

Security Boulevard, Baltimore, MD 21235.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security-Disability Insurance; 93.803, Social Security-Retirement Insurance; 93.805, Social Security-Survivors Insurance; 93.807, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

Dated: December 22, 1994.

Shirley S. Chater,
Commissioner of Social Security.

Approved: February 2, 1995.

Donna E. Shalala,
Secretary of Health and Human Services.

For the reasons set forth in the preamble, part 404, subparts D, E, J, and P of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950—)

1. The authority citation for subpart D of part 404 is revised to read as follows:

Authority: Secs. 202, 203(a) and (b), 205(a), 216, 223, 225, 228(a) through (e), and 1102 of the Social Security Act; 42 U.S.C. 402, 403 (a) and (b), 405(a), 416, 423, 425, 428(a) through (e), and 1302.

2. Section 404.315 is amended by redesignating the introductory test as paragraph (a) and adding a heading to it, redesignating former paragraphs (a) through (d) as paragraphs (a)(1) through (a)(4), and adding a new paragraph (b) to read as follows:

§ 404.315 Who is entitled to disability benefits.

(a) *General.* * * *

(b) *Prohibition against reentitlement to disability benefits if drug addiction or alcoholism is a contributing factor material to the determination of disability.* You cannot be entitled to a period of disability payments if drug addiction or alcoholism is a contributing factor material to the determination of disability and your

earlier entitlement to disability benefits on the same basis terminated after you received benefits for 36 months during which treatment was available.

3. Section 404.316 is amended by adding paragraphs (e) and (f) to read as follows:

§ 404.316 When entitlement to disability benefits begins and ends.

* * * * *

(e) If drug addiction or alcoholism is a contributing factor material to the determination of disability as described in § 404.1535, you may receive disability benefits on that basis for no more than 36 months regardless of the number of entitlement periods you may have. Not included in these 36 months are months in which treatment for your drug addiction or alcoholism is not available, months before March 1995, and months for which your benefit payments were suspended for any reason. Benefits to your dependents may continue after the 36 months of benefits if, but for the operation of this paragraph, you would otherwise be entitled to benefits based on disability. The 36-month limit is no longer effective for benefits for months beginning after September 2004.

(f) If drug addiction or alcoholism is a contributing factor material to the determination of disability as described in § 404.1535 and your disability benefits are suspended for 12 consecutive months because of your failure to comply with treatment requirements, your disability benefits will be terminated effective the first month after such 12-month period. Benefits to your dependents may continue after the 12-month period if, but for the operation of this paragraph, you would otherwise be entitled to benefits based on disability.

4. Section 404.321 is amended by adding paragraph (d) to read as follows:

§ 404.321 When a period of disability begins and ends.

* * * * *

(d) *When drug addiction or alcoholism is a contributing factor material to the determination of disability.* (1) Your entitlement to receive disability benefit payments ends the month following the month in which, regardless of the number of entitlement periods you may have had based on disability where drug addiction or alcoholism is a contributing factor material to the determination of disability (as described in § 404.1535)—

(i) You have received a total of 36 months of disability benefits. Not included in these 36 months are months

in which treatment for your drug addiction or alcoholism is not available, months before March 1995, and months for which your benefits were suspended for any reason; or

(ii) Your benefits have been suspended for 12 consecutive months because of your failure to comply with treatment requirements.

(2) For purposes other than payment of your disability benefits, your period of disability continues until the termination month as explained in § 404.325.

5. Section 404.332 is amended by adding a sentence to the end of paragraph (b)(5) to read as follows:

§ 404.332 When wife's and husband's benefits begin and end.

* * * * *

(b) * * *

(5) * * * *Exception:* Your benefits will continue if the insured person was entitled to disability benefits based on a finding that drug addiction or alcoholism was a contributing factor material to the determination of his or her disability (as described in § 404.1535), the insured person's benefits ended after 36 months of benefits (see § 404.316(e)) or 12 consecutive months of suspension for noncompliance with treatment (see § 404.316(f)), and but for the operation of these provisions, the insured person would remain entitled to benefits based on disability.

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6. Section 404.335 is amended by removing the word "and" at the end of paragraph (c)(2), adding the word "and" after the semicolon at the end of paragraph (c)(3), and adding a new paragraph (c)(4) to read as follows:

§ 404.335 Who is entitled to widow's or widower's benefits.

* * * * *

(c) * * *

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(4) You have not previously received 36 months of payments based on disability when drug addiction or alcoholism was a contributing factor material to the determination of disability (as described in § 404.1535), regardless of the number of entitlement periods you may have had, or your current application for widow(er)'s benefits is not based on a disability where drug addiction or alcoholism is a contributing factor material to the determination of disability.

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7. Section 404.337 is amended by adding a new sentence at the end of paragraph (b)(2) to read as follows: