

benefits. Section 223(i)(1) of the Act lists the requirements you must meet to be reinstated through the authority of the title II expedited reinstatement provision. These proposed rules explain that you must have previously been entitled as a disabled insured individual, a disabled child, a disabled widow or widower, or a disabled Medicare qualified government employee. We must have terminated your prior entitlement due to your doing substantial gainful activity. You must have become unable to continue doing substantial gainful activity due to your medical condition. Your current impairment must be the same as or related to the impairment on which we based your prior period of disability, and you must currently be disabled. Section 223(i)(3) of the Act requires us to use the medical improvement review standard in Section 223(f) of the Act when we determine if you are disabled for the purposes of this provision. We are proposing that we will not reinstate your entitlement under the expedited reinstatement provision if you previously requested expedited reinstatement, or we conducted a continuing disability review on a title II disability or Medicare entitlement, and we determined you were not disabled under the medical improvement review standard. We will also not reinstate your entitlement under this provision if you previously requested expedited reinstatement for a benefit and we determined you did not have a current impairment(s) that was the same as or related to the impairment that was the basis for your prior entitlement to that benefit. If you are reinstated, an auxiliary beneficiary who was previously entitled on your record can also be reinstated. The auxiliary beneficiary must apply for reinstatement and must meet the current entitlement factors for the benefit.

Proposed § 404.1592d describes what you must do to request reinstatement of benefits under the expedited reinstatement provision. Your request must be made in writing. Section 223(i)(2)(A) of the Act lists what you must include in your request for reinstatement and authorizes us to determine the form of the request and the information it must contain. You must file your request within the consecutive 60-month period that begins with the month that your prior entitlement to disability benefits terminated due to the performance of substantial gainful activity. However, we may extend this time period if we determine that you had good cause for failing to file your request within the 60-

month time period. Your request must state that you are disabled, that your current impairment is the same as or related to the impairment that was used as the basis for your prior disability entitlement, and that you cannot do substantial gainful activity because of your medical condition. The request must also include the information we need to help us determine whether you meet the non-medical factors of entitlement and the information we need to make the medical determination. Your request for reinstatement must be filed on or after January 1, 2001.

Proposed § 404.1592e describes how we will determine whether you are unable to do substantial gainful activity because of your medical condition. We are proposing that you must meet one of two requirements. The first requirement is that you are unable to continue working, or you reduce your work and earnings below the substantial gainful activity level, because of your impairment. The second requirement is that you were forced to stop work due to the removal of special circumstances that had permitted you to work despite your impairment. Under our proposed rules if you stop work for reasons beyond your control, such as your employer having terminated you due to a general downsizing, and there were special circumstances that allowed you to work at that job despite your impairment, we will consider you to meet this requirement. For the purposes of this section we consider special circumstances to be those in which you have special conditions, subsidy, or have some other special need that must be met in order for you to be able to work despite your impairment, such as the availability of special transportation.

Proposed § 404.1592f provides information on when your title II provisional benefits start, how they are computed, when they are paid, and when they end. Section 223(i)(7) of the Act lists the requirements for us to pay provisional benefits while we are determining whether to approve your request for reinstatement. Consistent with the law, the proposed rules explain that we can pay you up to 6 months of provisional benefits during your provisional benefit period. In addition, if you are not already entitled to Medicare, we can reestablish your Medicare entitlement during your provisional benefit period. Your entitlement to provisional benefits begins with the month your reinstatement request is filed. We will base your provisional benefit amount on your monthly insurance benefit that was actually payable to you at the time we

terminated your prior entitlement. We will increase your prior benefit amount payable by any intervening cost of living increases that would have been applicable to the prior benefit amount under section 215(i) of the Act. If you are entitled to another title II benefit or another provisional benefit, the maximum benefit amount we will pay you when all benefits are combined will be the amount of your highest computed benefit. If you request reinstatement as a disabled widow or widower or a disabled child we will not adjust your provisional benefit or the benefits of other beneficiaries entitled at that time on the same record when the total benefit amount exceeds the family maximum.

We will not pay you a provisional benefit for a month if you are not entitled to payment for the month under our usual rules, such as if you are a prisoner. We also will not pay you provisional benefits for any month that is after the earliest of the following months: the month we send you notice of our determination on your request for reinstatement; the first month you do substantial gainful activity; the month before you attain retirement age; or the fifth month following the month you filed your request for reinstatement. We will not pay provisional benefits when, prior to starting your provisional benefits, we determine that you do not meet the requirements for reinstatement, such as, since your prior termination because of work activity we have determined that you are not disabled under the medical improvement review standard, or we determine that you did not file your request for reinstatement timely, or your prior entitlement did not terminate because of your doing substantial gainful activity. Our determinations on provisional benefit amounts, when they are payable, and when they terminate, are final and are not subject to formal administrative review. We will not recover a previously existing overpayment from your provisional payments unless you give us permission to do so. If we determine you are not entitled to reinstated benefits, usually we will not consider the provisional benefits you received as an overpayment unless we determine you knew or should have known that you did not qualify for reinstatement and therefore you should not have received the provisional benefits.

Proposed § 404.1592g discusses how we determine your reinstated benefits consistent with the requirements regarding paying reinstated benefits in section 223(i). The proposed rules explain that if we have determined we can reinstate you in the month you filed