

divorced mother or father (see subpart D of this part) of the deceased individual upon whose earnings record such benefit is based, for any month in which she or he does not have in care a child of the deceased individual who is her or his son, daughter, or legally adopted child and who is entitled to child's benefits based on the earnings of the deceased insured individual.

(c) *Amount to be deducted.* The amount deducted from the benefits, as described in paragraphs (a) and (b) of this section, is equal to the amount of the benefits which is otherwise payable for the month in which she or he does not have a child in his or her care.

(d) *When a child is considered not entitled to benefits.* For purposes of paragraphs (a) and (b) of this section a person is considered not entitled to child's benefits for any month in which she or he is age 18 or over, and:

(1) Is entitled to child's benefits based on her or his own disability and a deduction is made from the child's benefits because of her or his refusal of rehabilitation services as described in § 404.422(b); or

(2) Is entitled to child's benefits because she or he is a full-time student at an educational institution. This paragraph applies to benefits for months after December 1964.

Subpart G—[Amended]

26. The authority citation for subpart G of part 404 continues to read as follows:

Authority: Secs. 202(i), (j), (o), (p) and (r), 205(a), 216(i)(2), 223(b), 228(a) and 702(a)(5) of the Social Security Act (42 U.S.C. 402(i), (j), (o), (p) and (r), 405(a), 416(i)(2), 423(b), 428(a) and 902(a)(5)).

27. Section 404.621 is revised to read as follows:

§ 404.621 What happens if I file after the first month I meet the requirements for benefits?

(a) *Filing for disability benefits and for old-age, survivors', or dependents' benefits.* (1) If you file an application for disability benefits, widow's or widower's benefits based on disability, or wife's, husband's, or child's benefits based on the earnings record of a person entitled to disability benefits, after the first month you could have been entitled to them, you may receive benefits for up to 12 months immediately before the month in which your application is filed. Your benefits may begin with the first month in this 12-month period in which you meet all the requirements for entitlement. Your entitlement, however, to wife's or husband's benefits under this rule is

limited by paragraph (a)(3) of this section.

(2) If you file an application for old-age benefits, widow's or widower's benefits not based on disability, wife's, husband's, or child's benefits based on the earnings record of a person not entitled to disability benefits, or mother's, father's, or parent's benefits, after the first month you could have been entitled to them, you may receive benefits for up to 6 months immediately before the month in which your application is filed. Your benefits may begin with the first month in this 6-month period in which you meet all the requirements for entitlement. Your entitlement, however, to old-age, wife's, husband's, widow's, or widower's benefits under this rule is limited by paragraph (a)(3) of this section.

(3) If the effect of the payment of benefits for a month before the month you file would be to reduce your benefits because of your age, you cannot be entitled to old-age, wife's, husband's, widow's, or widower's benefits for any month before the month in which your application is filed, unless you meet one of the conditions in paragraph (a)(4) of this section. (An explanation of the reduction that occurs because of age if you are entitled to these benefits for a month before you reach full retirement age, as defined in § 404.409, is in § 404.410.) An example follows that assumes you do not meet any of the conditions in paragraph (a)(4) of this section.

Example: You will attain full retirement age in March 2003. If you apply for old-age benefits in March, you cannot be entitled to benefits in the 6-month period before March because the payment of benefits for any of these months would result in your benefits being reduced for age. If you do not file your application until June 2003, you may be entitled to benefits for the month of March, April and May because the payment of benefits for these months would not result in your benefits being reduced for age. You will not, however, receive benefits for the 3 months before March.

(4) The limitation in paragraph (a)(3) of this section on your entitlement to old-age, wife's, husband's, widow's, or widower's benefits for months before you file an application does not apply if:

(i) You are a widow, widower, surviving divorced wife, or surviving divorced husband who is disabled and could be entitled to retroactive benefits for any month before age 60. If you could not be entitled before age 60, the limitation will prevent payment of benefits to you for past months, but it will not affect the month you become entitled to hospital insurance benefits.

(ii) You are a widow, widower, or surviving divorced spouse of the insured person who died in the month before you applied and you were at least age 60 in the month of death of the insured person on whose earnings record you are claiming benefits. In this case, you can be entitled beginning with the month the insured person died if you choose and if you file your application on or after July 1, 1983.

(b) *Filing for lump-sum death payment.* An application for a lump-sum death payment must be filed within 2 years after the death of the person on whose earnings record the claim is filed. There are two exceptions to the 2-year filing requirement:

(1) If there is a good cause for failure to file within the 2-year period, we will consider your application as though it were filed within the 2-year period. Good cause does not exist if you were informed of the need to file an application within the 2-year period and you neglected to do so or did not desire to make a claim. Good cause will be found to exist if you did not file within the time limit due to—

(i) Circumstances beyond your control, such as extended illness, mental or physical incapacity, or a language barrier;

(ii) Incorrect or incomplete information we furnished you;

(iii) Your efforts to get evidence to support your claim without realizing that you could submit the evidence after filing an application; or

(iv) Unusual or unavoidable circumstances which show that you could not reasonably be expected to know of the time limit.

(2) The Soldiers' and Sailors' Civil Relief Act of 1940 provides for extending the filing time.

(c) *Filing for special age 72 payments.* An application for special age 72 payments is not effective as a claim for benefits for any month before you actually file.

(d) *Filing for a period of disability.* You must file an application for a period of disability while you are disabled or no later than 12 months after the month in which your period of disability ended. If you were unable to apply within the 12-month time period because of a physical or mental condition, you may apply not more than 36 months after your disability ended. The general rule we use to decide whether your failure to file was due to a physical or mental condition is stated in § 404.322.

(e) *Filing after death of person eligible for disability benefits or period of disability.* If you file for disability benefits or a period of disability for