

§ 416.1870

WHO IS CONSIDERED A STUDENT FOR PURPOSES OF THE STUDENT EARNED INCOME EXCLUSION

§ 416.1870 Effect of being considered a student.

If we consider you to be a student, we will not count all of your earned income when we determine your SSI eligibility and benefit amount. If you are an ineligible spouse or ineligible parent for deeming purposes and we consider you to be a student, we will not count all of your income when we determine how much of your income to deem. Section 416.1110 explains what we mean by earned income. Section 416.1112(c)(3) explains how much of your earned income we will not count. Section 416.1161(a)(27) explains how the student earned income exclusion applies to deems.

[71 FR 66867, Nov. 17, 2006]

§ 416.1872 Who is considered a student.

We consider you to be a student if you are under 22 years old and you regularly attend school or college or training that is designed to prepare you for a paying job as described in § 416.1861(a) through (e).

[71 FR 66867, Nov. 17, 2006]

§ 416.1874 When we need evidence that you are a student.

We need evidence that you are a student if you are under age 22 and you expect to earn over \$65 in any month. Section 416.1861(g) explains what evidence we need.

[71 FR 66867, Nov. 17, 2006]

WHO IS CONSIDERED YOUR PARENT

§ 416.1876 Effects a parent (or parents) can have on the child's benefits.

Section 416.1851 (b) and (c) tells what effects a parent's income and resources can have on his or her child's benefits.

§ 416.1881 Deciding whether someone is your parent or stepparent.

(a) We consider your parent to be—

- (1) Your natural mother or father; or
- (2) A person who legally adopted you.

(b) We consider your stepparent to be the present husband or wife of your natural or adoptive parent. A person is

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not your stepparent if your natural or adoptive parent, to whom your stepparent was married, has died, or if your parent and stepparent have been divorced or their marriage has been annulled.

(c) *Necessary evidence.* We will accept your statement on whether or not someone is your parent or stepparent unless we have information to the contrary. If we have contrary information, you must show us, if you can, one or more of the following kinds of evidence that would help to prove whether or not the person is your parent or stepparent: Certificate of birth, baptism, marriage, or death, or decree of adoption, divorce, or annulment. If you cannot, you must tell us why not and show us any other evidence that would help to show whether or not the person is your parent or stepparent.

Subpart S—Interim Assistance Provisions

AUTHORITY: Secs. 702(a)(5) and 1631 of the Social Security Act (42 U.S.C. 902(a)(5) and 1383).

SOURCE: 46 FR 47449, Sept. 27, 1981, unless otherwise noted.

INTRODUCTION

§ 416.1901 Scope of subpart S.

(a) *General.* This subpart explains that we may withhold your SSI benefit and/or State supplementary payments and send them to the State (or a political subdivision of the State) as repayment for interim assistance it gave you while your application for SSI was pending, or while your SSI benefits were suspended or terminated if you are subsequently found to have been eligible for such benefits. Before we will do this, the State must have entered into an interim assistance agreement with us authorizing such reimbursement, and you must have given written authorization for us to repay the State (or a political subdivision of the State).

(b) *Organization of this subpart.* We have organized this subpart as follows:

(1) *Definitions.* Section 416.1902 contains definitions of terms used in this subpart.

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(2) *Authorizations.* Sections 416.1904 through 416.1908 give the rules that apply to your written authorization.

(3) *Interim assistance agreements.* Section 416.1910 gives the requirements for interim assistance agreements between us and the State.

(4) *Appeals.* Sections 416.1920 through 416.1922 describe your appeal rights in the State and in SSA.

[46 FR 47449, Sept. 27, 1981, as amended at 56 FR 19262, Apr. 26, 1991]

§416.1902 Definitions.

For purposes of this subpart—

Authorization means your written permission, in a form legally acceptable to us and to the State from which you received interim assistance, for us to withhold the appropriate SSI benefit payment and send it to the State.

Interim assistance means assistance the State gives you, including payments made on your behalf to providers of goods or services, to meet your basic needs, beginning with the first month for which you are eligible for payment of SSI benefits and ending with, and including, the month your SSI payments begin, or assistance the State gives you beginning with the day for which your eligibility for SSI benefits is reinstated after a period of suspension or termination and ending with, and including, the month the Commissioner makes the first payment of benefits following the suspension or termination if it is determined subsequently that you were eligible for benefits during that period. It does not include assistance the State gives to or for any other person. If the State has prepared and cannot stop delivery of its last assistance payment to you when it receives your SSI benefit payment from us, that assistance payment is included as interim assistance to be reimbursed. Interim assistance does not include assistance payments financed wholly or partly with Federal funds.

SSI benefit payment means your Federal benefit and any State supplementary payment made by us to you on behalf of a State (see subpart T of this part) which is due you at the time we make the first payment of benefits or when your benefits are reinstated after suspension or termination. Ad-

vance payment, as defined in §416.520, payment based upon presumptive disability or presumptive blindness, as defined in §416.931, or certain payments made under the administrative immediate payment procedure, are not considered SSI benefit payments for interim assistance purposes.

State for purposes of an interim assistance agreement, means a State of the United States, the District of Columbia, or the Northern Mariana Islands. For all other purposes (for example, payment, appeals, notices) *State* also means a political subdivision of any of these.

We, Us, or Our means the Social Security Administration.

You or Your means someone who has applied for or is already receiving SSI benefits.

[46 FR 47449, Sept. 28, 1981; 46 FR 50947, Oct. 16, 1981, as amended at 56 FR 19262, Apr. 26, 1991; 56 FR 25446, June 4, 1991; 62 FR 38455, July 18, 1997; 64 FR 31975, June 15, 1999]

AUTHORIZATIONS

§416.1904 Authorization to withhold SSI benefits.

We may withhold your SSI benefit payment and send it to the State to repay the State for the interim assistance it gave to you, if—

(a) We have an interim assistance agreement with the State at the time your authorization goes into effect; and

(b) Your authorization is in effect at the time we make the SSI benefit payment.

§416.1906 When your authorization is in effect.

Your authorization for us to withhold your SSI benefit payment, to repay the State for interim assistance the State gives you, is effective when we receive it, or (if our agreement with the State allows) when we receive notice from the State that it has received your authorization. It remains in effect until—

(a) We make the first SSI benefit payment on your initial application for benefits or, in the case of an authorization effective for a period of suspension or termination, until the initial payment following the termination or suspension of your benefits.