

## **§ 418.3201**

## **20 CFR Ch. III (4–1–13 Edition)**

(4) We may redetermine your eligibility when we receive information from you or from data exchanges with Federal and State agencies that may affect whether you should receive a full or partial subsidy or your eligibility for the subsidy.

(5) We will also redetermine eligibility on a random sample of cases for quality assurance purposes. For each collection of sample cases, all factors affecting eligibility and/or whether you should receive a full or partial subsidy may be verified by contact with primary repositories of information relevant to each individual factor (e.g., we may contact employers to verify wage information). Consequently, we may contact a variety of other sources, in addition to recontacting you, to verify the completeness and accuracy of our information.

### **FILING OF APPLICATION**

#### **§ 418.3201 Must you file an application to become eligible for a subsidy?**

Unless you are a person covered by § 418.3105, in addition to meeting other requirements, you or your personal representative must file an application to become eligible for a subsidy. If you believe you may be eligible for a subsidy, you should file an application. Filing a subsidy application does not commit you to participate in the Part D program. Filing an application will:

(a) Permit us to make a formal determination on your eligibility for the subsidy and whether you should receive a full or partial subsidy;

(b) Assure that you can receive the subsidy for any months that you are eligible and are enrolled in a Medicare Part D plan or Medicare Advantage plan with prescription drug coverage; and

(c) Give you the right to appeal if you disagree with our determination.

#### **§ 418.3205 What makes an application a claim for a subsidy?**

We will consider your application a claim for the subsidy if:

(a) You, or someone acting on your behalf as described in § 418.3215, complete an application on a form prescribed by us;

(b) You, or someone acting on your behalf as described in § 418.3215, file the application with us pursuant to § 418.3220; and

(c) You are alive on the first day of the month in which the application is filed.

#### **§ 418.3210 What is a prescribed application for a subsidy?**

If you choose to apply with SSA, you must file for the subsidy on an application prescribed by us. A prescribed application may include a printed form, an application our employees complete on computer screens, or an application available online on our Internet Web site ([www.socialsecurity.gov](http://www.socialsecurity.gov)). See § 418.3220 for places where an application for the subsidy may be filed and when it is considered filed.

#### **§ 418.3215 Who may file your application for a subsidy?**

You or your personal representative (as defined in 42 CFR 423.772) may complete and file your subsidy application.

#### **§ 418.3220 When is your application considered filed?**

(a) *General rule.* We consider an application for a subsidy as described in § 418.3210 to be filed with us on the day it is received by either one of our employees at one of our offices or by one of our employees who is authorized to receive it at a place other than one of our offices or it is considered filed on the day it is submitted electronically through our Internet Web site. If a State Medicaid agency forwards to us a subsidy application that you gave to it, we will consider the date you submitted that application to the State Medicaid agency as the filing date. (See 42 CFR 423.774 for applications filed with a State Medicaid agency.)

(b) *Exceptions.* (1) When we receive an application that is mailed, we will assume that we received it 5 days earlier (unless you can show us that you did not receive it within the 5 days) and use the earlier date as the application filing date if it would result in another month of subsidy eligibility.

(2) We may consider an application to be filed on the date a written or oral inquiry about your subsidy eligibility

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is made, or the date we receive a partially completed Internet subsidy application from our Internet Web site where the requirements set forth in §418.3230 are met.

### §418.3225 How long will your application remain in effect?

(a) Your application will remain in effect until our determination or decision has become final and binding under §418.3620. If you appeal our initial determination, the determination does not become final until we issue a decision on any appeal you have filed under §418.3655 (see §418.3675) or dismiss the request for a hearing under §418.3670.

(b) If, at the time your application is filed or before our determination or decision becomes final and binding, you meet all the requirements for a subsidy as described in 42 CFR 423.773 except for enrollment in a Medicare Part D plan or Medicare Advantage plan with prescription drug coverage, we will send you a notice advising you of your eligibility for the subsidy and the requirement to enroll in such a plan.

(c) If you are not entitled to Medicare Part A and/or enrolled in Medicare Part B at the time your subsidy application is filed but you appear to be in an enrollment period, we will send you a notice advising you that we will not make a determination on your application until you become entitled to Medicare Part A and/or enrolled in Medicare Part B. If you are not entitled to Medicare Part A and/or enrolled in Medicare Part B at the time your application is filed and you do not appear to be in an enrollment period, we will send you a notice advising you that you are not eligible for the subsidy because you are not entitled to Medicare Part A and/or enrolled in Medicare Part B and explain your appeal rights.

### §418.3230 When will we use your subsidy inquiry as your filing date?

If you or your personal representative (as defined in 42 CFR 423.772) make an oral or written inquiry about the subsidy, or partially complete an Internet subsidy application on our Web site, we will use the date of the inquiry or the date the partial Internet appli-

cation was started as your filing date if the following requirements are met:

(a) The written or oral inquiry indicates your intent to file for the subsidy, or you submit a partially completed Internet application to us;

(b) The inquiry, whether in person, by telephone, or in writing, is directed to an office or an official described in §418.3220, or a partially completed Internet subsidy application is received by us;

(c) You or your personal representative (as defined in 42 CFR 423.772) file an application (as defined in §418.3210) within 60 days after the date of the notice we will send in response to the inquiry. The notice will say that we will make an initial determination of your eligibility for a subsidy, if an application is filed within 60 days after the date of the notice. We will send the notice to you. Where you are a minor or adjudged legally incompetent and your personal representative made the inquiry, we will send the notice to your personal representative; and

(d) You are alive on the first day of the month in which the application is filed.

## INCOME

### §418.3301 What is income?

Income is anything you and your spouse, who lives with you, receive in cash or in-kind that you can use to meet your needs for food and shelter. Income can be earned income or unearned income.

### §418.3305 What is not income?

Some things you receive are not considered income because you cannot use them to meet your needs for food or shelter. The things that are not income for purposes of determining eligibility and whether you should receive a full or partial subsidy are described in §416.1103 of this chapter.

### §418.3310 Whose income do we count?

(a) We count your income. If you are married and live with your spouse in the month you file for a subsidy, or when we redetermine your eligibility for a subsidy as described in §418.3125, we count your income and your spouse's income regardless of whether