 U.S.C. 416(i)] during the period beginning July 1, 1962, and ending with the close of the month following the month in which this Act is enacted [October 1964], by an individual who—

"(A) has been under a disability (as defined in such section 216(i)) continuously since he filed such application and up to (i) the first day of the second month following the month in which this Act is enacted or (ii) if earlier, the first day of the month in which he attained the age of 65, and

"(B) is living on the day specified in subparagraph (A)(i).

"(3) In the case of an individual to whom paragraph (2) applies and who filed an application for disability insurance benefits under section 223 of the Social Security Act [42 U.S.C. 423] during the period specified in such paragraph—

"(A) if such individual was under a disability (as defined in section 223(c) of such Act) throughout such period and was not entitled to disability insurance benefits under such section 223 for any month in such period (except for the amendments made by this section), such application and any application filed during such period for benefits under section 202 of the Social Security Act [42 U.S.C. 402] on the basis of the wages and self-employment income of such individual shall, notwithstanding section 202(j)(2) and the first sentence of section 223(b), be deemed an effective application, or

"(B) if such individual was entitled (without the application of this section) to disability insurance benefits under section 223 [42 U.S.C. 423] for a continuous period of months immediately preceding—

"(i) the second month following the month in which this Act was enacted [October 1964], or

"(ii) if earlier, the month in which he became entitled to benefits under section 202(a) [42 U.S.C. 402(a)],

his primary insurance amount shall be recomputed, but only if such amount would be increased solely by reason of the enactment of this section.

"(4) No monthly insurance benefits, and no increase in monthly insurance benefits, may be paid under title II of the Social Security Act [42 U.S.C. 401 et seq.] by reason of the enactment of this section for any month before the eleventh month before the month in which this Act is enacted [October 1964].

"(5) In the case of an individual (A) who is entitled under section 202 of the Social Security Act [42 U.S.C. 402] (but without the application of subsection (j)(1) of such section) to a widow's, widower's, or parent's insurance benefit, or to an old-age, wife's or husband's insurance benefit which is reduced under section 202(q) of such Act, for any month in the period referred to in paragraph (2) of this subsection, (B) who was under a disability (as defined in section 223(c) of the Social Security Act [42 U.S.C. 423(c)]) which began prior to the sixth month before the first month for which the benefits referred to in clause (A) are payable and which con-

tinued through the month following the month in which this Act is enacted [October 1964], and (C) who files an application for disability insurance benefits under section 223(a)(1) of the Social Security Act—

“(i) subsection (a)(3) of section 223 of the Social Security Act shall not prevent him from being entitled to such disability insurance benefits;

“(ii) the provisions of subsection (a)(1) of such section 223 terminating entitlement to disability insurance benefits by reason of entitlement to old-age insurance benefits shall not apply with respect to him unless and until he again becomes entitled to such old-age insurance benefits under the provisions of section 202 of such Act;

“(iii) such individual shall, for any month for which he is thereby entitled to both old-age insurance benefits and disability insurance benefits, be entitled only to such disability insurance benefits; and

“(iv) in case the benefits reduced under subsection (q) of section 202 of such Act are old-age insurance benefits (I) such old-age insurance benefits for the months in the period referred to in paragraph (2) of this subsection shall not be recomputed solely by reason of the enactment of this section, and, if otherwise recomputed, the provisions of and amendments made by this section shall not apply to such recomputation; and (II) the months for which he received such old-age insurance benefits before or during the period for which he becomes entitled, by reason of such enactment, to disability insurance benefits under such section 223 and the months for which he received such disability insurance benefits shall be excluded from the ‘reduction period’ and the ‘adjusted reduction period’, as defined in paragraphs (5) and (6), respectively, of such subsection (q) for purposes of determining the amount of the old-age insurance benefits to which he may subsequently become entitled.

“(6) The entitlement of any individual to benefits under section 202 of the Social Security Act [section 402 of this title] shall not be terminated solely by reason of the enactment of this section, except where such individual is entitled to benefits under section 202(a) or 223 of such Act [42 U.S.C. 402(a), 423] in an amount which (but for this subsection) would have required termination of such benefits under such section 202.”

#### EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by section 102(b)(2)(D) of Pub. L. 87-64 effective Aug. 1, 1961, and amendment by section 102(c)(1), (2)(B), (3)(C) of Pub. L. 87-64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961, based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f)(4), (6) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

Pub. L. 87-64, title I, §105, June 30, 1961, 75 Stat. 139, provided that the amendment made by that section is effective with respect to applications for disability determinations filed on or after July 1, 1961.

#### EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86-778, title II, §207(d), Sept. 13, 1960, 74 Stat. 951, provided that: “The amendments made by this section [amending this section] shall apply only with respect to monthly benefits under section 202 of the Social Security Act [42 U.S.C. 402] for months beginning with the month in which this Act is enacted [September 1960], on the basis of applications filed in or after such month.”

Pub. L. 86-778, title II, §208(f), Sept. 13, 1960, 74 Stat. 952, provided that: “The amendments made by the preceding provisions of this section [amending this section and section 402 of this title] shall be applicable (1) with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months beginning with the month in which this Act is enacted [September 1960] on the basis of an application filed in or after

such month, and (2) in the case of a lump-sum death payment under such title based on an application filed in or after such month, but only if no person, other than the person filing such application, has filed an application for a lump-sum death payment under such title prior to the date of the enactment of this Act [Sept. 13, 1960] with respect to the death of the same individual.”

Amendment by section 402(e) of Pub. L. 86-778 applicable only in the case of individuals who become entitled to benefits under section 423 of this title in or after September 1960, see section 402(f) of Pub. L. 86-778, set out as a note under section 423 of this title.

Amendment by section 403(c) of Pub. L. 86-778 applicable only in the case of individuals who have a period of disability (as defined in subsec. (i) of this section) beginning on or after Sept. 13, 1960, or beginning before Sept. 13, 1960 and continuing, without regard to such amendment, beyond the end of September 1960, see section 403(e) of Pub. L. 86-778, set out as a note under section 422 of this title.

#### EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-840, title II, §207(a), Aug. 28, 1958, 72 Stat. 1025, provided that: “The amendments made by section 201 [amending this section] shall apply with respect to applications for a disability determination under section 216(i) of the Social Security Act [subsec. (i) of this section] filed after June 1961. The amendments made by section 202 [amending section 423 of this title] shall apply with respect to applications for disability insurance benefits under section 223 of such Act filed after December 1957. The amendments made by section 203 [amending this section] shall apply with respect to applications for a disability determination under such section 216(i) filed after June 1958. The amendments made by section 204 [amending this section and section 423 of this title] shall apply with respect to (1) applications for disability insurance benefits under such section 223 or for a disability determination under such section 216(i) filed on or after the date of enactment of this Act [Aug. 28, 1958], and (2) applications for such benefits or for such a determination filed after 1957 and prior to such date of enactment if the applicant has not died prior to such date of enactment and if notice to the applicant of the Secretary’s decision with respect thereto has not been given to him on or prior to such date, except that (A) no benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] for the month in which this Act is enacted [August 1958] or any prior month shall be payable or increased by reason of the amendments made by section 204 of this Act, and (B) the provisions of section 215(f)(1) of the Social Security Act [42 U.S.C. 415(f)(1)] shall not prevent recomputation of monthly benefits under section 202 of such Act [42 U.S.C. 402] (but no such recomputation shall be regarded as a recomputation for purposes of section 215(f) of such Act). The amendments made by section 205 (other than by subsections (k) and (m)) [amending sections 401, 402, 403, 414, 422, and 425 of this title] 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 the month in which this Act is enacted, but only if an application for such benefits is filed on or after the date of enactment of this Act. The amendments made by section 206 [repealing section 424 of this title] and by subsections (k) and (m) of section 205 [amending sections 403 and 415 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] for the month in which this Act is enacted and succeeding months.”

Amendment by section 301(a)(2), (b)(2), (c)(2), (d), (e) of Pub. L. 85-840 applicable with respect to monthly benefits under section 402 of this title for months beginning after Aug. 28, 1958, but only if an application for such benefits is filed on or after such date, see section 301(f) of Pub. L. 85-840, set out as a note under section 402 of this title.

Pub. L. 85-840, title III, §302(b), Aug. 28, 1958, 72 Stat. 1028, provided that: “The amendment made by this sec-

tion [amending this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [42 U.S.C. 402] for months beginning after the date of enactment of this Act [Aug. 28, 1958], but only if an application for such benefits is filed on or after such date."

Amendment by section 305(b) of Pub. L. 85-840 applicable in the case of lump-sum death payments under section 402(i) of this title on the basis of the wages and self-employment income of any individual who dies after August 1958, see section 305(c) of Pub. L. 85-840, set out as a note under section 402 of this title.

#### EFFECTIVE DATE OF 1957 AMENDMENT

Amendment by Pub. L. 85-238 applicable to monthly benefits under section 402 of this title for months after August 1957, but not to operate to deprive any such parent of benefits to which he would otherwise be entitled under section 402(h) of this title, see section 3(i) of Pub. L. 85-238, set out as a note under section 402 of this title.

#### EFFECTIVE DATE OF 1956 AMENDMENT

Act Aug. 1, 1956, ch. 836, title I, §102(b), 70 Stat. 809, provided that:

"(1) The amendment made by subsection (a) [amending this section] shall apply in the case of benefits under subsection (e) of section 202 of the Social Security Act [42 U.S.C. 402(e)] for months after October 1956, but only, except in the case of an individual who was entitled to wife's or mother's insurance benefits under such section 202 for October 1956, or any month thereafter, on the basis of applications filed after the date of enactment of this Act [Aug. 1, 1956]. The amendment made by subsection (a) shall apply in the case of benefits under subsection (h) of such section 202 for months after October 1956 on the basis of applications filed after the date of enactment of this Act.

"(2) Except as provided in paragraphs (1) and (4), the amendment made by subsection (a) shall apply in the case of lump-sum death payments under section 202(i) of the Social Security Act with respect to deaths after October 1956, and in the case of monthly benefits under title II of such Act [42 U.S.C. 401 et seq.] for months after October 1956 on the basis of applications filed after the date of enactment of this Act.

"(3) For purposes of section 215(b)(3)(B) of the Social Security Act [42 U.S.C. 415(b)(3)(B)] (but subject to paragraphs (1) and (2) of this subsection)—

"(A) a woman who attains the age of sixty-two prior to November 1956 and who was not eligible for old-age insurance benefits under section 202 of such Act (as in effect prior to the enactment of this Act) for any month prior to November 1956 shall be deemed to have attained the age of sixty-two in 1956 or, if earlier, the year in which she died;

"(B) a woman shall not, by reason of the amendment made by subsection (a), be deemed to be a fully insured individual before November 1956 or the month in which she died, whichever month is the earlier; and

"(C) the amendment made by subsection (a) shall not be applicable in the case of any woman who was eligible for old-age insurance benefits under such section 202 for any month prior to November 1956.

A woman shall, for purposes of this paragraph, be deemed eligible for old-age insurance benefits under section 202 of the Social Security Act for any month if she was or would have been, upon filing application therefor in such month, entitled to such benefits for such month.

"(4) For purposes of section 209(i) of such Act [42 U.S.C. 409(i)], the amendment made by subsection (a) shall apply only with respect to remuneration paid after October 1956."

#### EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by section 106(d) of act Sept. 1, 1954, applicable with respect to monthly benefits under sub-

chapter 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 AND TERMINATION DATE OF 1952 AMENDMENT

For effective and termination dates of amendment by Act July 18, 1952, see section 3(f), (g) of act July 18, 1952, set out as a note under section 413 of this title.

#### EFFECTIVE DATE

Section applicable (1) in case of monthly benefits for months after August 1950, and (2) in the case of lump-sum death payments with respect to deaths after August 1950, see section 104(b) of act Aug. 28, 1950, set out as an Effective Date of 1950 Amendment note under section 409 of this title.

#### RETROACTIVE BENEFITS

For provisions relating to entitlement to retroactive benefits under section 2 of Pub. L. 98-460 (which amended subsec. (i)(2)(D) of this section), see section 2(f) of 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 [42 U.S.C. 416(i)(3)] with respect to any quarter, or who is not insured for disability insurance benefits as determined under section 223(c)(1) of such Act [42 U.S.C. 423(c)(1)] 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 [42 U.S.C. 413]) 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 [Septem-

ber 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 [42 U.S.C. 401 et seq.] 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