

(i) as subsection (j). Section 112(b)(1) added paragraph (p) to § 1631 of the Act. The expedited reinstatement provision provides a method for you to have your disability benefits reinstated without filing an application if you have had your entitlement to, or eligibility for, benefits terminated due to your work activity during the previous 5 years, and you can no longer do substantial gainful activity.

Effect of the Expedited Reinstatement Provision

The expedited reinstatement provision provides you another option for regaining entitlement to benefits under title II and eligibility under title XVI of the Act after we have terminated your entitlement to or eligibility for disability benefits due to your work activity. If you file a request for expedited reinstatement you can still file a new application for benefits under existing initial claim rules.

Prior to the effective date of this provision, when we terminated your entitlement or eligibility due to work activity, you were required to file a new application to become entitled to or eligible for benefits again. We processed your application under rules that required a new disability determination using our initial claim medical requirements. You generally were entitled to receive benefits only after we processed your entitlement or eligibility determination. If we determined that you again qualified for benefits, you became eligible for work incentives such as the trial work period, the reentitlement period, and special SSI eligibility status under your new period of disability.

The expedited reinstatement provision provides you the option of requesting that your prior entitlement to or eligibility for disability benefits be reinstated, rather than filing a new application for a new period of entitlement or eligibility. Since January 1, 2001, you can request to be reinstated to benefits if you stop doing substantial gainful activity within 60 months of your prior termination. You must have stopped doing substantial gainful activity because of your medical condition. Your current impairment must be the same as or related to your prior impairment and you must be disabled. To determine if you are disabled, we will use our medical improvement review standard (MIRS) that we use in our continuing disability review process. The advantage of using MIRS is that we will generally find that you are disabled unless your impairment has improved so that you

are able to work or unless an exception under the MIRS process applies.

When you request reinstatement you can be paid up to 6 months of provisional benefits, and may be entitled to Medicare benefits and/or Medicaid, while we are deciding whether you qualify for reinstatement. Provisional benefits, or payments, are cash benefits that can be paid to you on a temporary basis when you were previously a Social Security (title II) disability beneficiary or a disabled or blind Supplemental Security Income (title XVI) recipient and you are now requesting reinstatement. The period during which you can receive provisional benefits is your provisional benefit period. This period begins with the first month you can receive provisional benefits and can never extend beyond six consecutive months. Your provisional benefit period will end earlier than the sixth consecutive month if we make our determination on your request for reinstatement before that month. Your title II provisional benefit period will also end if you attain retirement age or if you do substantial gainful work activity.

You can receive title II provisional benefits beginning with the month you file your request for reinstatement. We will base your provisional benefit amount, the amount of the monthly cash benefit you receive during the provisional benefit period, on the prior benefit amount that was actually payable to you under title II. We will terminate your title II provisional benefits when your provisional benefit period ends, such as if you do substantial gainful activity. You can receive title XVI provisional payments beginning with the month after you file your request for reinstatement. We will base your title XVI provisional benefit amount, the amount of the monthly cash payment you receive during the provisional benefit period, on the federal Supplemental Security Income benefit that is actually payable to you, depending on your income. We will terminate your title XVI provisional payments when your provisional benefit period ends.

We are proposing to amend §§ 404.903 and 416.1403 to indicate that a determination we make regarding your right to receive provisional benefits is not an initial determination and it is, therefore, not subject to administrative review under §§ 404.900ff and 416.1400ff.

If we deny your request for reinstatement, we generally will not consider the provisional benefits you received as an overpayment. If your reinstatement request is denied, we will

treat that request as your intent to file an initial application for benefits. If your request for reinstatement is approved, we will reinstate your prior disability entitlement or eligibility and reestablish your Medicare/Medicaid entitlement, as appropriate, if you are not already entitled to Medicare/Medicaid. We will pay you reinstated benefits under title XVI beginning with the month after the month you filed your request. We will pay you reinstated benefits for title II beginning no later than the month you filed your request. We can pay you title II reinstated benefits for any of the 12 months preceding your request for reinstatement if you would have met all of the requirements for reinstatement if your request for reinstatement had been timely filed for the claimed month. We will reduce reinstated benefits payable for a month by the amount of any provisional benefits already received for that month.

When we reinstate your entitlement under this provision you are then entitled to a 24-month initial reinstatement period. Your 24-month initial reinstatement period begins with the month your benefits are reinstated and ends with the 24th month that you have a benefit payable. For title II purposes, we consider a benefit to be payable in a month when you do not do substantial gainful activity and the non-payment provisions in § 404.401ff do not apply. For title XVI purposes, we consider a benefit to be payable in a month when, using normal payment calculation procedures in § 416.101ff, we determine you are due a monthly payment. After the 24-month initial reinstatement period is completed you are eligible for additional work incentives under title II (such as a trial work period and a reentitlement period), as well as possible future reinstatement through the expedited reinstatement provision under title II and title XVI.

Proposed Regulations

We are proposing to amend our rules to provide the rules for expedited reinstatement. These proposed rules add §§ 404.1592b through 404.1592g to part 404 and §§ 416.999 through 416.999e to part 416.

Part 404

Proposed § 404.1592b provides a general overview of expedited reinstatement and summarizes the basic requirements for expedited reinstatement, as discussed in §§ 404.1592c through 404.1592g.

Proposed § 404.1592c describes the requirements for reinstatement to title II