

alcoholism) when such tests are likely to yield important information;

(3) Provide observational reports from the treatment professionals familiar with your individual case (subject to verification and Federal confidentiality requirements); or

(4) Provide their assessment or views on your noncompliance with treatment requirements.

(b) *Measuring progress.* Generally, we will consider information from the treatment institution or facility to evaluate your progress in completing your treatment plan. Examples of milestones for measuring your progress with the treatment which has been prescribed for your drug addiction or alcoholism may include (but are not limited to)—

(1) Abstinence from drug or alcohol use (initial progress may include significant reduction in use);

(2) Consistent attendance at and participation in treatment sessions;

(3) Improved social functioning and levels of gainful activity;

(4) Participation in vocational rehabilitation activities; or

(5) Avoidance of criminal activity.

44. A new § 416.941 is added to read as follows:

**§ 416.941 Establishment and use of referral and monitoring agencies.**

We will contract with one or more agencies in each of the States and the District of Columbia to provide services to individuals whose disabilities are based on a determination that drug addiction or alcoholism is a contributing factor material to the determination of disability (as described in § 416.935) and to submit information to us which we will use to make decisions about these individuals' benefits. These agencies will be known as referral and monitoring agencies. Their duties and responsibilities include (but are not limited to)—

(a) Identifying appropriate treatment placements for individuals we refer to them;

(b) Referring these individuals for treatment;

(c) Monitoring the compliance and progress with the appropriate treatment of these individuals; and

(d) Promptly reporting to us any individual's failure to comply with treatment requirements as well as failure to achieve progress through the treatment.

45. The authority citation for subpart K of part 416 continues to read as follows:

**Authority:** Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382,

1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93-66, 87 Stat. 154.

46. Section 416.1123 is amended by revising paragraph (d) to read as follows:

**§ 416.1123 How we count unearned income.**

\* \* \* \* \*

(d) *Retroactive monthly social security benefits.* We count retroactive monthly social security benefits according to the rule in paragraph (d)(1) of this section, unless the exception in paragraph (d)(2) of this section applies:

(1) *Periods for which SSI payments have been made.* When you file an application for social security benefits and retroactive monthly social security benefits are payable on that application for a period for which you also received SSI payments (including federally-administered State supplementary payments), we count your retroactive monthly social security benefits as unearned income received in that period. Rather than reducing your SSI payments in months prior to your receipt of a retroactive monthly social security benefit, we will reduce the retroactive social security benefits by an amount equal to the amount of SSI payments (including federally-administered State supplementary payments) that we would not have paid to you if your social security benefits had been paid when regularly due rather than retroactively (see § 404.408b(b)). If a balance is due you from your retroactive social security benefits after this reduction, for SSI purposes we will not count the balance as unearned income in a subsequent month in which you receive it. This is because your social security benefits were used to determine the amount of the reduction. This exception to the unearned income counting rule does not apply to any monthly social security benefits for a period for which you did not receive SSI.

(2) *Social security disability benefits where drug addiction or alcoholism is a contributing factor material to the determination of disability.* If your retroactive social security benefits must be paid in installments because of the limitations on paying lump sum retroactive benefits to disabled recipients whose drug addiction or alcoholism is a contributing factor material to the determination of disability as described in § 404.480, we will count the total of such retroactive social security benefits as unearned income in the first month such installments are paid, except to the extent the rule in paragraph (d)(1) of

this section would provide that such benefits not be counted.

\* \* \* \* \*

47. The authority citation for subpart M of part 416 continues to read as follows:

**Authority:** Secs. 1102, 1611 through 1615, 1619, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382 through 1382d, 1382h, and 1383.

48. Section 416.1326 is revised to read as follows:

**416.1326 Suspension for failure to comply with treatment for drug addiction or alcoholism.**

(a) *Basis for Suspension.* If you are disabled and drug addiction or alcoholism is a contributing factor material to the determination of disability as described in § 416.935, we will refer you to appropriate treatment as defined in § 416.937. You will not be an eligible individual and we will suspend your benefits if you do not comply with the terms, conditions and requirements of treatment prescribed by the institution or facility. (See § 416.940 which explains how we evaluate compliance with treatment.)

(b) *Date of Suspension.* We will suspend your benefits for a period starting with the first month after we notify you in writing that you failed to comply with prescribed treatment.

(c) *Resumption of Benefits.* If you are complying with prescribed treatment and are otherwise eligible for benefits, we will resume benefits effective with the first day of the month after you demonstrate and maintain compliance with appropriate treatment for these periods—

(1) 2 consecutive months for the first determination of noncompliance;

(2) 3 consecutive months for the second determination of noncompliance; and

(3) 6 consecutive months for the third and all subsequent determinations of noncompliance.

49. Section 416.1331 is amended by adding new paragraphs (c), (d), and (e) to read as follows:

**§ 416.1331 Termination of your disability or blindness payments.**

\* \* \* \* \*

(c) *When benefits terminate due to 12 consecutive suspension months for failure to comply with treatment for drug addiction or alcoholism.* If you are disabled and drug addiction or alcoholism is a contributing factor material to the determination of disability as described in § 416.935, your benefits will terminate after 12 consecutive months of suspension for