

cial Security Act [42 U.S.C. 301 et seq.] made by this section [amending this section and sections 410, 1320c-2, 1320c-3, 1395d, 1395f, 1395r, 1395y, 1395cc, 1395mm, 1395ww, 1396b, 1396n, 1396o, and 1396p of this title] shall be effective as if it had been originally included as a part of that provision of the Social Security Act to which it relates, as such provision of such Act was amended or added by the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97-248, Sept. 3, 1982, 96 Stat. 324].”

**EFFECTIVE DATE OF 1982 AMENDMENT**

Amendment by Pub. L. 97-248 effective on and after Jan. 1, 1983, see section 278(c)(2)(A) of Pub. L. 97-248, set out as a note under section 426 of this title.

**EFFECTIVE DATE**

Section effective with respect to services, supplies, and equipment furnished after the third calendar month beginning after June 13, 1978, except that provisions for the implementation of an incentive reimbursement system for dialysis services furnished in facilities and providers to become effective with respect to a facility's or provider's first accounting period beginning after the last day of the twelfth month following the month of June 1978, and except that provisions for reimbursement rates for home dialysis to become effective on Apr. 1, 1979, see section 6 of Pub. L. 95-292, set out as an Effective Date of 1978 Amendment note under section 426 of this title.

**§ 426a. Transitional provision on eligibility of uninsured individuals for hospital insurance benefits**

**(a) Entitlement to benefits**

Anyone who—

- (1) has attained the age of 65,
- (2)(A) attained such age before 1968, or (B) has not less than 3 quarters of coverage (as defined in this subchapter or section 228e(l) of title 45), whenever acquired, for each calendar year elapsing after 1966 and before the year in which he attained such age,
- (3) is not, and upon filing application for monthly insurance benefits under section 402 of this title would not be, entitled to hospital insurance benefits under section 426 of this title, and is not certifiable as a qualified railroad retirement beneficiary under section 228s-2 of title 45,
- (4) is a resident of the United States (as defined in section 410(i) of this title), 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 so defined) continuously during the 5 years immediately preceding the month in which he files application under this section, and
- (5) has filed an application under this section in such manner and in accordance with such other requirements as may be prescribed in regulations of the Secretary,

shall (subject to the limitations in this section) be deemed, solely for purposes of section 426 of this title, to be entitled to monthly insurance benefits under such section 402 for each month, beginning with the first month in which he meets the requirements of this subsection and ending with the month in which he dies, or, if earlier, the month before the month in which he becomes (or upon filing application for monthly insurance benefits under section 402 of this title would become) entitled to hospital insurance benefits under section 426 of this title or be-

comes certifiable as a qualified railroad retirement beneficiary. An individual who would have met the preceding requirements of this subsection in any month had he filed application under paragraph (5) hereof before the end of such month shall be deemed to have met such requirements in such month if he files such application before the end of the twelfth month following such month. No application under this section which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraphs (1), (2), (3), and (4) shall be accepted as an application for purposes of this section.

**(b) Persons ineligible**

The provisions of subsection (a) shall not apply to any individual who—

- (1) is, at the beginning of the first month in which he meets the requirements of subsection (a), a member of any organization referred to in section 410(a)(17)<sup>1</sup> of this title,
- (2) has, prior to the beginning of such first month, been convicted of any offense listed in section 402(u) of this title, or
- (3)(A) at the beginning of such first month is covered by an enrollment in a health benefits plan under chapter 89 of title 5,
  - (B) was so covered on February 16, 1965, or
  - (C) could have been so covered for such first month if he or some other person had availed himself of opportunities to enroll in a health benefits plan under such chapter and to continue such enrollment (but this subparagraph shall not apply unless he or such other person was a Federal employee at any time after February 15, 1965).

Paragraph (3) shall not apply in the case of any individual for the month (or any month thereafter) in which coverage under such a health benefits plan ceases (or would have ceased if he had had such coverage) by reason of his or some other person's separation from Federal service, if he or such other person was not (or would not have been) eligible to continue such coverage after such separation.

**(c) Authorization of appropriations**

There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund (established by section 1395i of this title) from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

- (1) payments made or to be made during such fiscal year from such Trust Fund under part A of subchapter XVIII of this chapter with respect to individuals who are entitled to hospital insurance benefits under section 426 of this title solely by reason of this section,
- (2) the additional administrative expenses resulting or expected to result therefrom, and
- (3) any loss in interest to such Trust Fund resulting from the payment of such amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year in which it would have been if the preceding subsections of this section had not been enacted.

(Pub. L. 89-97, title I, § 103, July 30, 1965, 79 Stat. 333; Pub. L. 90-248, title I, § 139, title IV, § 403(h), Jan. 2, 1968, 81 Stat. 854, 932.)

<sup>1</sup> See References in Text note below.

## 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)<sup>1</sup> 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

<sup>1</sup> See References in Text note below.