

Social Security Administration

§ 410.565

part B of title IV of the Act) with respect to the interpretation of a pertinent provision of the Act or regulations pertaining thereto, such individual, in accepting such overpayment, will be deemed to be *without fault*.

[37 FR 20649, Sept. 30, 1972]

§ 410.561g When an individual is at "fault" in a reduction-overpayment.

(a) *Degree of care.* An individual will not be *without fault* if the Administration has evidence in its possession which shows either a lack of good faith or failure to exercise a high degree of care in determining whether circumstances which may cause reductions from his benefits should be brought to the attention of the Administration by an immediate report or by return of a benefit check. The high degree of care expected of an individual may vary with the complexity of the circumstances giving rise to the overpayment and the capacity of the particular payee to realize that he is being overpaid. Accordingly, variances in the personal circumstances and situations of individual payees are to be considered in determining whether the necessary degree of care has been exercised by an individual to warrant a finding that he was without fault in accepting a "reduction-overpayment."

(b) *Subsequent reduction-overpayments.* An individual will not be without fault where, after having been exonerated for a "reduction-overpayment" and after having been advised of the correct interpretation of the reduction provision, he incurs another "reduction-overpayment" under the same circumstances as the first overpayment.

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§ 410.561h When adjustment or recovery of an overpayment will be waived.

(a) *Adjustment or recovery deemed "against equity and good conscience."* In the situations described in §§ 410.561e (a), (b), and (c), and 410.561f, adjustment or recovery will be waived since it will be deemed such adjustment or recovery is "against equity and good conscience." Adjustment or recovery will also be deemed "against equity and good conscience" in the situation

described in § 410.561e(d), but only as to a month in which the individual's earnings from wages do not exceed the total monthly benefits affected for that month.

(b) *Adjustment or recovery considered to "defeat the purpose of title IV" or be "against equity and good conscience" under certain circumstances.* In the situation described in § 410.561e(d) (except in the case of an individual whose monthly earnings from wages in employment do not exceed the total monthly benefits affected for a particular month), and in the situations described in § 410.561e (e) through (k), adjustment or recovery shall be waived only where the evidence establishes that adjustment or recovery would work a financial hardship (see § 410.561c) or would otherwise be inequitable (see § 410.561d).

[37 FR 20649, Sept. 30, 1972]

§ 410.563 Liability of a certifying officer.

No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any individual:

(a) Where adjustment or recovery of such amount is waived under section 204(b) of the Social Security Act; or

(b) Where adjustment under section 204(a) of the Social Security Act is not completed prior to the death of all individuals against whose benefits or lump sums reductions are authorized; or

(c) Where a claim for recovery of an overpayment is compromised or collection or adjustment action is suspended or terminated pursuant to the Federal Claims Collection Act of 1966 (31 U.S.C. 951-953) (see § 410.565).

[37 FR 20649, Sept. 30, 1972]

§ 410.565 Collection and compromise of claims for overpayment.

(a) *General effect of the Federal Claims Collection Act of 1966.* Claims by the Administration against an individual for recovery of overpayments under part B of title IV of the Act, not exceeding the sum of \$20,000, exclusive of interest, may be compromised, or collection suspended or terminated where such individual or his estate does not have the present or prospective ability to pay