

respect to the period or periods of time as to which the issue of membership in the same household is material. (See § 410.510(c).)

(3) The determination as to whether a parent, brother, or sister was "living in the miner's household" shall take account only of the 1-year period immediately prior to the miner's death. (See § 410.380.)

[37 FR 20640, Sept. 30, 1972]

**§ 410.394 [Reserved]**

**§ 410.395 Contributions and support.**

(a) *Support* defined. The term *support* includes food, shelter, clothing, ordinary medical expenses, and other ordinary and customary items for the maintenance of the person supported.

(b) *Contributions* defined. The term *contributions* refers to contributions actually provided by the contributor from his own property, or the use thereof, or by the use of his own credit.

(c) *Regular contributions* and *substantial contributions* defined. The terms *regular contributions* and *substantial contributions* mean contributions that are customary and sufficient to constitute a material factor in the cost of the individual's support.

(d) *Contributions and community property*. When a wife receives, and uses for her support, income from her services or property and such income, under applicable State law, is the community property of herself and the miner, no part of such income is a *contribution* by the miner to his wife's support regardless of any legal interest the miner may have therein. However, when a wife receives, and uses for her support, income from the services and the property of the miner and, under applicable State law, such income is community property, all of such income is considered to be a contribution by the miner to his wife's support.

(e) *Court order for support* defined. References to support orders in §§ 410.330 (f)(1), 410.350(c), and 410.360(b) mean any court order, judgment, or decree of a court of competent jurisdiction which requires regular contributions that are a material factor in the cost of the individual's support and which is in effect at the applicable time. If such contributions are required

by a court order, this condition is met whether or not the contributions were actually made.

(f) *Written agreement* defined. The term *written agreement* in the phrase *substantial contributions \* \* \* pursuant to a written agreement* (see §§ 410.351 (b) and 410.361(b)) means an agreement signed by the miner providing for substantial contributions by him for the individual's support. It must be in effect at the applicable time but it need not be legally enforceable.

(g) *One-half support* defined. The term *one-half support* means that the miner made regular contributions, in cash or in kind, to the support of a divorced wife (see § 410.351(a)), or of a surviving divorced wife (see § 410.361 (a)), at the specified time or for the specified period, and that the amount of such contributions equaled or exceeded one-half the total cost of such individual's support at such time or during such period.

(h) *Totally dependent for support* defined. The term *totally dependent on the miner for support* as used in § 410.380(b), means that such miner made regular contributions to the support of his parent, brother, or sister, as the case may be, and that the amount of such contributions at least equaled the total cost of such individual's support.

[37 FR 20641, Sept. 30, 1972]

**Subpart D—Total Disability or Death Due to Pneumoconiosis**

**AUTHORITY:** Sec. 702(a)(5) of the Social Security Act (42 U.S.C. 902(a)(5)), secs. 401-426, 83 Stat. 792, as amended, 86 Stat. 150; 30 U.S.C. 901 *et. seq.*

**SOURCE:** 37 FR 20641, Sept. 30, 1972, unless otherwise noted.

**§ 410.401 Scope of subpart D.**

(a) *General*. This subpart establishes the standards for determining whether a coal miner is totally disabled due to pneumoconiosis, whether he was totally disabled due to pneumoconiosis at the time of his death, or whether his death was due to pneumoconiosis.

(b) *Pneumoconiosis* defined. *Pneumoconiosis* means: