

§ 410.520

20 CFR Ch. III (4-1-10 Edition)

made to beneficiaries pursuant to certain State laws (see § 410.550).

(d) *Suspension.* A suspension of a beneficiary's monthly benefits may be required when the Administration has information indicating that reductions on account of the miner's excess earnings (based on criteria in section 203(b) of the Social Security Act, 42 U.S.C. 403(b)) may reasonably be expected.

(e) *"Rounding" of benefit amounts.* Monthly benefit rates are payable in multiples of 10 cents. Any monthly benefit rate which, after all applicable computations, augmentations, and/or reductions is not a multiple of 10 cents, is increased to the next higher multiple of 10 cents. Since a fraction of a cent is not a multiple of 10 cents a benefit rate which contains such a fraction in the third decimal is raised to the next higher multiple of 10 cents.

[36 FR 23758, Dec. 14, 1971, as amended at 37 FR 20647, Sept. 30, 1972; 43 FR 34781, Aug. 7, 1978]

§ 410.520 Reductions; receipt of State benefit.

(a) As used in this section, the term *State benefit* means a payment to a beneficiary made because of the disability of the miner due to pneumoconiosis under State laws relating to workmen's compensation (including compensation for occupational disease), unemployment compensation, or disability insurance.

(b) Benefit payments to a beneficiary for a month are reduced (but not below zero) by an amount equal to any payments of State benefits received by such beneficiary for such month.

(c) Where a State benefit is paid periodically but not monthly, or in a lump sum as a commutation of or a substitute for periodic benefits, the reduction under this section is made at such time or times and in such amounts as the Administration determines will approximate as nearly as practicable the reduction required under paragraph (b) of this section. In making such a determination, a weekly State benefit is multiplied by $4\frac{1}{2}$ and a biweekly benefit is multiplied by $2\frac{1}{2}$, to ascertain the monthly equivalent for reduction purposes.

(d) Amounts paid or incurred, or to be incurred, by the individual for med-

ical, legal, or related expenses in connection with his claim for State benefits (defined in paragraph (a) of this section) or the injury or occupational disease, if any, on which such award of State benefits (or settlement agreement) is based, are excluded in computing the reduction under paragraph (b) of this section, to the extent that they are consonant with State law. Such medical, legal, or related expenses may be evidenced by the State benefit award, compromise agreement, or court order in the State benefit proceedings, or by such other evidence as the Administration may require. Such other evidence may consist of:

(1) A detailed statement by the individual's attorney, physician, or the employer's insurance carrier; or

(2) Bills, receipts, or canceled checks; or

(3) Other clear and convincing evidence indicating the amount of such expenses; or

(4) Any combination of the foregoing evidence from which the amount of such expenses may be determinable.

Any expenses not established by evidence required by the Administration will not be excluded.

[36 FR 23758, Dec. 14, 1971, as amended at 37 FR 20647, Sept. 30, 1972; 43 FR 34781, Aug. 7, 1978]

§ 410.530 Reductions; excess earnings.

Benefit payments to a miner, parent, brother, or sister are reduced by an amount equal to the deductions which would be made with respect to excess earnings under the provisions of section 203 (b), (f), (g), (h), (j), and (l) of the Social Security Act (42 U.S.C. 403 (b), (f), (g), (h), (j), and (l)), as if such benefit payments were benefits payable under section 202 of the Social Security Act (42 U.S.C. 402). (See §§ 404.428 through 404.456 of this chapter.)

[37 FR 20647, Sept. 30, 1972]

§ 410.535 Reductions; effect of an additional claim for benefits.

Beginning with the month in which a person (other than a miner) files a claim and becomes entitled to benefits, the benefits of other persons entitled to benefits with respect to the same

miner, are adjusted downward, if necessary, so that no more than the permissible amount of benefits (the maximum amount for the number of beneficiaries involved) will be paid. Certain claims may also be effective retroactively for benefits for months before the month of filing (see § 410.226). For any month before the month of filing, however, otherwise correct benefits that have been previously certified by the Administration for payment to other persons with respect to the same miner may not be changed. Rather, the benefits of the person filing a claim in the later month is reduced for each month of the retroactive period to the extent that may be necessary so that the earlier and otherwise correct payment to some other person is not made erroneous. That is, for each month of the retroactive period, the amount payable to the person filing the later claim is the difference, if any, between (a) the total amount of benefits actually certified for payment to other persons for that month and (b) the permissible amount of benefits (the maximum amount for the number of beneficiaries involved) payable for that month to all persons, including the person filing later.

[37 FR 20647, Sept. 30, 1972]

§ 410.536 Reductions; effect of augmentation of benefits based on subsequent qualification of individual.

(a) Ordinarily, a written request that the benefits of a miner or widow be augmented on account of a qualified dependent (see § 410.510(c)) is made as part of the claim for benefits filed by such miner or widow. However, it may also be made thereafter.

(b) In the latter case, beginning with the month in which such a request is filed on account of a particular dependent and in which such dependent qualifies for augmentation purposes under subpart C of this part, the augmented benefits attributable to other qualified dependents (with respect to the same miner or widow), if any, are adjusted downward, if necessary, so that the permissible amount of augmented benefits (the maximum amount for the number of dependents involved) will not be exceeded.

(c) Where, based on the entitlement to benefits of a miner or widow, a dependent would have qualified for augmentation purposes for a prior month of such miner's or widow's entitlement had such request been filed in such prior month, such request is effective for such prior month. For any month before the month of filing such request, however, otherwise correct benefits previously certified by the Administration may not be changed. Rather, the amount of the augmented benefit attributable to the dependent filing such request in the later month is reduced for each month of the retroactive period to the extent that may be necessary, so that no earlier payment for some other dependent is made erroneous. This means that for each month of the retroactive period, the amount payable to the dependent filing the later augmentation request is the difference, if any, between (1) the total amount of augmented benefits certified for payment for other dependents for that month, and (2) the permissible amount of augmented benefits (the maximum amount for the number of dependents involved) payable for that month for all dependents, including the dependent filing later.

[37 FR 20647, Sept. 30, 1972]

§ 410.540 Reductions; more than one reduction event.

If a reduction for receipt of State benefits (see § 410.520) and a reduction on account of excess earnings (see § 410.530) are chargeable to the same month, the benefit for such month is first reduced (but not below zero) by the amount of the State benefits (as determined in accordance with § 410.520(c)), and the remainder of the benefit for such month, if any, is then reduced (but not below zero) by the amount of excess earnings chargeable to such month.

§ 410.550 Nonpayment of benefits to residents of certain States.

No benefit shall be paid under this part to the residents of any State which, after December 30, 1969, reduces the benefits payable to persons eligible to receive benefits under this part,