

REFERENCES IN TEXT

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

Section 410(a)(17) of this title, referred to in subsec. (b)(1), was repealed by Pub. L. 113-295, div. A, title II, §221(a)(99)(C)(ii), Dec. 19, 2014, 128 Stat. 4052.

CODIFICATION

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

AMENDMENTS

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

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

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

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

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

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

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

- (1) 3 quarters of coverage if such surviving spouse attains the age of 72 in or before 1966,
- (2) 4 quarters of coverage if such surviving spouse attains the age of 72 in 1967, or
- (3) 5 quarters of coverage if such surviving spouse attains the age of 72 in 1968.

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

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

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

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

REFERENCES IN TEXT

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

AMENDMENTS

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

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

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

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

Subsec. (b). Pub. L. 93-233, §2(b)(1), substituted “the larger of \$64.40 or the amount most recently established

¹ See References in Text note below.

in lieu thereof under section 415(i) of this title" for "\$58.00".

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93-233, §2(b)(1), Dec. 31, 1973, 87 Stat. 952, provided that the amendment made by that section is effective June 1, 1974.

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

EFFECTIVE DATE OF 1972 AMENDMENT

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

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

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 92-5, title II, §202(c), Mar. 17, 1971, 85 Stat. 10, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 428 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] for months after December 1970."

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title X, §1003(c), Dec. 30, 1969, 83 Stat. 741, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 428 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] for months after December 1969."

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90-248, title I, §102(c), Jan. 2, 1968, 81 Stat. 828, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 428 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] for months after January 1968."

EFFECTIVE DATE

Pub. L. 89-97, title III, §309(b), July 30, 1965, 79 Stat. 380, provided that: "The amendment made by subsection (a) [enacting this section] shall apply in the case of monthly benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] for and after the second month following the month [July 1965] in which this Act is enacted on the basis of applications filed in or after the month in which this Act is enacted."

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

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

§ 428. Benefits at age 72 for certain uninsured individuals

(a) Eligibility

Every individual who—

(1) has attained the age of 72,

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

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

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

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

(b) Amount of benefits

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

(c) Reduction for government pension system benefits

(1) The benefit amount of any individual under this section for any month shall be reduced (but