

establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

§ 1382c. Definitions

(a)(1) For purposes of this subchapter, the term “aged, blind, or disabled individual” means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 1182(d)(5) of title 8), or

(ii) is a child who is a citizen of the United States, and who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this subchapter if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this subchapter if he is blind as defined under a State plan approved under subchapter X or XVI of this chapter as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this subchapter if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence

(with respect to any individual), “work which exists in the national economy” means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(C)(i) An individual under the age of 18 shall be considered disabled for the purposes of this subchapter if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

(ii) Notwithstanding clause (i), no individual under the age of 18 who engages in substantial gainful activity (determined in accordance with regulations prescribed pursuant to subparagraph (E)) may be considered to be disabled.

(D) For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(E) The Commissioner of Social Security shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Commissioner of Social Security in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Commissioner of Social Security may prescribe. Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria shall be found not to be disabled. The Commissioner of Social Security shall make determinations under this subchapter with respect to substantial gainful activity, without regard to the legality of the activity.

(F) Notwithstanding the provisions of subparagraphs (A) through (E), an individual shall also be considered to be disabled for purposes of this subchapter if he is permanently and totally disabled as defined under a State plan approved under subchapter XIV or XVI of this chapter as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973 (and for at least one month prior to July 1973), so long as he is continuously disabled as so defined.

(G) In determining whether an individual's physical or mental impairment or impairments are of a sufficient medical severity that such

impairment or impairments could be the basis of eligibility under this section, the Commissioner of Social Security shall consider the combined effect of all of the individual's impairments without regard to whether any such impairment, if considered separately, would be of such severity. If the Commissioner of Social Security does find a medically severe combination of impairments, the combined impact of the impairments shall be considered throughout the disability determination process.

(H)(i) In making determinations with respect to disability under this subchapter, the provisions of sections 421(h), 421(k), and 423(d)(5) of this title shall apply in the same manner as they apply to determinations of disability under subchapter II of this chapter.

(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this subchapter of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which is likely to improve (or, at the option of the Commissioner, which is unlikely to improve).

(II) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this subchapter.

(III) If the representative payee refuses to comply without good cause with the requirements of subclause (II), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly suspend payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this subchapter would be served thereby, to the individual.

(IV) Subclause (II) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1383(c) of this title shall not apply to a finding by the Commissioner that the requirements of subclause (II) should not apply to an individual's representative payee.

(iii) If an individual is eligible for benefits under this subchapter by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

(I) by applying the criteria used in determining initial eligibility for individuals who are age 18 or older; and

(II) either during the 1-year period beginning on the individual's 18th birthday or, in lieu of a continuing disability review, whenever the Commissioner determines that an individual's case is subject to a redetermination under this clause.

With respect to any redetermination under this clause, paragraph (4) shall not apply.

(iv)(I) Except as provided in subclause (VI), not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this subchapter by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.

(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

(III) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this subchapter.

(IV) If the representative payee refuses to comply without good cause with the requirements of subclause (III), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly suspend payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this subchapter would be served thereby, to the individual.

(V) Subclause (III) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1383(c) of this title shall not apply to a finding by the Commissioner that the requirements of subclause (III) should not apply to an individual's representative payee.

(VI) Subclause (I) shall not apply in the case of an individual described in that subclause who, at the time of the individual's initial disability determination, the Commissioner determines has an impairment that is not expected to improve within 12 months after the birth of that individual, and who the Commissioner schedules for a continuing disability review at a date that is after the individual attains 1 year of age.

(I) In making any determination under this subchapter with respect to the disability of an individual who has not attained the age of 18 years and to whom section 421(h) of this title does not apply, the Commissioner of Social Security shall make reasonable efforts to ensure that a qualified pediatrician or other individual who specializes in a field of medicine appropriate to the disability of the individual (as determined by the Commissioner of Social Security) evaluates the case of such individual.

(J) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this subchapter if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commis-

sioner's determination that the individual is disabled.

(4) A recipient of benefits based on disability under this subchapter may be determined not to be entitled to such benefits on the basis of a finding that the physical or mental impairment on the basis of which such benefits are provided has ceased, does not exist, or is not disabling only if such finding is supported by—

(A) in the case of an individual who is age 18 or older—

(i) substantial evidence which demonstrates that—

(I) there has been any medical improvement in the individual's impairment or combination of impairments (other than medical improvement which is not related to the individual's ability to work), and

(II) the individual is now able to engage in substantial gainful activity; or

(ii) substantial evidence (except in the case of an individual eligible to receive benefits under section 1382h of this title) which—

(I) consists of new medical evidence and a new assessment of the individual's residual functional capacity, and demonstrates that—

(aa) although the individual has not improved medically, he or she is nonetheless a beneficiary of advances in medical or vocational therapy or technology (related to the individual's ability to work), and

(bb) the individual is now able to engage in substantial gainful activity, or

(II) demonstrates that—

(aa) although the individual has not improved medically, he or she has undergone vocational therapy (related to the individual's ability to work), and

(bb) the individual is now able to engage in substantial gainful activity; or

(iii) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual's impairment or combination of impairments is not as disabling as it was considered to be at the time of the most recent prior decision that he or she was under a disability or continued to be under a disability, and that therefore the individual is able to engage in substantial gainful activity; or

(B) in the case of an individual who is under the age of 18—

(i) substantial evidence which demonstrates that there has been medical improvement in the individual's impairment or combination of impairments, and that such impairment or combination of impairments no longer results in marked and severe functional limitations; or

(ii) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual's impairment or combination of impairments, is not as disabling as it was considered to be at the time of the most recent prior decision that the in-

dividual was under a disability or continued to be under a disability, and such impairment or combination of impairments does not result in marked and severe functional limitations; or

(C) in the case of any individual, substantial evidence (which may be evidence on the record at the time any prior determination of the entitlement to benefits based on disability was made, or newly obtained evidence which relates to that determination) which demonstrates that a prior determination was in error.

Nothing in this paragraph shall be construed to require a determination that an individual receiving benefits based on disability under this subchapter is entitled to such benefits if the prior determination was fraudulently obtained or if the individual is engaged in substantial gainful activity, cannot be located, or fails, without good cause, to cooperate in a review of his or her entitlement or to follow prescribed treatment which would be expected (i) to restore his or her ability to engage in substantial gainful activity, or (ii) in the case of an individual under the age of 18, to eliminate or improve the individual's impairment or combination of impairments so that it no longer results in marked and severe functional limitations. Any determination under this paragraph shall be made on the basis of all the evidence available in the individual's case file, including new evidence concerning the individual's prior or current condition which is presented by the individual or secured by the Commissioner of Social Security. Any determination made under this paragraph shall be made on the basis of the weight of the evidence and on a neutral basis with regard to the individual's condition, without any initial inference as to the presence or absence of disability being drawn from the fact that the individual has previously been determined to be disabled.

(b) For purposes of this subchapter, the term "eligible spouse" means an aged, blind, or disabled individual who is the husband or wife of another aged, blind, or disabled individual, and who, in a month, is living with such aged, blind, or disabled individual on the first day of the month or, in any case in which either spouse files an application for benefits, on the first day of the month following the date the application is filed, or, in any case in which either spouse requests restoration of eligibility under this subchapter during the month, at the time the request is filed. If two aged, blind, or disabled individuals are husband and wife as described in the preceding sentence, only one of them may be an "eligible individual" within the meaning of section 1382(a) of this title.

(c) For purposes of this subchapter, the term "child" means an individual who is neither married nor (as determined by the Commissioner of Social Security) the head of a household, and who is (1) under the age of eighteen, or (2) under the age of twenty-two and (as determined by the Commissioner of Social Security) a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment.

(d) In determining whether two individuals are husband and wife for purposes of this subchapter, appropriate State law shall be applied; except that—

(1) if a man and woman have been determined to be husband and wife under section 416(h)(1) of this title for purposes of subchapter II of this chapter they shall be considered (from and after the date of such determination or the date of their application for benefits under this subchapter, whichever is later) to be husband and wife for purposes of this subchapter, or

(2) if a man and woman are found to be holding themselves out to the community in which they reside as husband and wife, they shall be so considered for purposes of this subchapter notwithstanding any other provision of this section.

(e) For purposes of this subchapter, the term “United States”, when used in a geographical sense, means the 50 States and the District of Columbia.

(f)(1) For purposes of determining eligibility for and the amount of benefits for any individual who is married and whose spouse is living with him in the same household but is not an eligible spouse, such individual’s income and resources shall be deemed to include any income and resources of such spouse, whether or not available to such individual, except to the extent determined by the Commissioner of Social Security to be inequitable under the circumstances.

(2)(A) For purposes of determining eligibility for and the amount of benefits for any individual who is a child under age 18, such individual’s income and resources shall be deemed to include any income and resources of a parent of such individual (or the spouse of such a parent) who is living in the same household as such individual, whether or not available to such individual, except to the extent determined by the Commissioner of Social Security to be inequitable under the circumstances.

(B) Subparagraph (A) shall not apply in the case of any child who has not attained the age of 18 years who—

- (i) is disabled;
- (ii) received benefits under this subchapter, pursuant to section 1382(e)(1)(B) of this title, while in an institution described in section 1382(e)(1)(B) of this title;
- (iii) is eligible for medical assistance under a State home care plan approved by the Secretary under the provisions of section 1396n(c) of this title relating to waivers, or authorized under section 1396a(e)(3) of this title; and
- (iv) but for this subparagraph, would not be eligible for benefits under this subchapter.

(3) For purposes of determining eligibility for and the amount of benefits for any individual who is an alien, such individual’s income and resources shall be deemed to include the income and resources of his sponsor and such sponsor’s spouse (if such alien has a sponsor) as provided in section 1382j of this title. Any such income deemed to be income of such individual shall be treated as unearned income of such individual.

(4) For purposes of paragraphs (1) and (2), a spouse or parent (or spouse of such a parent)

who is absent from the household in which the individual lives due solely to a duty assignment as a member of the Armed Forces on active duty shall, in the absence of evidence to the contrary, be deemed to be living in the same household as the individual.

(Aug. 14, 1935, ch. 531, title XVI, §1614, as added Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1471; amended Pub. L. 93-233, §9, Dec. 31, 1973, 87 Stat. 957; Pub. L. 96-265, title II, §203(a), title III, §§302(a)(2), 303(c)(1), title V, §504(a), June 9, 1980, 94 Stat. 449, 450, 453, 471; Pub. L. 98-369, div. B, title VI, §2663(g)(6), (7), July 18, 1984, 98 Stat. 1168, 1169; Pub. L. 98-460, §§2(c), 3(a)(2), 4(b), 8(b), 10(b), Oct. 9, 1984, 98 Stat. 1796, 1799, 1800, 1804, 1805; Pub. L. 99-643, §4(d)(2), (3)(A), Nov. 10, 1986, 100 Stat. 3577; Pub. L. 101-239, title VIII, §§8009(b), 8010(a), 8012(a), Dec. 19, 1989, 103 Stat. 2463, 2464; Pub. L. 101-508, title V, §5036(a), Nov. 5, 1990, 104 Stat. 1388-225; Pub. L. 101-649, title I, §162(e)(5), Nov. 29, 1990, 104 Stat. 5011; Pub. L. 103-66, title XIII, §§13733(a), 13734(a), Aug. 10, 1993, 107 Stat. 662; Pub. L. 103-296, title I, §107(a)(4), title II, §201(b)(4)(A), Aug. 15, 1994, 108 Stat. 1478, 1505; Pub. L. 103-432, title II, §221(a), Oct. 31, 1994, 108 Stat. 4462; Pub. L. 104-121, title I, §105(b)(1), Mar. 29, 1996, 110 Stat. 853; Pub. L. 104-193, title II, §§204(c)(1), 211(a), (c), 212(a), (b)(1), (c), Aug. 22, 1996, 110 Stat. 2188, 2189, 2192, 2193; Pub. L. 105-33, title V, §5522(a), (d), Aug. 5, 1997, 111 Stat. 622, 623; Pub. L. 108-203, title IV, §434(a), Mar. 2, 2004, 118 Stat. 540.)

AMENDMENTS

2004—Subsec. (a)(1)(B)(ii). Pub. L. 108-203 inserted “and” after “citizen of the United States,” and struck out “, and who, for the month before the parent reported for such assignment, received a benefit under this subchapter” before period at end.

1997—Subsec. (a)(3)(H)(iii). Pub. L. 105-33, §5522(a)(1), added subcls. (I) and (II) and concluding provisions and struck out former subcls. (I) and (II) and concluding provisions which read as follows:

“(I) during the 1-year period beginning on the individual’s 18th birthday; and

“(II) by applying the criteria used in determining the initial eligibility for applicants who are age 18 or older.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.”

Subsec. (a)(3)(H)(iv). Pub. L. 105-33, §5522(a)(2), substituted “Except as provided in subclause (VI), not” for “Not” in subcl. (I) and added subcl. (VI).

Subsec. (a)(4). Pub. L. 105-33, §5522(d), made technical correction to directory language of Pub. L. 104-193, §211(c). See 1996 Amendment notes below.

1996—Subsec. (a)(3)(A). Pub. L. 104-193, §211(a)(1), (2), substituted “Except as provided in subparagraph (C), an individual” for “An individual” and struck out “(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)” before period at end.

Subsec. (a)(3)(C). Pub. L. 104-193, §211(a)(4), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (a)(3)(D), (E). Pub. L. 104-193, §211(a)(3), redesignated pars. (C) and (D) as (D) and (E), respectively. Former par. (E) redesignated (F).

Subsec. (a)(3)(F). Pub. L. 104-193, §211(a)(3), (5), redesignated subpar. (E) as (F) and substituted “subparagraphs (A) through (E)” for “subparagraphs (A) through (D)”. Former subpar. (F) redesignated (G).

Subsec. (a)(3)(G). Pub. L. 104-193, §211(a)(3), redesignated subpar. (F) as (G). Former subpar. (G) redesignated (H).

Subsec. (a)(3)(H). Pub. L. 104-193, §212(a), (b)(1), (c), designated existing provisions as cl. (i) and added cls. (ii) to (iv).

Pub. L. 104-193, §211(a)(3), redesignated subpar. (G) as (H). Former subpar. (H) redesignated (I).

Subsec. (a)(3)(I). Pub. L. 104-193, §211(a)(3), redesignated subpar. (H) as (I). Former subpar. (I) redesignated (J).

Pub. L. 104-121 added subpar. (I).

Subsec. (a)(3)(J). Pub. L. 104-193, §211(a)(3), redesignated subpar. (I) as (J).

Subsec. (a)(4). Pub. L. 104-193, §211(c)(7), as amended by Pub. L. 105-33, §5522(d), in first sentence of concluding provisions inserted "(i)" before "to restore" and ", or" before "(ii)" and added cl. (ii).

Pub. L. 104-193, §211(c)(1)-(6), as amended by Pub. L. 105-33, §5522(d), inserted "(A) in the case of an individual who is age 18 or older—" after "if such finding is supported by—", redesignated former subpars. (A) to (C) as cls. (i) to (iii), respectively, in cl. (i) redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, in cl. (ii) redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, in subcls. (I) and (II) of cl. (ii) redesignated former subcls. (I) and (II) as items (aa) and (bb), respectively, added subpar. (B), redesignated former subpar. (D) as (C), and inserted "in the case of any individual," before "substantial evidence" in that subpar.

Subsec. (b). Pub. L. 104-193, §204(c)(1), substituted ", on the first day of the month following the date the application is filed, or, in any case in which either spouse requests" for "or requests" and struck out "application or" before "request is filed."

1994—Subsec. (a)(3)(A). Pub. L. 103-432, §221(a)(1), substituted "an individual" for "a child" before "under the age of 18".

Subsec. (a)(3)(D). Pub. L. 103-296, §201(b)(4)(A), inserted at end "The Secretary shall make determinations under this subchapter with respect to substantial gainful activity, without regard to the legality of the activity."

Pub. L. 103-296, §107(a)(4), in subpar. (D) as amended by Pub. L. 103-296, §201(b)(4)(A), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Subsec. (a)(3)(F). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" in two places.

Subsec. (a)(3)(H). Pub. L. 103-432, §221(a), substituted "an individual" for "a child", "the individual" for "the child", and "such individual" for "such child".

Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" in two places.

Subsecs. (a)(4), (c), (f)(1), (2)(A). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

1993—Subsec. (a)(1)(B)(ii). Pub. L. 103-66, §13734(a), substituted "and who, for the month before the parent reported for such assignment, received a benefit under this subchapter" for "the District of Columbia, Puerto Rico, and the territories and possessions of the United States, and who, during the month before the parent reported for such assignment, was receiving benefits under this subchapter".

Subsec. (f)(4). Pub. L. 103-66, §13733(a), added par. (4). 1990—Subsec. (a)(1)(B)(i). Pub. L. 101-649 struck out "section 1153(a)(7) or" after "the provisions of".

Subsec. (a)(3)(H). Pub. L. 101-508 added subpar. (H).

1989—Subsec. (a)(1)(B). Pub. L. 101-239, §8009(b), designated existing provisions as cl. (i), redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, substituted ", or" for period at end, and added cl. (ii).

Subsec. (b). Pub. L. 101-239, §8012(a), amended first sentence generally. Prior to amendment, first sentence read as follows: "For purposes of this subchapter, the term 'eligible spouse' means an aged, blind, or disabled

individual who is the husband or wife of another aged, blind, or disabled individual and who has not been living apart from such other aged, blind, or disabled individual for more than six months."

Subsec. (f)(2). Pub. L. 101-239, §8010(a), designated existing provisions as subpar. (A) and added subpar. (B). 1986—Subsec. (a)(3)(D). Pub. L. 99-643, §4(d)(2)(A), struck out ", except for purposes of subparagraph (F) or paragraph (4)," after "such criteria".

Subsec. (a)(3)(F) to (H). Pub. L. 99-643, §4(d)(2)(B), redesignated subpars. (G) and (H) as (F) and (G), respectively, and struck out former subpar. (F) which read as follows: "For purposes of this subchapter, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall, subject to section 1382(e)(4) of this title, nonetheless be considered (except for purposes of section 1383(a)(5) of this title) to be disabled through the end of the month preceding the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the earlier of (i) the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (ii) the first month, after the period of 15 consecutive months following the end of such period of trial work, in which such individual engages in or is determined to be able to engage in substantial gainful activity."

Subsec. (a)(4), (5). Pub. L. 99-643, §4(d)(3)(A), redesignated par. (5) as (4) and struck out former par. (4) which read as follows:

"(A) For purposes of this subchapter, any services rendered during a period of trial work (as defined in subparagraph (B)) by an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection) shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. As used in this paragraph, the term 'services' means activity which is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

"(B) The term 'period of trial work', with respect to an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection), means a period of months beginning and ending as provided in subparagraphs (C) and (D).

"(C) A period of trial work for any individual shall begin with the month in which he becomes eligible for benefits under this subchapter on the basis of his disability; but no such period may begin for an individual who is eligible for benefits under this subchapter on the basis of a disability if he has had a previous period of trial work while eligible for benefits on the basis of the same disability.

"(D) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

"(i) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

"(ii) the month in which his disability (as determined under paragraph (3) of this subsection) ceases (as determined after the application of subparagraph (A) of this paragraph)."

1984—Subsec. (a)(3)(E). Pub. L. 98-369, §2663(g)(6), realigned margin of subpar. (E).

Subsec. (a)(3)(G). Pub. L. 98-460, §4(b), added subpar. (G).

Subsec. (a)(3)(H). Pub. L. 98-460, §8(b), added subpar. (H).

Pub. L. 98-460, §3(a)(2), inserted reference to section 423(d)(5) of this title.

Pub. L. 98-460, §10(b), inserted reference to section 421(k) of this title.

Subsec. (a)(5). Pub. L. 98-460, §2(c), added par. (5).

Subsec. (d)(1). Pub. L. 98-369, §2663(g)(7), substituted "man and woman" for "man and women".

1980—Subsec. (a)(3)(D). Pub. L. 96-265, § 302(a)(2), inserted provisions relating to extraordinary work expenses due to severe disability.

Pub. L. 96-265, § 303(c)(1)(B), substituted reference to subparagraph (F) or paragraph (4) for reference to paragraph (4).

Subsec. (a)(3)(F). Pub. L. 96-265, § 303(c)(1)(A), added subpar. (F).

Subsec. (f)(2). Pub. L. 96-265, § 203(a), substituted “under age 18” for “under age 21”.

Subsec. (f)(3). Pub. L. 96-265, § 504(a), added par. (3).

1973—Subsec. (a)(3)(A). Pub. L. 93-233, § 9(1), struck out last sentence defining a disabled individual as one permanently and totally disabled as defined under a State plan approved under subchapter XIV or XVI of this chapter as in effect for 1972 and receiving aid under such plan (on the basis of disability for December 1973, so long as the individual is continuously disabled as so defined, which provisions were covered in subsec. (a)(3)(E) of this section.

Subsec. (a)(3)(E). Pub. L. 93-233, § 9(2), incorporated provisions of last sentence of subpar. (A) in provisions designated as subpar. (E) and inserted introductory text “Notwithstanding the provisions of subparagraphs (A) through (D)” and parenthetical phrase “(and for at least one month prior to July 1973)” after “December 1973”.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-203, title IV, § 434(b), Mar. 2, 2004, 118 Stat. 540, provided that: “The amendments made by this section [amending this section] shall be effective with respect to benefits payable for months beginning after the date of enactment of this Act [Mar. 2, 2004], but only on the basis of an application filed after such date.”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title II of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5528(a) of Pub. L. 105-33, set out as a note under section 903 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 204(c)(1) of Pub. L. 104-193 applicable to applications for benefits under this subchapter filed on or after Aug. 22, 1996, without regard to whether regulations have been issued to implement amendments by section 204 of Pub. L. 104-193, see section 204(d) of Pub. L. 104-193, set out as a note under section 1382 of this title.

Section 211(d) of Pub. L. 104-193, as amended by Pub. L. 105-33, title V, § 5101, Aug. 5, 1997, 111 Stat. 595, provided that:

“(1) EFFECTIVE DATES.—

“(A) SUBSECTIONS (a) AND (b).—

“(i) IN GENERAL.—The provisions of, and amendments made by, subsections (a) [amending this section] and (b) [110 Stat. 2189] of this section shall apply to any individual who applies for, or whose claim is finally adjudicated with respect to, benefits under title XVI of the Social Security Act [this subchapter] on or after the date of the enactment of this Act [Aug. 22, 1996], without regard to whether regulations have been issued to implement such provisions and amendments.

“(ii) DETERMINATION OF FINAL ADJUDICATION.—For purposes of clause (i), no individual’s claim with respect to such benefits may be considered to be finally adjudicated before such date of enactment if, on or after such date, there is pending a request for either administrative or judicial review with respect to such claim that has been denied in whole, or there is pending, with respect to such claim, readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court remand order.

“(B) SUBSECTION (c).—The amendments made by subsection (c) of this section [amending this section] shall apply with respect to benefits under title XVI of the Social Security Act for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

“(2) APPLICATION TO CURRENT RECIPIENTS.—

“(A) ELIGIBILITY REDETERMINATIONS.—During the period beginning on the date of the enactment of this Act [Aug. 22, 1996] and ending on the date which is 18 months after such date of enactment, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is eligible for supplemental security income benefits by reason of disability under title XVI of the Social Security Act [this subchapter] as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of, or amendments made by, subsections (a) and (b) of this section. Any redetermination required by the preceding sentence that is not performed before the end of the period described in the preceding sentence shall be performed as soon as is practicable thereafter. With respect to any redetermination under this subparagraph—

“(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

“(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

“(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

“(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 [Pub. L. 103-296, set out as a note under section 1382 of this title] or any other provision of title XVI of the Social Security Act.

“(B) GRANDFATHER PROVISION.—The provisions of, and amendments made by, subsections (a) [amending this section] and (b) [110 Stat. 2189] of this section, and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after the later of July 1, 1997, or the date of the redetermination with respect to such individual.

“(C) NOTICE.—Not later than January 1, 1997, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph. Before commencing a redetermination under the 2nd sentence of subparagraph (A), in any case in which the individual involved has not already been notified of the provisions of this paragraph, the Commissioner of Social Security shall notify the individual involved of the provisions of this paragraph.

“(3) REPORT.—The Commissioner of Social Security shall report to the Congress regarding the progress made in implementing the provisions of, and amendments made by, this section [amending this section, sections 665e and 901 of Title 2, The Congress, and provisions set out as a note under section 401 of this title] on child disability evaluations not later than 180 days after the date of the enactment of this Act [Aug. 22, 1996].

“(4) REGULATIONS.—Notwithstanding any other provision of law, the Commissioner of Social Security shall submit for review to the committees of jurisdiction in the Congress any final regulation pertaining to the eligibility of individuals under age 18 for benefits under title XVI of the Social Security Act [this subchapter] at least 45 days before the effective date of such regulation. The submission under this paragraph shall include supporting documentation providing a cost analysis, workload impact, and projections as to how the regulation will effect the future number of recipients under such title.

“(5) CAP ADJUSTMENT FOR SSI ADMINISTRATIVE WORK REQUIRED BY WELFARE REFORM.—

“(A) AUTHORIZATION.—For the additional costs of continuing disability reviews and redeterminations under title XVI of the Social Security Act, there is hereby authorized to be appropriated to the Social Security Administration, in addition to amounts authorized under section 201(g)(1)(A) of the Social Security Act [section 401(g)(1)(A) of this title], \$150,000,000 in fiscal year 1997 and \$100,000,000 in fiscal year 1998.

“(B) CAP ADJUSTMENT.—[Amended section 901 of Title 2, The Congress.]

“(C) ADJUSTMENTS.—[Amended section 665e of Title 2.]

“(D) CONFORMING AMENDMENT.—[Amended section 103(d)(1) of Pub. L. 104-121, set out as a note under section 401 of this title.]

“(6) BENEFITS UNDER TITLE XVI.—For purposes of this subsection, the term ‘benefits under title XVI of the Social Security Act’ includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act [section 1382(a) of this title], and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66 [set out as a note under section 1382 of this title].”

Section 212(d) of Pub. L. 104-193 provided that: “The amendments made by this section [amending this section and repealing provisions set out as a note under section 1383 of this title] shall apply to benefits for months beginning on or after the date of the enactment of this Act [Aug. 22, 1996], without regard to whether regulations have been issued to implement such amendments.”

Amendment by Pub. L. 104-121 applicable to individual who applies for, or whose claim is finally adjudicated with respect to, supplemental security income benefits under this subchapter based on disability on or after Mar. 29, 1996, with special rule in case of individual who has applied for, and whose claim has been finally adjudicated with respect to, such benefits before Mar. 29, 1996, see section 105(b)(5) of Pub. L. 104-121, set out as a note under section 1382 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 221(b) of Pub. L. 103-432 provided that: “The amendments made by subsection (a) [amending this section] shall apply to determinations made on or after the date of the enactment of this Act [Oct. 31, 1994].”

Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

Section 201(b)(4)(B) of Pub. L. 103-296 provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 15, 1994].”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13733(a) of Pub. L. 103-66 effective on first day of second month that begins after Aug. 10, 1993, see section 13733(c) of Pub. L. 103-66, set out as a note under section 1382a of this title.

Section 13734(b) of Pub. L. 103-66 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 3rd month that begins after the date of the enactment of this Act [Aug. 10, 1993].”

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101-649 effective Oct. 1, 1991, and applicable beginning with fiscal year 1992, see section 161(a) of Pub. L. 101-649, set out as a note under section 1101 of Title 8, Aliens and Nationality.

Section 5036(b) of Pub. L. 101-508 provided that: “The amendment made by subsection (a) [amending this section] shall apply to determinations made 6 or more months after the date of the enactment of this Act [Nov. 5, 1990].”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 8009(b) of Pub. L. 101-239 applicable with respect to benefits for months after

March 1990, see section 8009(c) of Pub. L. 101-239, set out as a note under section 1382 of this title.

Amendment by section 8010(a) of Pub. L. 101-239 effective on 1st day of 6th calendar month beginning after Dec. 19, 1989, see section 8010(c) of Pub. L. 101-239, set out as a note under section 1382 of this title.

Section 8012(b) of Pub. L. 101-239 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1990.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-643 effective July 1, 1987, except as otherwise provided, see section 10(b) of Pub. L. 99-643, set out as a note under section 1396a of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by section 2(c) of Pub. L. 98-460 applicable to determinations made by the Secretary on or after Oct. 9, 1984, with certain enumerated exceptions and qualifications, see section 2(d) of Pub. L. 98-460, set out as a note under section 423 of this title.

Amendment by section 3(a)(2) of Pub. L. 98-460 applicable to determinations made prior to Jan. 1, 1987, see section 3(a)(3) of Pub. L. 98-460, set out as a note under section 423 of this title.

Amendment by section 4(b) of Pub. L. 98-460 applicable with respect to determinations made on or after the first day of the first month beginning after 30 days after Oct. 9, 1984, see section 4(c) of Pub. L. 98-460, set out as a note under section 423 of this title.

Amendment by section 8(b) of Pub. L. 98-460 applicable to determinations made after 60 days after Oct. 9, 1984, see section 8(c) of Pub. L. 98-460, set out as a note under section 421 of this title.

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 203(b) of Pub. L. 96-265 provided that: “The amendment made by subsection (a) [amending this section] shall become effective on October 1, 1980; except that the amendment made by such subsection shall not apply, in the case of any child who, in September 1980, was 18 or over and received a supplemental security income benefit for such month, during any period for which such benefit would be greater without the application of such amendment.”

Amendment by section 302(a)(2) of Pub. L. 96-265 applicable with respect to expenses incurred on or after the first day of the sixth month which begins after June 9, 1980, see section 302(c) of Pub. L. 96-265, set out as a note under section 423 of this title.

Amendment by section 303(c)(1) of Pub. L. 96-265 effective on first day of sixth month which begins after June 9, 1980, and applicable with respect to any individual whose disability has not been determined to have ceased prior to such first day, see section 303(d) of Pub. L. 96-265, set out as a note under section 402 of this title.

Amendment by section 504(a) of Pub. L. 96-265 effective with respect to individuals applying for supplemental security income benefits under this subchapter for the first time after Sept. 30, 1980, see section 504(c) of Pub. L. 96-265, set out as an Effective Date note under section 1382j of this title.

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided that this section is effective Jan. 1, 1974.

REGULATIONS

For provisions requiring Secretary of Health and Human Services to prescribe regulations necessary to implement amendment to this section [adding subsec.

(a)(5)] by section 2(c) of Pub. L. 98-460 not later than 180 days after Oct. 9, 1984, see section 2(g) of Pub. L. 98-460, set out as a note under section 423 of this title.

RETROACTIVE BENEFITS

For provisions relating to entitlement to retroactive benefits under section 2 of Pub. L. 98-460, which added subsec. (a)(5) of this section, see section 2(f) of Pub. L. 98-460, set out as a note under section 423 of this title.

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

§ 1382d. Rehabilitation services for blind and disabled individuals

(a) Referral by Commissioner of eligible individuals to appropriate State agency

In the case of any blind or disabled individual who—

- (1) has not attained age 16; and
- (2) with respect to whom benefits are paid under this subchapter,

the Commissioner of Social Security shall make provision for referral of such individual to the appropriate State agency administering the State program under subchapter V of this chapter.

(b) Repealed. Pub. L. 97-35, title XXI, § 2193(c)(8)(B), Aug. 13, 1981, 95 Stat. 828

(c) Repealed. Pub. L. 106-170, title I, § 101(b)(2)(B), Dec. 17, 1999, 113 Stat. 1874

(d) Reimbursement by Commissioner to State agency of costs of providing services to referred individuals

The Commissioner of Social Security is authorized to reimburse the State agency administering or supervising the administration of a State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 [29 U.S.C. 720 et seq.] for the costs incurred under such plan in the provision of rehabilitation services to individuals who are referred for such services pursuant to subsection (a) of this section, (1) in cases where the furnishing of such services results in the performance by such individuals of substantial gainful activity for a continuous period of nine months, (2) in cases where such individuals receive benefits as a result of section 1383(a)(6) of this title (except that no reimbursement under this subsection shall be made for services furnished to any individual receiving such benefits for any period after the close of such individual's ninth consecutive month of substantial gainful activity or the close of the month with which his or her entitlement to such benefits ceases, whichever first occurs), and (3) in cases where such individuals, without good cause, refuse to continue to

accept vocational rehabilitation services or fail to cooperate in such a manner as to preclude their successful rehabilitation. The determination that the vocational rehabilitation services contributed to the successful return of an individual to substantial gainful activity, the determination that an individual, without good cause, refused to continue to accept vocational rehabilitation services or failed to cooperate in such a manner as to preclude successful rehabilitation, and the determination of the amount of costs to be reimbursed under this subsection shall be made by the Commissioner of Social Security in accordance with criteria determined by the Commissioner in the same manner as under section 422(d)(1) of this title.

(e) Reimbursement for vocational rehabilitation services furnished during certain months of nonpayment of insurance benefits

The Commissioner of Social Security may reimburse the State agency described in subsection (d) of this section for the costs described therein incurred in the provision of rehabilitation services—

(1) for any month for which an individual received—

- (A) benefits under section 1382 or 1382h(a) of this title;
- (B) assistance under section 1382h(b) of this title; or
- (C) a federally administered State supplementary payment under section 1382e of this title or section 212(b) of Public Law 93-66; and

(2) for any month before the 13th consecutive month for which an individual, for a reason other than cessation of disability or blindness, was ineligible for—

- (A) benefits under section 1382 or 1382h(a) of this title;
- (B) assistance under section 1382h(b) of this title; or
- (C) a federally administered State supplementary payment under section 1382e of this title or section 212(b) of Public Law 93-66.

(Aug. 14, 1935, ch. 531, title XVI, § 1615, as added Pub. L. 92-603, title III, § 301, Oct. 30, 1972, 86 Stat. 1474; amended Pub. L. 94-566, title V, § 501(a), Oct. 20, 1976, 90 Stat. 2683; Pub. L. 96-272, title III, § 304, June 17, 1980, 94 Stat. 529; Pub. L. 97-35, title XXI, § 2193(a)(4), (c)(8), title XXIII, § 2344, Aug. 13, 1981, 95 Stat. 827, 828, 867; Pub. L. 98-369, div. B, title VI, § 2663(g)(8), July 18, 1984, 98 Stat. 1169; Pub. L. 98-460, § 11(b), Oct. 9, 1984, 98 Stat. 1806; Pub. L. 101-508, title V, § 5037(a), Nov. 5, 1990, 104 Stat. 1388-226; Pub. L. 103-296, title I, § 107(a)(4), Aug. 15, 1994, 108 Stat. 1478; Pub. L. 105-33, title V, § 5523, Aug. 5, 1997, 111 Stat. 623; Pub. L. 106-170, title I, § 101(b)(2)(A), (B), Dec. 17, 1999, 113 Stat. 1874.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsec. (d), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended. Title I of the Rehabilitation Act of 1973 is classified generally to subchapter I (§ 720 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

Section 212(b) of Public Law 93-66, referred to in subsec. (e)(1)(C), (2)(C), is section 212(b) of Pub. L. 93-66,