

(iii) You are disabled, as determined under the medical improvement review standard in §§ 404.1594(a) through 404.1594(f).

(b) You can not be reinstated under paragraph (a) of this section if—

(1) You previously filed a request for expedited reinstatement and we denied that request because we determined that you were not disabled under the medical improvement review standard or that you did not have a current impairment(s) that was the same as or related to the impairment(s) that we used as the basis for your prior entitlement to that benefit; or

(2) We previously determined you were no longer disabled based upon the medical improvement review standard in § 404.1594 because—

(i) We conducted a continuing disability review on a disability entitlement, such as a disability benefit, a disabled child benefit, a disabled widow(er) benefit, or Medicare entitlement based on Medicare qualified government employment, or

(ii) We conducted a medical review on your Medicare entitlement that had previously been continued under 42 CFR 406.12(e).

(c) You are entitled to reinstatement on the record of an insured person who is or has been reinstated if—

(1) You were previously entitled to one of the following benefits on the record of the insured person—

(i) A spouse or divorced spouse benefit under §§ 404.330 and 404.331;

(ii) A child's benefit under § 404.350; or

(iii) A parent's benefit under § 404.370;

(2) You were entitled to benefits on the record when we terminated the insured person's entitlement;

(3) You meet the requirements for entitlement to the benefit described in the applicable paragraph (c)(1)(i) through (c)(1)(iii) of this section; and

(4) You request to be reinstated.

#### **§ 404.1592d How do I request reinstatement?**

(a) You must make your request for reinstatement in writing;

(b) You must have filed your request on or after January 1, 2001; and

(c) You must provide the information we request so that we can determine whether you meet the requirements for reinstatement as indicated in § 404.1592c.

(d) If you request reinstatement under § 404.1592c(a)—

(1) We must receive your request within the consecutive 60-month period that begins with the month in which your entitlement terminated due to

doing substantial gainful activity. If we receive your request after the 60-month period we can grant you an extension if we determine you had good cause under the standards explained in § 404.911 for not filing the request timely; and

(2) You must certify that you are disabled, that your current impairment(s) is the same as or related to the impairment(s) that we used as the basis for the benefit you are requesting to be reinstated, and that you became unable to continue to do substantial gainful activity because of your medical condition.

#### **§ 404.1592e How do we determine whether you are unable to do substantial gainful activity because of your medical condition?**

(a) You are unable to do substantial gainful activity because of your medical condition when you become unable to continue working, or you reduce your work and earnings below the substantial gainful activity earnings level, due to your impairment or because special circumstances that permitted you to work despite your impairment are removed. We will consider special circumstances that permitted you to work despite your impairment to have been removed, for instance, when your employer terminates you during a general layoff from a job that you performed under special circumstances or you must stop that work due to a natural disaster.

(b) We will not consider you unable to do substantial gainful activity because of your medical condition when you stop work, or reduce your work and earnings below the substantial gainful level, for reasons unrelated to your medical condition. We will not consider you unable to do substantial gainful activity because of your medical condition when, for instance, you are not working because you work in seasonal employment and you are now in the normal off-season or you stop work for personal reasons not related to your medical condition.

(c) *Examples:*

*Example 1.* Mr. K is laid-off from his job because the business owners close the plant where he is working. Mr. K was able to work at this plant because it was located close to the bus line located near his house. Mr. K must work near a bus line because of his medical condition. Mr. K is considered to have stopped work due to his medical condition under paragraph (a) of this section. Mr. K had special transportation accommodations that allowed him to work in that job as indicated in paragraph (d) of this section.

*Example 2.* Mr. L is laid-off from his job because the owners are retooling the plant where he is working. Mr. L had no special circumstances under paragraph (d) of this

section that enabled him to work. Under paragraph (b) of this section, Mr. L is not considered to have stopped work due to his medical condition because he stopped work for reasons unrelated to his medical condition and he had no special circumstances related to his employment.

*Example 3.* Ms. M works as a teacher. Her contract requires her to work from September of one year through June of the next year. Ms. M contacts us in July and indicates she last worked in June. She indicates she is in her normal off-work period and plans to return to work in September when her next contract begins. She indicates the reason she stopped work is her contract is over. She has nothing else preventing her from working in July. Under paragraph (b) of this section, Ms. M is not considered to have stopped work because of her medical condition.

(d) When we consider whether you had special circumstances in your work for purposes of this section, we will consider how well you did your work as discussed in § 404.1573(b), whether your work was done under special conditions as discussed in § 404.1573(c), and whether you were able to work because you had a special need that was being accommodated, such as special transportation requirements.

#### **§ 404.1592f How do we determine provisional benefits?**

(a) You may receive up to 6 consecutive months of provisional cash benefits and Medicare during the provisional benefit period, while we determine whether we can reinstate your disability benefit entitlement under § 404.1592c—

(1) We will pay you provisional benefits, and reinstate your Medicare if you are not already entitled to Medicare, beginning with the month you file your request for reinstatement under § 404.1592c(a);

(2) We will pay you a monthly provisional benefit amount equal to the last monthly benefit payable to you during your prior entitlement, increased by any cost of living increases that would have been applicable to the prior benefit amount under § 404.270. The last monthly benefit payable is the amount of the monthly insurance benefit we determined that was actually paid to you for the month before the month in which your entitlement was terminated, after we applied the reduction, deduction and nonpayment provisions in § 404.401 through § 404.480;

(3) If you are entitled to another monthly benefit payable under the provisions of title II of the Act for the same month you can be paid a provisional benefit, we will pay you an amount equal to the higher of the benefits payable;