

rules explain that we can pay you up to six months of provisional benefits during the provisional benefit period. Your provisional benefits will begin with the month after you request reinstatement. We will base your provisional benefit amount on normal computational methods for an individual receiving SSI benefits under title XVI of the Act with the same amounts and kind of income. If your spouse also requests reinstatement, we can pay provisional payments to your spouse. Your spouse must meet SSI eligibility requirements, except those relating to the filing of an application, before we can pay provisional payments. We will use the same computation method used for you and your spouse's provisional benefit that we would use to figure an eligible individual and eligible spouse receiving non-provisional benefits under title XVI of the Act with the same kind and amount of income. As required by section 1631(p)(8) of the Act, you are not eligible for state supplementary payments during the provisional benefit period.

We will not pay provisional benefits for any month where a suspension or terminating event occurs under our usual rules, such as when you are in an institution or if you die. We also will not pay provisional benefits for any month after the earliest month either of the following events occur: the month we send you our notice of our determination on your request for reinstatement or the sixth 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 you do not meet the requirements for reinstatement, such as, since your prior termination due to your earned income 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 we determine that your prior eligibility terminated for a reason unrelated to income. Our determinations on your 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 previously existing

overpayments from your provisional payments unless you give us permission to do so. If we determine that you are not eligible for reinstated benefits, usually we will not consider the provisional payments you received as an overpayment unless you knew or should have known that you did not qualify for reinstatement and you should not have received provisional payments.

Proposed § 416.999e discusses how we determine your reinstated SSI benefits consistent with the requirements in section 1631(p)(4). The proposed rules explain that we will reinstate your eligibility, and your spouse's eligibility, with the month following the month you filed your request for reinstatement. Your eligibility cannot be reinstated for a month prior to February 2001.

We will determine and pay your reinstated benefits under the normal payment provisions of title XVI of the Act, with one exception. We will withhold from your reinstated benefits due in a month the amount of any provisional payments you were already paid for that month. If we pay you a provisional benefit for a month that exceeds the amount of your reinstated benefit due, we will consider the difference an overpayment. When your request for reinstatement is approved, you are eligible for 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, considering the normal payment rules, you are due a benefit payment for the month. After you complete the initial reinstatement period, you are again eligible for expedited reinstatement if we terminate your eligibility due to income. 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 before we terminate your eligibility for another reason, or the month you die.

We are proposing that we will consider determinations we make regarding your title XVI reinstated benefits to be initial determinations

subject to administrative and judicial review. If we determine you are not eligible for reinstated benefits we will consider your request for reinstatement your intent to file a new initial claim for benefits.

## Regulatory Procedures

### Clarity of These Proposed Rules

Executive Order 12866 requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make these proposed rules easier to understand. For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

### Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were subject to OMB review.

### Regulatory Flexibility Act

We certify that these proposed rules would not have a significant economic impact on a substantial number of small entities because they would primarily affect only individuals. Thus an initial regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

### Paperwork Reduction Act

These proposed rules contain reporting requirements as shown in the following table.

Section	Annual number of responses	Frequency of response	Average burden per response (Mins.)	Estimated total burden (Hrs.)
404.1592c & 404.1592d .....	10,000	One time .....	85	14,167
416.999a & 416.999b .....	100	One time .....	79	132