

chapter, respectively, your disability does not have to have continued through a separate, full 5-month waiting period before you may begin receiving benefits. We will include as months of the 5-month waiting period the months in a period beginning with the first month you received supplemental security income or a federally administered State supplementary payment and continuing through all succeeding months, regardless of whether the months in the period coincide with the months in which your waiting period would have occurred, or whether you continued to be eligible for supplemental security income or a federally administered State supplementary payment after the period began, or whether you met the nondisability requirements for entitlement to widow's or widower's benefits. However, we will not pay you benefits under this provision for any month prior to January 1991.

(4) You have not previously received 36 months of payments based on disability when drug addiction or alcoholism was a contributing factor material to the determination of disability (as described in § 404.1535), regardless of the number of entitlement periods you may have had, or your current application for widow's or widower's benefits is not based on a disability where drug addiction or alcoholism is a contributing factor material to the determination of disability.

(d) You are not entitled to an old-age benefit that is equal to or larger than the insured person's primary insurance amount.

(e) You are unmarried, unless for benefits for months after 1983 you meet one of the conditions in paragraphs (e)(1) through (3) of this section:

(1) You remarried after you became 60 years old.

(2) You are now age 60 or older and you meet both of the conditions in paragraphs (e)(2)(i) and (ii) of this section:

(i) You remarried after attaining age 50 but before attaining age 60.

(ii) At the time of the remarriage, you were entitled to widow's or widower's benefits as a disabled widow or widower.

(3) You are now at least age 50 but not yet age 60 and you meet one of the conditions in paragraphs (e)(3)(i) and (ii) of this section:

(i) You remarried after attaining age 50.

(ii) You met the disability requirements in paragraph (c) of this section at the time of your remarriage (*i.e.*, your disability began within the

specified time and before your remarriage).

16. Section 404.337 is revised to read as follows:

**§ 404.337 When does my entitlement to widow's and widower's benefits start and end?**

(a) We will find you entitled to widow's or widower's benefits under § 404.335 or § 404.336 beginning with the first month covered by your application in which you meet all other requirements for entitlement.

(b) We will end your entitlement to widow's or widower's benefits at the earliest of the following times:

(1) The month before the month in which you become entitled to an old-age benefit that is equal to or larger than the insured's primary insurance amount.

(2) The second month after the month your disability ends or, where disability ends on or after December 1, 1980, the month before your termination month (§ 404.325). However your payments are subject to the provisions of paragraphs (c) and (d) of this section. **Note:** You may remain eligible for payment of benefits if you attained full retirement age (as defined in § 404.409) before your termination month and you meet the other requirements for widow's or widower's benefits.

(3) If drug addiction or alcoholism is a contributing factor material to the determination of disability as described in § 404.1535, the month after the 12th consecutive month of suspension for noncompliance with treatment or after 36 months of benefits on that basis when treatment is available regardless of the number of entitlement periods you may have had, unless you are otherwise disabled without regard to drug addiction or alcoholism.

(4) The month before the month in which you die.

(c)(1) If you are entitled to widow's or widower's benefits based on a disability and your impairment is no longer disabling, generally, we will continue your benefits if you meet all the conditions in paragraphs (c)(1)(i) through (iv) of this section:

(i) Your disability did not end before December 1980, the effective date of this provision of the law.

(ii) You are participating in an appropriate program of vocational rehabilitation as described in § 404.316(c)(1)(ii).

(iii) You began the program before your disability ended.

(iv) We determined that your completion of the program, or your continuation in the program for a specified period of time, would significantly increase the likelihood that

you will not have to return to the disability benefit rolls.

(2) Generally, we will stop your benefits with the month you meet one of the conditions in paragraphs (c)(2)(i) through (iii) of this section:

(i) You complete the program.

(ii) You stop participating in the program for any reason.

(iii) We determined that your continuing participation in the program would no longer significantly increase the likelihood that you will be permanently removed from the disability benefit rolls.

(iv) Exception: In no case will we stop your benefits with a month earlier than the second month after the month your disability ends.

(d) If, after November 1980, you have a disabling impairment (§ 404.1511), we will pay you benefits for all months in which you do not do substantial gainful activity during the reentitlement period (§ 404.1592a) following the end of your trial work period (§ 404.1592). If you are unable to do substantial gainful activity in the first month following the reentitlement period, we will pay you benefits until you are able to do substantial gainful activity. (Earnings during your trial work period do not affect the payment of your benefits.) We will also pay you benefits for the first month after the trial work period in which you do substantial gainful activity and the two succeeding months, whether or not you do substantial gainful activity during those succeeding months. After those three months, we cannot pay you benefits for any months in which you do substantial gainful activity.

17. Section 404.338 is revised to read as follows:

**§ 404.338 How is the amount of my widow's or widower's benefit calculated?**

Your widow's or widower's monthly benefit is equal to the insured person's primary insurance amount. If the insured person died before reaching age 62 and you are first eligible after 1984, we may compute a special primary insurance amount to determine the amount of your monthly benefit (*see* § 404.212(b)). We may increase your monthly benefit amount if the insured person earned delayed retirement credit after full retirement age (as defined in § 404.409) by working or by delaying filing for benefits (*see* § 404.313). The amount of your monthly benefit may change as explained generally in § 404.304. In addition, your monthly benefit will be reduced if the insured person was entitled to old-age benefits that were reduced for age because he or she chose to receive them before