

Act specifies certain conditions that will still prevent you from qualifying for SVB or, if you have already qualified for SVB, will prevent us from paying you benefits. Specifically, the following events will prevent you from qualifying for or receiving SVB:

- Removal (including deportation) from the United States under section 237(a) or 212(a)(6)(A) of the Immigration and Nationality Act.
- Flight to avoid prosecution, or custody or confinement after conviction, for a crime or an attempt to commit a crime that is a felony under the laws of the United States or the jurisdiction of the United States from which you fled or, in the case of the State of New Jersey, is a high misdemeanor.
- Violation of a condition of probation or parole imposed under Federal or State law.
- Residence in a country to which payments are withheld by the Treasury Department under 31 U.S.C. 3329.

WWII Veteran Status

As explained above, section 802 of the Act specifies that you must be a WWII veteran to qualify for SVB. Section 812(1) of the Act defines a WWII veteran as a person who served during WWII in:

- The active military, naval, or air service of the United States during the period beginning on September 16, 1940 and ending on July 24, 1947; or
- The organized military forces of the Government of the Commonwealth of the Philippines, while the forces were in the service of the U.S. Armed Services under the military order of the President dated July 26, 1941, including organized guerrilla forces under commanders appointed by the Commander in Chief, Southwest Pacific Area, or other competent authority in the U.S. Army. This service must have been rendered at any time during the period beginning July 26, 1941 and ending on December 30, 1946.

In addition to meeting either of these requirements, you must have been discharged or released from this service under conditions other than dishonorable after serving at least 90 days or, if your service was less than 90 days, because of a disability or injury incurred or aggravated in the line of active duty.

How We Evaluate Evidence

Sections 806 and 810 of the Act authorize us to establish rules about the kinds of information you must give us to show that you qualify for SVB and that you are entitled to receive benefits. Section 806 also specifies that we cannot pay you SVB based only on your statements about whether you qualify

for benefits. Instead, you must give us documents or other evidence that we will verify with independent sources.

How We Calculate and Pay SVB

Section 805 of the Act specifies that your monthly SVB payment is equal to 75 percent of the Federal benefit rate (FBR) under title XVI of the Act, reduced by the amount of any other benefit income you receive for that month. As used in title VIII, "other benefit income" means any recurring payments you receive such as an annuity, pension, retirement, or disability benefit, but only if you received a similar payment from the same (or a related) source during the 12-month period before the month you file an application for SVB.

Applying for SVB

As indicated above, section 802 of the Act requires you to file an application in order to establish that you qualify for SVB. Section 806 of the Act authorizes SSA to prescribe the requirements for filing such an application. In order to maintain consistency throughout the benefit programs we administer, we have attempted, where possible, to use the same requirements we use for filing applications under the titles II and XVI programs. These rules were established in order to ensure that individuals have every reasonable opportunity to file a claim for benefits at the earliest possible time without loss of benefits, and we believe those same considerations apply to claims for title VIII benefits.

Explanation of New Part 408

New part 408 will initially consist of 5 subparts. (As indicated above, we will propose additional subparts in a subsequent notice of proposed rulemaking (NPRM).) Following is a list of each subpart that includes a brief description of the contents of each section in the subpart.

Subpart A (Introduction, General Provision and Definitions)

- Section 408.101 introduces the title VIII program and contains a list of each subpart in part 408, and gives a brief description of the topics covered in those subparts.
- Section 408.105 briefly explains the purpose of the title VIII program and that the program is administered by SSA.
- Section 408.110 defines certain terms that are used throughout part 408.
- Section 408.120 explains how we calculate time periods in which you must take a required action under the SVB program when they end on a day, any part of which is a nonworkday for

Federal employees. This is the same as the rule we use under both the title II and title XVI programs.

Subpart B (SVB Qualification and Entitlement)

As explained above, you must meet certain requirements to qualify for SVB (*i.e.*, you must be age 65 on or before December 14, 1999, a WWII veteran, SSI eligible for December 1999 and the month in which you file for SVB, not receiving other benefit income that is 75% or more of the SSI FBR, and you must file an application for SVB). In addition, even if you meet these requirements, certain other conditions will prevent you from qualifying for SVB or, if you are already qualified, will prevent us from making SVB payments to you. Subpart B discusses these qualifying and entitlement requirements. Specifically:

- Section 408.201 describes what subpart B is about and gives a general explanation of how you qualify for and establish entitlement to SVB payments.
- Section 408.202 gives a list of the specific requirements you must meet to qualify for SVB.
- Section 408.204 describes the conditions that will prevent you from qualifying for SVB or prevent you from being entitled to receive SVB payments even if you meet the requirements in § 408.202.
- Section 408.206 explains that when you apply for SVB, we will first determine if you qualify for benefits. If you do not qualify, we will deny your claim. If you do qualify, we will send you a written notice of qualification that explains you have 4 calendar months after the date of the notice in which to begin residing outside the U.S. or we will deny your claim. If you begin residing outside the U.S. within that 4-month period, your SVB payments will begin with the first full month in which you resided outside the U.S. on the first day of the month.
- Section 408.208 explains that, if you begin residing outside the U.S. within 4 calendar months after the date of the written notice of SVB qualification, we will send you a notice of SVB entitlement, including the date your entitlement begins, the amount of your monthly SVB payment, and the amount of any reduction in your payment because you are receiving other benefit income.
- Section 408.210 explains that if you do not begin residing outside the U.S. within 4 calendar months after the date of the written notice of SVB qualification, we will deny your SVB claim.