

your reinstatement request, we will then consider whether we can pay you retroactive reinstated benefits. We will reinstate your benefits beginning with the earliest month in the 12-month period immediately preceding the month you requested reinstatement in which you would have met all of the reinstatement requirements if you had filed your request for reinstatement in that month. We will also reinstate your Medicare entitlement. Your entitlement to title II disability benefits and Medicare, under the expedited reinstatement provision, cannot be reinstated for a month prior to January 2001.

We will determine and pay your reinstated monthly benefits under our normal payment provisions of title II of the Act, with some exceptions. We will withhold from your reinstated benefits due for a month the amount of any provisional payments we already paid for that month. If the provisional benefits we paid you for a month exceed the amount of reinstated benefits due you for that month, we will consider the difference as an overpayment. We will use the same date of onset to calculate your new primary insurance amount as a reinstated individual that we used in your most recent period of disability. When you are reinstated, you are entitled to a 24-month initial reinstatement period. Your initial reinstatement period begins with the month your reinstated benefits begin and ends when you have had 24 months of payable benefits. We propose to consider a month a payable month when you do not do substantial gainful activity and the non-payment provisions in § 404.401ff do not apply. During the initial reinstatement period, in addition to normal non-payment events, a benefit is not payable for any month in which you do substantial gainful activity. We will not use our unsuccessful work attempt or averaging of earnings provisions when we determine if you have done substantial gainful activity in a month during your initial reinstatement period. After you complete your initial reinstatement period, we will consider your future work under the work incentive provisions of title II of the Act. Your trial work period begins the month after you complete your initial reinstatement period. Your reinstated benefits end with the earliest month that precedes the third month following the month in which we determine your disability ceases, the month we terminate your benefits for another reason, the month you reach retirement age, or the month you die.

We are proposing that determinations we make regarding your title II reinstated benefits will be initial determinations subject to administrative and judicial review. If we determine you are not entitled to reinstated benefits, we will consider your request for reinstatement as your intent to file a new initial claim for the benefit.

#### Part 416

Proposed § 416.999 provides a general overview of expedited reinstatement and a summary of the basic requirements for expedited reinstatement, as discussed in §§ 416.999a through 416.999e.

Proposed § 416.999a describes the requirements for reinstatement to title XVI benefits. Section 1631(p)(1) of the Act lists the requirements to be reinstated through the authority of the expedited reinstatement provision. The proposed rules explain that you must have previously been eligible based on disability or blindness. We must have terminated your prior eligibility due to earned income or a combination of earned and unearned income. You must have become unable to do 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 eligibility. Also, you must currently be disabled. Section 1631(p)(3) of the Act requires we use the medical improvement review standard in section 1614(a)(4) 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 eligibility under this provision if you previously requested expedited reinstatement, or we conducted a continuing disability review for title XVI eligibility, and we determined you were not disabled under the medical improvement review standard. We will also not reinstate your eligibility under this provision if you previously requested expedited reinstatement of your title XVI eligibility and we determined you did not have a current impairment that was the same as or related to the impairment that was the basis for your prior eligibility. When you are reinstated, your spouse can be reinstated if your spouse was previously eligible, your spouse meets the current eligibility factors for title XVI benefits, and your spouse requests reinstatement.

Proposed § 416.999b describes how to request reinstatement of benefits under the expedited reinstatement provision. Your request must be in writing. Section 1631(p)(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 we terminated your prior eligibility to title XVI disability benefits. 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 period. Your request must include your statement that you are disabled, that your current impairment is the same as or related to the impairment that we used as the basis for your prior disability eligibility, that you cannot do substantial gainful activity because of your medical condition, and that you meet all of the non-medical requirements for eligibility. Your request must also include the information we need to determine whether you meet the non-medical factors of eligibility for the benefit and the information we need to make the medical determination. Your request for reinstatement must be filed on or after January 1, 2001.

Proposed § 416.999c 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 reduced 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 when you have been provided special conditions or 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 § 416.999d provides information on when your title XVI provisional benefits start, how they are computed, when they are paid, and when they end. Section 1631(p)(7) of the Act lists the requirements for us to pay you provisional benefits while we are determining whether to approve your request for reinstatement. Consistent with the law, the proposed