

Section No.	Number of respondents	Average burden per response	Frequency of response	Estimated annual hour burden
§ 404.428(b) .....	1	1	1	1
§ 404.429(d) .....	1	1	1	1
§ 404.435(d) .....	1	1	1	1
§ 404.435(e) .....	1	1	1	1
§ 404.452(a)&(c) .....	1	1	1	1
§ 404.452(b)&(c) .....	1	1	1	1
§ 404.452(d) .....	1	1	1	1
§ 404.452(e)(1) .....	1	1	1	1
§ 404.452(e)(2) .....	1	1	1	1
Totals .....	9	9	9	9

An Information Collection Request has been submitted to OMB for clearance. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Comments should be submitted to the Social Security Administration at the following address: Social Security Administration, Attn: SSA Reports Clearance Officer, 1338 Annex Building, 6401 Security Boulevard, Baltimore, MD 21235-6402.

Comments can be received between 30 and 60 days after publication of this notice and will be most useful if received by the Social Security Administration within 30 days of publication.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; 96.006, Supplemental Security Income)

#### List of Subjects in 20 CFR Part 404

Administrative practice and procedure in the Federal, old age, survivors and disability insurance program; earnings coverage; insured status; computation of, and eligibility for benefits.

Dated: July 15, 2003.

**Jo Anne B. Barnhart,**  
Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend subparts D and E of part 404 of Chapter III of Title 20 of the Code of Federal Regulations as follows:

### PART 404—FEDERAL OLD-AGE SURVIVORS AND DISABILITY INSURANCE (1950— )

#### Subpart D—[Amended]

1. The authority citation for subpart D of part 404 continues to read as follows:

**Authority:** Secs. 202, 203(a) and (b), 205(a), 216, 223, 225, 228(a)–(e), and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403(a) and (b), 405(a), 416, 423, 425, 428(a)–(e), and 902(a)(5)).

2. Section 404.338 is revised to read as follows:

#### § 404.338 Widow's and widower's benefits amounts.

(a) A widow's or widower's monthly benefit is equal to the insured person's primary insurance amount. If the insured person dies before reaching age 62 and the widow or widower is first eligible after 1984, we may compute a special primary insurance amount to determine the amount of the monthly benefit (see § 404.212(b)).

(b) We may increase the monthly benefit amount if the insured person delays filing for benefits or requests voluntary suspension of benefits, and thereby earns delayed retirement credit (see § 404.313), and/or works before the year 2000 after reaching full retirement age (as defined in § 404.409). The amount of the monthly benefit may change as explained in § 404.304.

(c) The widow's or widower's monthly benefit will be reduced if the insured person chooses to receive old-age benefits before reaching full retirement age. If so, the benefit will be reduced to the amount the insured person would be receiving if alive, or 82½ percent of his or her primary insurance amount, whichever is larger.

#### Subpart E—[Amended]

3. The authority citation for subpart E of part 404 continues to read as follows:

**Authority:** Secs. 202, 203, 204(a) and (e), 205(a) and (c), 222(b), 223(e), 224, 225, 702(a)(5) and 1129A of the Social Security

Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 422(b), 423(e), 424a, 425, 902(a)(5) and 1320a–8a.).

4. Section 404.415 is revised to read as follows:

#### § 404.415 Deductions because of excess earnings.

(a) *Deductions because of insured individual's earnings.* Under the annual earnings test, we will reduce your monthly benefits (except disability insurance benefits based on the beneficiary's disability) by the amount of your excess earnings (as described in § 404.434), for each month in a taxable year (calendar year or fiscal year) in which you are under full retirement age (as defined in § 404.409).

(b) *Deductions from husband's, wife's, and child's benefits because of excess earnings of the insured individual.* We will reduce husband's, wife's, and child's insurance benefits payable (or deemed payable—see § 404.420) on the insured individual's earnings record because of the excess earnings of the insured individual. However, beginning with January 1985, we will not reduce the benefits payable to a divorced wife or a divorced husband who has been divorced from the insured individual for at least 2 years.

(c) *Deductions because of excess earnings of beneficiary other than the insured.* If benefits are payable to you (or deemed payable—see § 404.420) on the earnings record of an insured individual and you have excess earnings (as described in § 404.430) charged to a month, we will reduce only your benefits for that month under the annual earnings test. Child's insurance benefits payable by reason of being disabled will be evaluated using Substantial Gainful Activity guidelines (as described in § 404.1574 or § 404.1575). This deduction equals the amount of the excess earnings. (See § 404.434 for charging of excess earnings where both the insured individual and you, a beneficiary, have excess earnings).