

## Social Security Administration

## §410.110

410.699a Penalties for fraud.

### Subpart G—Rules for the Review of Denied and Pending Claims Under the Black Lung Benefits Reform Act (BLBRA) of 1977

- 410.700 Background.
- 410.701 Jurisdiction for determining entitlement under part B.
- 410.702 Definitions and terms.
- 410.703 Adjudicatory rules for determining entitlement to benefits.
- 410.704 Review procedures.
- 410.705 Duplicate claims.
- 410.706 Effect of Social Security Administration determination of entitlement.
- 410.707 Hearings and appeals.

### Subpart A—Introduction, General Provisions, and Definitions

**AUTHORITY:** Secs. 702(a)(5) of the Social Security Act (42 U.S.C. 902(a)(5)), Secs. 3 (g) and (h), 402, 411, 412, 413, 414, 426(a), and 508, 83 Stat. 744; 30 U.S.C. 802 (g) and (h), 902, 921–924, 936(a), and 957. Sec. 410.120 also issued under sec. 1106, 53 Stat. 1398, as amended, 42 U.S.C. 1306.

#### §410.101 Introduction.

The regulations in this part 410 (Regulation No. 10 of the Social Security Administration) relate to the provisions of part B (Black Lung Benefits) of title IV of the Federal Coal Mine Health and Safety Act of 1969, as enacted December 30, 1969, as amended by the Black Lung Benefits Act of 1972, and as may hereafter be amended. The regulations in this part are divided into the following subparts according to subject content:

(a) This subpart A contains this introduction, general provisions, and provisions relating to definitions and the use of terms.

(b) Subpart B of this part relates to the requirements for entitlement, duration of entitlement, filing of claims, and evidence.

(c) Subpart C of this part describes the relationship and dependency required for widows, children, parents, brothers, and sisters, and relationship and dependency requirements which affect the benefit amounts of entitled miners and widows.

(d) Subpart D of this part provides standards for determining total disability and death due to pneumoconiosis.

(e) Subpart E of this part relates to payment of benefits, payment periods, benefit rates and their modification, representative payees, and overpayments and underpayments.

(f) Subpart F of this part relates to determinations of disability and other determinations, the procedures for administrative review, finality of decisions, and the representation of parties.

[36 FR 23752, Dec. 14, 1971, as amended at 37 FR 20635, Sept. 30, 1972]

#### §410.110 General definitions and use of terms.

For purposes of this part, except where the context clearly indicates otherwise, the following definitions apply:

(a) *The Act*, means the Federal Coal Mine Health and Safety Act of 1969 (Pub. L. 91–173), enacted December 30, 1969, as amended by the Black Lung Benefits Act of 1972 (Pub. L. 92–303), enacted May 19, 1972, and as may hereafter be amended.

(b) *Benefit* means the black lung benefit provided under part B of title IV of the Act to coal miners, to surviving widows of miners, to the surviving child or children of a miner, or of a widow of a miner, to the surviving dependent parent or parents of a miner, and to the surviving dependent brother(s) or sister(s) of a miner.

(c) *Commissioner* means the Commissioner of Social Security.

(d) *Administration* means the Social Security Administration (SSA).

(e) *Appeals Council* means the Appeals Council of the Social Security Administration or such member or members thereof as may be designated by the Chairman.

(f) *Administrative Law Judge* means an Administrative Law Judge (SSA).

(g) *Coal mine* means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used in, or to be used in, or resulting from, the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any

means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities.

(h) *Underground coal mine* means a coal mine in which the earth and other materials which lie above the natural deposit of coal (overburden) is not removed in mining. In addition to the natural deposits of coal in the earth, the underground mine includes all land, buildings and equipment appurtenant thereto.

(i) *Miner or coal miner* means any individual who is working or has worked as an employee in a coal mine, performing functions in extracting the coal or preparing the coal so extracted.

(j) *The Nation's coal mines* comprise all coal mines as defined in paragraph (h) of this section located in a State as defined in paragraph (l) of this section.

(k) *State* includes a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and prior to January 3, 1959, and August 21, 1959, respectively, the Territories of Alaska and Hawaii.

(l) *Employee* means an individual in a legal relationship (between the person for whom he performs services and himself) of employer and employee under the usual common-law rules.

(1) Generally, such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the means by which that result is accomplished; that is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the

services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee under the usual common-law rules.

(2) Whether the relationship of employer and employee exists under the usual common-law rules will in doubtful cases be determined upon an examination of the particular facts of each case.

(m) The *Social Security Act* means the Social Security Act (49 Stat. 620) as amended from time to time.

(n) *Pneumoconiosis* means: (1) A chronic dust disease of the lung arising out of employment in the Nation's coal mines, and includes coal workers' pneumoconiosis, anthracosilicosis, anthracosis, anthrosilicosis, massive pulmonary fibrosis, progressive massive fibrosis, silicosis, or silicotuberculosis, arising out of such employment.

For purposes of this subpart, the term also includes the following conditions that may be the basis for application of the statutory presumption of disability or death due to pneumoconiosis under the circumstances prescribed in section 411(c) of the Act:

(2) Any other chronic respiratory or pulmonary impairment when the conditions are met for the application of the presumption described in §410.414(b) or §410.454(b), and

(3) Any respirable disease when the conditions are met for the application of the presumption described in §410.462.

(o) A *workmen's compensation law* means a law providing for payment of compensation to an employee (and his dependents) for injury (including occupational disease) or death suffered in connection with his employment. A payment funded wholly out of general revenues and paid (without regard to insurance principles) solely on account of the financial need of the miner and his family, shall not be considered a payment under a workmen's compensation law.

## Social Security Administration

## § 410.200

(p) Masculine gender includes the feminine, and the singular includes the plural.

(q) *Beneficiary* means a miner or a surviving widow, child, parent, brother, or sister, who is entitled to a benefit as defined in paragraph (b) of this section.

[35 FR 5623, Apr. 7, 1970, as amended at 37 FR 20635, Sept. 30, 1972; 62 FR 38452, July 18, 1997]

### § 410.120 Disclosure of program information.

Disclosure of any file, record, report, or other paper, or any information obtained at any time by the Social Security Administration, or any officer or employee of that Administration, or any person, agency, or organization with whom the Administration has entered into an agreement to perform certain functions in the Administration of title IV of the Act, which in any way relates to, or is necessary to, or is used in, or in connection with, the administration of such title, shall be made in accordance with the regulations of the Administration contained in 20 CFR part 401, except that any such file, record, report, or other paper or information obtained in connection with the administration of the old-age, survivors, disability, or health insurance programs pursuant to titles II and XVIII of the Social Security Act, shall be disclosed only in accordance with Regulation No. 1 of the Social Security Administration, part 401 of this chapter.

[36 FR 23752, Dec. 14, 1971, as amended at 62 FR 38452, July 18, 1997]

### § 410.130 Periods of limitation ending on nonworkdays.

Where any provision of part B of title IV of the Act, or any provision of another law of the United States, relating to or changing the effect of part B, or any regulation of the Commissioner issued under part B, provides for a period within which an act is required to be done which affects eligibility for or the amount of any benefit or payment under this part or is necessary to establish or protect any right under this part, and such period ends on a Saturday, Sunday, or Federal legal holiday, or on any other day all or part of which is declared to be a nonworkday for Federal employees by statute or Executive

order, then such act shall be considered as done within such period if it is done on the first day thereafter which is not a Saturday, Sunday, or legal holiday, or any other day all or part of which is declared to be a nonworkday for Federal employees either by statute or Executive order. For purposes of this section, the day on which a period ends shall include the final day of the extended period where such extension is authorized by law or by the Commissioner pursuant to law. Such extension of any period of limitation does not apply to periods during which benefits may be paid for months prior to the month a claim for such benefits is filed (see § 410.226).

[37 FR 20635, Sept. 30, 1972, as amended at 62 FR 38453, July 18, 1997]

### Subpart B—Requirements for Entitlement; Duration of Entitlement; Filing of Claims and Evidence

AUTHORITY: Sec. 702(a)(5) of the Social Security Act (42 U.S.C. 902(a)(5)), sec. 402, 411, 412, 413, 414, 426(a), and 508, 83 Stat. 792; 30 U.S.C. 902, 921-924, 936(a), 957.

SOURCE: 36 FR 23752, Dec. 14, 1971, unless otherwise noted.

### § 410.200 Types of benefits; general.

(a) Part B of title IV of the Act provides for the payment of periodic benefits:

(1) To a miner who is determined to be totally disabled due to pneumoconiosis; or

(2) To the widow or child of a miner who was entitled to benefits at the time of his death, who is determined to have been totally disabled due to pneumoconiosis at the time of his death, or whose death was due to pneumoconiosis; or

(3) To the child of a widow of a miner who was entitled to benefits at the time of her death; or

(4) To the surviving dependent parents, or the surviving dependent brothers or sisters, of a miner who is determined to have been entitled to benefits at the time of his death, or who was totally disabled due to pneumoconiosis at the time of his death, or whose death was due to pneumoconiosis.