

fined under day care services for children); and, in lieu of the sentence contained in subsection (d)(5) of such section 221.55, there shall be inserted the following: 'Services provided to a child who is under foster care in a foster family home (as defined in section 408 of the Social Security Act [42 U.S.C. 608]) or in a childcare institution (as defined in such section), or while awaiting placement in such a home or institution, but only if such services are needed by such child because he is under foster care.'

"(3) The provisions of subsection (a) shall not be applicable to any regulation relating to 'rates and amounts of Federal financial participation for Puerto Rico, the Virgin Islands, and Guam', if such regulation is identical to the provisions of section 221.56 of the regulations so proposed and published on May 1, 1973.

"(4) The provisions of subsection (a) shall not be construed to preclude the Secretary from making any modification in any regulation (described in subsection (a)) if such modification is technically necessary to take account of the enactment of section 301 or 302 of the Social Security Amendments of 1972 [enacting subchapters XVI and VI of this chapter].

"(c) Notwithstanding the provisions of section 553(d) of title 5, United States Code, any regulation described in subsection (b) may become effective upon the date of its publication in the Federal Register."

Similar provisions were contained in the following prior act: Pub. L. 93-66, title II, § 220, July 9, 1973, 87 Stat. 158.

#### MODIFICATION OF SOCIAL SERVICES REGULATIONS

Pub. L. 93-647, § 3(g), Jan. 4, 1975, 88 Stat. 2349, provided in part that: "Notwithstanding the provisions of section 12(a) of Public Law 93-233 [set out as a note above], the Secretary may make any modification in any regulation described in that section if the modification is necessary to implement the provisions of this part."

#### ADJUSTMENT OF ALLOTMENT TO STATE FOR FISCAL YEAR ENDING JUNE 30, 1973

Pub. L. 92-603, title IV, § 403, Oct. 30, 1972, 86 Stat. 1487, provided for the computation of the allotment of each state for the fiscal year ending June 30, 1973.

### § 1320b-1. Notification of Social Security claimant with respect to deferred vested benefits

(a) Whenever—

(1) the Commissioner of Social Security makes a finding of fact and a decision as to—

(A) the entitlement of any individual to monthly benefits under section 402, 423, or 428 of this title, or

(B) the entitlement of any individual to a lump-sum death payment payable under section 402(i) of this title on account of the death of any person to whom such individual is related by blood, marriage, or adoption,

(2) the Secretary makes a finding of fact and a decision as to the entitlement under section 426 of this title of any individual to hospital insurance benefits under part A of subchapter XVIII, or

(3) the Commissioner of Social Security is requested to do so—

(A) by any individual with respect to whom the Commissioner of Social Security holds information obtained under section 6057 of the Internal Revenue Code of 1986, or

(B) in the case of the death of the individual referred to in subparagraph (A), by the individual who would be entitled to payment under section 404(d) of this title,

the Commissioner of Social Security shall transmit to the individual referred to in paragraph (1)

or (2) or the individual making the request under paragraph (3) any information, as reported by the employer, regarding any deferred vested benefit transmitted to the Commissioner of Social Security pursuant to such section 6057 with respect to the individual referred to in paragraph (1), (2), or (3)(A) or the person on whose wages and self-employment income entitlement (or claim of entitlement) is based.

(b)(1) For purposes of section 401(g)(1) of this title, expenses incurred in the administration of subsection (a) shall be deemed to be expenses incurred for the administration of subchapter II.

(2) There are hereby authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for each fiscal year (commencing with the fiscal year ending June 30, 1974) such sums as the Commissioner of Social Security deems necessary on account of additional administrative expenses resulting from the enactment of the provisions of subsection (a).

(Aug. 14, 1935, ch. 531, title XI, § 1131, as added Pub. L. 93-406, title II, § 1032, Sept. 2, 1974, 88 Stat. 947; amended Pub. L. 98-369, div. B, title VI, § 2663(e)(7), July 18, 1984, 98 Stat. 1168; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103-296, title I, § 108(b)(11), Aug. 15, 1994, 108 Stat. 1484.)

#### REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsection (a)(3)(A), is classified generally to Title 26, Internal Revenue Code.

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-296, § 108(b)(11)(A), (G), in closing provisions substituted "the Commissioner of Social Security shall transmit" for "he shall transmit", "paragraph (1) or (2)" for "paragraph (1)", "paragraph (3)" for "paragraph (2)", "Commissioner of Social Security pursuant to" for "Secretary pursuant to", and "paragraph (1), (2), or (3)(A)" for "paragraph (1) or (2)(A)".

Subsec. (a)(1). Pub. L. 103-296, § 108(b)(11)(A)-(D), substituted "Commissioner of Social Security" for "Secretary" in introductory provisions, inserted "or" at end of subpar. (A), struck out "or" at end of subpar. (B), and struck out subpar. (C) which read as follows: "the entitlement under section 426 of this title of any individual to hospital insurance benefits under part A of subchapter XVIII of this chapter, or".

Subsec. (a)(2). Pub. L. 103-296, § 108(b)(11)(F), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 103-296, § 108(b)(11)(A), (E), redesignated par. (2) as (3) and substituted "Commissioner of Social Security" for "Secretary" in introductory provisions and in subpar. (A).

Subsec. (b)(2). Pub. L. 103-296, § 108(b)(11)(A), substituted "Commissioner of Social Security" for "Secretary".

1986—Subsec. (a)(2)(A). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

1984—Subsec. (a). Pub. L. 98-369, § 2663(e)(7)(B), realigned margin of provisions following par. (2)(B).

Subsec. (a)(2)(B). Pub. L. 98-369, § 2663(e)(7)(A), substituted a comma for the period after "section 404(d) of this title".

#### EFFECTIVE DATE OF 1994 AMENDMENT

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

## EFFECTIVE DATE OF 1984 AMENDMENT

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

## EFFECTIVE DATE

Section effective Jan. 1, 1978, see section 1034 of Pub. L. 93-406, set out as a note under section 6057 of Title 26, Internal Revenue Code.

**§ 1320b-2. Period within which certain claims must be filed**

**(a) Claims**

Notwithstanding any other provision of this chapter (but subject to subsection (b)), any claim by a State for payment with respect to an expenditure made during any calendar quarter by the State—

(1) in carrying out a State plan approved under subchapter I, IV, X, XIV, XVI, XIX, or XX of this chapter, or

(2) under any other provision of this chapter which provides (on an entitlement basis) for Federal financial participation in expenditures made under State plans or programs,

shall be filed (in such form and manner as the Secretary shall by regulations prescribe) within the two-year period which begins on the first day of the calendar quarter immediately following such calendar quarter; and payment shall not be made under this chapter on account of any such expenditure if claim therefor is not made within such two-year period; except that this subsection shall not be applied so as to deny payment with respect to any expenditure involving court-ordered retroactive payments or audit exceptions, or adjustments to prior year costs.

**(b) Waiver**

The Secretary shall waive the requirement imposed under subsection (a) with respect to the filing of any claim if he determines (in accordance with regulations) that there was good cause for the failure by the State to file such claim within the period prescribed under subsection (a). Any such waiver shall be only for such additional period of time as may be necessary to provide the State with a reasonable opportunity to file such claim. A failure to file a claim within such time period which is attributable to neglect or administrative inadequacies shall be deemed not to be for good cause.

(Aug. 14, 1935, ch. 531, title XI, §1132, as added Pub. L. 96-272, title III, §306(a), June 17, 1980, 94 Stat. 530; amended Pub. L. 97-35, title XXI, §2193(c)(5), Aug. 13, 1981, 95 Stat. 827.)

## AMENDMENTS

1981—Subsec. (a)(1). Pub. L. 97-35 substituted “subchapter I, IV, X” for “subchapter I, IV, V, X”.

## EFFECTIVE DATE OF 1981 AMENDMENT, SAVINGS, AND TRANSITIONAL PROVISIONS

For effective date, savings, and transitional provisions relating to amendment by Pub. L. 97-35, see section 2194 of Pub. L. 97-35, set out as a note under section 701 of this title.

## EFFECTIVE DATE

Pub. L. 96-272, title III, §306(b), (c), June 17, 1980, 94 Stat. 530, provided that:

“(b)(1) The amendment made by subsection (a) [enacting this section] shall be effective only in the case of claims filed on account of expenditures made in calendar quarters commencing on or after October 1, 1979.

“(2) In the case of claims filed prior to the date of enactment of this Act [June 17, 1980] on account of expenditures described in section 1132 of the Social Security Act [42 U.S.C. 1320b-2] made in calendar quarters commencing prior to October 1, 1979, there shall be no time limit for the payment of such claims.

“(3) In the case of such expenditures made in calendar quarters commencing prior to October 1, 1979, for which no claim has been filed on or before the date of enactment of this Act, payment shall not be made under this Act on account of any such expenditure unless claim therefor is filed (in such form and manner as the Secretary shall by regulation prescribe) prior to January 1, 1981.

“(4) The provisions of this subsection shall not be applied so as to deny payment with respect to any expenditure involving adjustments to prior year costs or court-ordered retroactive payments or audit exceptions. The Secretary may waive the requirements of paragraph (3) in the same manner as under section 1132(b) of the Social Security Act [42 U.S.C. 1320b-2(b)].

“(c) Notwithstanding any other provision of law, there shall be no time limit for the filing or payment of such claims except as provided in this section, unless such other provision of law, in imposing such a time limitation, specifically exempts such filing or payment from the provisions of this section.”

**§ 1320b-3. Applicants or recipients under public assistance programs not to be required to make election respecting certain veterans' benefits**

**(a) Supplemental Security Income program**

Notwithstanding any other provision of law (but subject to subsection (b)), no individual who is an applicant for or recipient of aid or assistance under a State plan approved under subchapter I, X, XIV, or XVI, or of benefits under the Supplemental Security Income program established by subchapter XVI shall—

(1) be required, as a condition of eligibility for (or of continuing to receive) such aid, assistance, or benefits, to make an election under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 with respect to pension paid by the Secretary of Veterans Affairs, or

(2) by reason of failure or refusal to make such an election, be denied (or suffer a reduction in the amount of) such aid, assistance, or benefits.

**(b) Period of effectiveness**

The provisions of subsection (a) shall be applicable only with respect to an individual, who is an applicant for or recipient of aid, assistance, or benefits described in subsection (a), during a period with respect to which there is in effect—

(1) in case such individual is an applicant for or recipient of aid or assistance under a State plan referred to in subsection (a), in the State having such plan, or

(2) in case such individual is an applicant for or recipient of benefits under the Supplemental Security Income program established by subchapter XVI, in the State in which the individual applies for or receives such benefits,

a State plan for medical assistance, approved under subchapter XIX, under which medical assistance is available to such individual only for