§ 404.640 Withdrawal of an application.

(a) Request for withdrawal filed before a determination is made. An application may be withdrawn before we make a determination on it if—

(1) A written request for withdrawal is filed at a place described in §404.614 by the claimant or a person who may sign an application for the claimant under §404.612; and

(2) The claimant is alive at the time the request is filed.

(b) Request for withdrawal filed after a determination is made. An application may be withdrawn after we make a determination on it if—

(1) The conditions in paragraph (a) of this section are met;

(2) Any other person whose entitlement would be rendered erroneous because of the withdrawal consents in writing to it. Written consent for the person may be given by someone who could sign an application for him or her under §404.612; and

(3) All benefits already paid based on the application being withdrawn are repaid or we are satisfied that they will be repaid.

(c) Request for withdrawal filed after the claimant’s death. An application may be withdrawn after the claimant’s death, regardless of whether we have made a determination on it, if—

(1) The claimant’s application was for old-age benefits that would be reduced because of his or her age;

(2) The claimant died before we certified his or her benefit entitlement to the Treasury Department for payment; and

(3) A written request for withdrawal is filed at a place described in §404.614 by or for the person eligible for widow’s or widower’s benefits based on the claimant’s earnings; and

(4) Information provided by other governmental agencies, e.g., the Department of Veterans Affairs, the Department of Defense, State unemployment agencies, and State and local governments.

(f) Claim for benefits based on misinformation. You may make a claim for benefits based on misinformation at any time. Your claim must contain information that will enable us to determine if we did provide misinformation to you about your eligibility for benefits, or the eligibility of a person on whose behalf you were considering applying for benefits, which caused you not to file an application for the benefits. Specifically, your claim must be in writing and it must explain what information was provided; how, when and where it was provided and by whom; and why the information caused you not to file an application. If you give us this information, we will make a determination on such a claim for benefits if all of the following conditions are also met.

(1) An application for the benefits described in paragraph (b)(1)(i) or (b)(2)(i) of this section is filed with us by someone described in paragraph (b)(1)(ii) or (b)(2)(ii) of this section, as appropriate. The application must be filed after the alleged misinformation was provided. This application may be—

(i) An application on which we have made a previous final determination or decision awarding the benefits, but only if the claimant continues to be entitled to benefits based on that application;

(ii) An application on which we have made a previous final determination or decision denying the benefits, but only if such determination or decision is reopened under §404.988; or

(iii) A new application on which we have not made a final determination or decision.

(2) The establishment of a deemed filing date of an application for benefits based on misinformation could result in the claimant becoming entitled to benefits or to additional benefits.

(3) We have not made a previous final determination or decision to which you were a party on a claim for benefits based on alleged misinformation involving the same facts and issues. This provision does not apply, however, if the final determination or decision may be reopened under §404.988.

(g) Effective date. This section applies only to misinformation which we provided after December 1982. In addition, this section is effective only for benefits payable for months after December 1982.
(d) **Effect of withdrawal.** If we approve a request to withdraw an application, the application will be considered as though it was never filed. If we disapprove a request for withdrawal, the application is treated as though the request was never filed.


§ 404.641 Cancellation of a request to withdraw.

A request to withdraw an application may be cancelled and the application reinstated if—

(a) A written request for cancellation is filed at a place described in §404.614 by the claimant or someone who may sign an application for the claimant under §404.612;

(b) The claimant is alive at the time the request for cancellation is filed; and

(c) For a cancellation request received after we have approved the withdrawal, the request is filed no later than 60 days after the date of the notice of approval.

**Subpart H—Evidence**

**AUTHORITY:** Secs. 205(a) and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a) and 902(a)(5)).

**SOURCE:** 43 FR 24795, June 7, 1978, unless otherwise noted.

**GENERAL**

§ 404.701 Introduction.

This subpart contains the Social Security Administration’s basic rules about what evidence is needed when a person claims old-age, disability, dependents’ and survivors’ insurance benefits as described in subpart D. In addition, there are special evidence requirements for disability benefits. These are contained in subpart P. Evidence of a person’s earnings under social security is described in subpart I. Evidence needed to obtain a social security number card is described in part 422. Evidence requirements for the supplemental security income program are contained in part 416.