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SUBCHAPTER I.—GRANTS TO STATES FOR OLD-AGE ASSISTANCE AND MEDICAL ASSISTANCE FOR THE AGED

AMENDMENTS

1960—Pub. L. 86-778, title VI, § 601(a), Sept. 13, 1960, 74 Stat. 987, included medical assistance for the aged in the heading of the subchapter.

§ 301. Appropriation.

For the purpose (a) of enabling each State, as far as practicable under the conditions in such State, to furnish financial assistance to aged needy individuals, (b) of enabling each State, as far as practicable under the conditions in such State, to furnish medical assistance on behalf of aged individuals who are not recipients of old-age assistance but whose income and resources are insufficient to meet the costs of necessary medical services, and (c) of encouraging each State, as far as practicable under the conditions in such State, to furnish rehabilitation and other services to help individuals referred to in clause (a) or (b) to attain or retain capability for self-care, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary"), State plans for old-age assistance, or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged. (Aug. 14, 1935, ch. 531, title I, § 1, 49 Stat. 620; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(a), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 311(a), 70 Stat. 848; Sept. 13, 1960, Pub. L. 86-778, title VI, § 601(b), 74 Stat. 987; July 25, 1962, Pub. L. 87-543, title I, § 104(c) (1), 76 Stat. 185.)

AMENDMENTS

1962—Pub. L. 87-543 eliminated from clause (a) the provision relating to the purpose of encouraging each State, as far as practicable under the conditions in the State, to help aged needy individuals attain self-care, and added clause (c) incorporating the eliminated provision.

1960—Pub. L. 86-778 authorized appropriations for the purpose of enabling each State, as far as practicable under the conditions in such State, to furnish medical assistance on behalf of aged individuals who are not recipients of old-age assistance but whose income and resources are insufficient to meet the costs of necessary medical services.

1956—Act Aug. 1, 1956, eliminated the specific appropriation for the fiscal year ending June 30, 1956, and inserted provisions relating to attainment of self-care by individuals.

1950—Act Aug. 28, 1950, § 361(a), substituted "Federal Security Administrator (hereinafter referred to as the 'Administrator')" for "Social Security Board established by subchapter I of this chapter (hereinafter referred to as the 'Board')".

EFFECTIVE DATE OF 1960 AMENDMENT

Section 604 of Pub. L. 86-778 provided that: "The amendments made by section 601 of this Act [to this section and sections 302, 303 (a), (b) (2) (B), 304 and 306 of this title] shall take effect October 1, 1960, and the amendments made by section 602 [to section 1308 of this title] shall be effective with respect to fiscal years ending after 1960."

SHORT TITLE OF 1962 AMENDMENTS

Section 1 of Pub. L. 87-543 provided in part that Pub. L. 87-543, which enacted sections 609, 727, 728, 1314, 1315 and 1381-1385 of this title, amended sections 301-303, 306, 601-609, 721-723, 726, 906, 1201-1203, 1206, 1301, 1308, 1309, 1311, 1313, 1351-1353 and 1355 of this title, repealed section 1202a of this title and provisions set out as notes under sections 1202a and 1308 of this title, and enacted provisions set out as notes under sections 301-303, 306, 601, 603, 606, 608, 609, 722, 1202, 1308 and 1383 of this title, may be cited as the "Public Welfare Amendments of 1962."

SHORT TITLE OF 1960 AMENDMENTS

Section 1 of Pub. L. 86-778 provided that Pub. L. 86-778, which enacted sections 726 and 1312 of this title and sections 3125 and 3308 of Title 26, Internal Revenue Code, amended this section and sections 302-304, 306, 401, 401a, 402, 403, 405, 408-411, 413-416, 418, 422, 423, 501, 701, 702, 704, 711, 712, 714, 721, 722, 1101-1104, 1202, 1301, 1308, 1321-1324, 1361, 1363, 1364, 1367, 1371, and 1400c of this title, sections 1402, 1403, 3121, 3301, 3302, 3305, 3306, 6205, 6413, 7213, and 7701 of Title 26, section 49d of Title 29, Labor, sections 228a, 228c, and 228e of Title 45, Railroads, and section 1421h of Title 48, Territories and Insular Possessions, repealed section 419 of this title, and enacted provisions set out as notes under sections 301, 302, 401, 402, 403, 405, 410, 411, 413-418, 422, 423, 701, 1101, 1202, 1202a, 1301, 1321, 1362, 1363 and 1364 of this title, under sections 1402, 3121, 3301, 3304, 3305, and 3306 of Title 26, and under section 49d of Title 29, may be cited as the "Social Security Amendments of 1960."

SHORT TITLE OF 1956 AMENDMENTS

Section 1 of act Aug. 1, 1956, provided that act Aug. 1, 1956, which enacted sections 401a, 423-425, 906, and 1310 of this title, and section 3113 of Title 26, Internal Revenue Code of 1954, amended sections 301-303, 401, 402, 403, 405, 409-411, 413-416, 418, 421, 422, 601-603, 606, 721 (a), 1201-1203, 1301, 1308, and 1351-1353 of this title, sections 1401, 1402, 3101, 3102, 3111, and 3121 of Title 26, Internal Revenue Code of 1954, and sections 228a and 228e of Title 45, Railroads, and amended note to section 1426 of Title 26, Internal Revenue Code of 1939 and to section 3121 of Title 26, Internal Revenue Code of 1954, shall be popularly known as the "Social Security Amendments of 1956."

SHORT TITLE OF 1950 AMENDMENTS

Section 1 of act Aug. 28, 1950, provided that act Aug. 28, 1950, which amended this chapter and chapter 9 of Title 26, Internal Revenue Code of 1939, should be popularly known as the "Social Security Act Amendments of 1950". For distribution of act Aug. 28, 1950, see Tables Volume.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Federal Security Administrator" was substituted for "Social Security Board established by sections 901, 902-904 of this title (hereinafter referred to as the 'Board')" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

DECLARATION OF PURPOSE OF TITLE III OF ACT AUG. 1, 1956

Section 300 of act Aug. 1, 1956, provided that: "It is the purpose of this title [adding sections 906 and 1310 of this title, and amending sections 301, 302 (a) (11), 303 (a), 601, 602 (a) (13), 603 (a), 606, 1201, 1202 (a) (13), 1203 (a), 1301 (a) (1), 1308, 1351, 1352 (a) (12), and 1353 (a) of this title] (a) to promote the health of the Nation by assisting States to extend and broaden their provisions for meeting the costs of medical care for persons eligible for public assistance by providing for separate matching of assistance expenditures for medical care, (b) to promote the well-being of the Nation by encouraging the States to place greater emphasis on helping to strengthen family life and helping needy families and individuals attain the maximum economic and personal independence of which they are capable, (c) to assist in improving the administration of public assistance programs (1) through making grants and contracts, and entering into jointly financed cooperative arrangements, for research or demonstration projects and (2) through Federal-State programs of grants to institutions and traineeships and fellowships so as to provide training of public welfare personnel, thereby securing more adequately trained personnel, and (d) to improve aid to dependent children."

DEFINITION OF "SECRETARY"

Section 201 of Pub. L. 87-543 provided that: "As used in this Act and in the provisions of the Social Security Act amended by this Act [see Short Title of 1962 Amendment note under this section], the term 'Secretary', unless the context otherwise requires, means the Secretary of Health, Education, and Welfare."

Section 709 of Pub. L. 86-778 provided that: "As used in this Act and the provisions of the Social Security Act amended by this Act [see Short Title of 1960 Amendment note under this section] the term 'Secretary', unless the context otherwise requires, means the Secretary of Health, Education, and Welfare."

CROSS REFERENCES

Railway labor, see notes under section 151 of Title 45, Railroads.

§ 302. State old-age and medical assistance plans.

(a) Contents.

A State plan for old-age assistance, or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged must—

- (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;
- (2) provide for financial participation by the State;
- (3) either provide for the establishment or designation of a single State agency to administer the

plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for assistance under the plan is denied or is not acted upon with reasonable promptness;

(5) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the State plan;

(8) provide that all individuals wishing to make application for assistance under the plan shall have opportunity to do so, and that such assistance shall be furnished with reasonable promptness to all eligible individuals;

(9) provide, if the plan includes assistance for or on behalf of individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(10) if the State plan includes old-age assistance—

(A) provide that the State agency shall, in determining need for such assistance, take into consideration any other income and resources of an individual claiming old-age assistance, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination, of the first \$50 per month of earned income the State agency may disregard, after December 31, 1962, not more than the first \$10 thereof plus one-half of the remainder;

(B) include reasonable standards, consistent with the objectives of this subchapter, for determining eligibility for and the extent of such assistance; and

(C) provide a description of the services (if any) which the State agency makes available to applicants for and recipients of such assistance to help them attain self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services; and

(11) if the State plan includes medical assistance for the aged—

(A) provide for inclusion of some institutional and some noninstitutional care and services;

(B) provide that no enrollment fee, premium, or similar charge will be imposed as a condition of any individual's eligibility for medical assistance for the aged under the plan;

(C) provide for inclusion, to the extent required by regulations prescribed by the Secretary, of provisions (conforming to such regulations) with respect to the furnishing of such assistance to individuals who are residents of the State but are absent therefrom;

(D) include reasonable standards, consistent with the objectives of this subchapter, for determining eligibility for and the extent of such assistance; and

(E) provide that no lien may be imposed against the property of any individual prior to his death on account of medical assistance for the aged paid or to be paid on his behalf under the plan (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual), and that there shall be no adjustment or recovery (except, after the death of such individual and his surviving spouse, if any, from such individual's estate) of any medical assistance for the aged correctly paid on behalf of such individual under the plan.

(b) Approval by Secretary.

The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for assistance under the plan—

(1) an age requirement of more than sixty-five years; or

(2) any residence requirement which (A) in the case of applicants for old-age assistance, excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for old-age assistance and has resided therein continuously for one year immediately preceding the application, and (B) in the case of applicants for medical assistance for the aged, excludes any individual who resides in the State; or

(3) any citizenship requirement which excludes any citizen of the United States.

(c) Limitation on number of plans.

Nothing in this subchapter shall be construed to permit a State to have in effect with respect to any period more than one State plan approved under this subchapter. (Aug. 14, 1935, ch. 531, title I, § 2, 49 Stat. 620; Aug. 10, 1939, ch. 666, title I, § 101, 53 Stat. 1360; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 1, § 301(a), (b), pt. 6, § 361(c), (d), 64 Stat. 548, 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 311 (b), 70 Stat. 848; Aug. 28, 1958, Pub. L. 85-840, title V, § 510, 72 Stat. 1051; Sept. 13, 1960, Pub. L. 86-778, title VI, § 601(b), 74 Stat. 987; July 25, 1962, Pub. L. 87-543, title I, §§ 106(a) (1), 157, 76 Stat. 188, 207.)

AMENDMENTS

1962—Subsec. (a) (10) (A). Pub. L. 87-543 added, "as well as any expenses reasonably attributable to the earning of any such income" and the exception provision.

1960—Subsec. (a). Pub. L. 86-778 inserted provisions relating to plans for medical assistance, and required plans that include old-age assistance to include reasonable standards, consistent with the objectives of this subchapter, for determining eligibility for and the extent of such assistance.

Subsec. (b). Pub. L. 86-778 substituted "eligibility for assistance under the plan" for "eligibility for old-age assistance under the plan" in the opening provisions, eliminated provisions from cl. (1) which permitted the plan to impose an age requirement of as much as 70 years until Jan. 1, 1940, and inserted provisions in cl. (2) requiring the Secretary to disapprove any plan, in the case of applicants for medical assistance for the aged, which excludes any individual who resides in the State.

Subsec. (c). Pub. L. 86-778 added subsec. (c).

1958—Subsec. (a). Pub. L. 85-840 inserted provisions in cl. (11) requiring the State plan to include a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services.

1956—Subsec. (a). Act Aug. 1, 1956, added clause (11).

1950—Subsec. (a). Act Aug. 28, 1950, substituted in clause (4) "provide for * * * with reasonableness" for "provide for granting to any individual, whose claim for old-age assistance is denied, an opportunity for a fair hearing before such State agency", and added clauses (9) and (10).

1939—Subsec. (a). Act Aug. 10, 1939, amended subsec. (a) generally commencing with cl. (5).

EFFECTIVE DATE OF 1962 AMENDMENT

Section 202(a) of Pub. L. 87-543 provided that: "The amendments made by sections 102(b) (1), 103, 106, and 134 [adding section 602(a) (13) and amending sections 302(a) (10) (A), 602(a) (7), 607(3), 723(a), 1202(a) (8) and 1352(a) (8) of this title] shall become effective July 1, 1963."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of section by Pub. L. 86-778 effective Oct. 1, 1960, see section 604 of Pub. L. 86-778, set out as a note under section 301 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsec. (a) (11) of this section by Pub. L. 85-840 effective Oct. 1, 1958, see section 512 of Pub. L. 85-840, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 314 [315] of act Aug. 1, 1956, provided that: "The amendments made by sections 311(b), 312(b), 313 (b), and 314 (b) [to sections 302 (a) (11), 602 (a) (13), 1202 (a) (13), and 1352 (a) (12) of this title] shall become effective July 1, 1957."

EFFECTIVE DATE OF 1950 AMENDMENT

Section 301 (c) of act Aug. 28, 1950, provided that the amendment of subsection (a) shall take effect as of July 1, 1951.

SHORT TITLE OF 1958 AMENDMENTS

Section 1 of Pub. L. 85-840 provided that Pub. L. 85-840, which added sections 722-725 and 1311 of this title, amended this section and sections 303, 401, 402, 403, 406, 408, 409-411, 413-418, 422, 423, 425, 603, 701, 702, 711, 712, 1203, 1301, 1306, 1308 and 1353 of this title, sections 1401, 1402, 3101, 3111, 3121, 3122, 6334 and 6413 of Title 26, Internal Revenue Code, and section 228a of Title 45, Railroads, repealed section 424 of this title, and enacted notes set out under sections 303, 402, 403, 410, 411, 415, 416, 417, 418, 422, 721 and 1202a of this title and sections 1401, 1402 and 3121 of Title 26, should be popularly known as the "Social Security Amendments of 1958".

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health,

Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950, § 361 (c), (d).

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

PUBLIC ACCESS TO STATE DISBURSEMENT RECORDS

Act Oct. 20, 1951, ch. 521, title VI, § 618, 65 Stat. 569, as amended by Pub. L. 86-778, title VI, § 603(a), Sept. 13, 1960, 74 Stat. 992; Pub. L. 87-543, title I, § 141(e), July 25, 1962, 76 Stat. 205, provided that: "No State or any agency or political subdivision thereof shall be deprived of any grant-in-aid or other payment to which it otherwise is or has become entitled pursuant to title I (other than section 3(a)(3) thereof), IV, X, XIV, or XVI (other than section 1603(a)(3) thereof) of the Social Security Act, as amended [subchapters I (other than section 303(a)(3) thereof), IV, X, XIV, or XVI (other than section 1383(a)(3) thereof) of this chapter], by reason of the enactment or enforcement by such State of any legislation prescribing any conditions under which public access may be had to records of the disbursement of any such funds or payments within such State, if such legislation prohibits the use of any list or names obtained through such access to such records for commercial or political purposes."

Section 603(b) of Pub. L. 86-778 provided that the amendment of section 618 of act Oct. 20, 1951, by Pub. L. 86-778, which inserted words "(other than section 3(a)(3) thereof)" shall take effect Oct. 1, 1960.

§ 303. Payment to States; computation of amounts.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has a plan approved under this subchapter, for each quarter, beginning with the quarter commencing October 1, 1960—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as old-age assistance under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $\frac{29}{35}$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$35 multiplied by the total number of recipients of old-age assistance for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received old-age assistance in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as old-age assistance in the form of medical or any other type of remedial care); plus

(B) the Federal percentage (as defined in section 1301(a)(8) of this title) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of \$70 multiplied by the total number of such recipients of old-age assistance for such month; plus

(C) the larger of the following: (i) the Federal medical percentage (as defined in section

306(c) of this title) of the amount by which such expenditures exceed the maximum which may be counted under clause (B), not counting so much of any expenditure with respect to any month as exceeds (I) the product of \$85 multiplied by the total number of such recipients of old-age assistance for such month, or (II) if smaller, the total expended as old-age assistance in the form of medical or any other type of remedial care with respect to such month plus the product of \$70 multiplied by such total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as old-age assistance under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of \$15 multiplied by the total number of such recipients of old-age assistance for such month;

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to—

(A) one-half of the total of the sums expended during such quarter as old-age assistance under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds \$37.50 multiplied by the total number of recipients of old-age assistance for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (I) the product of \$45 multiplied by the total number of such recipients of old-age assistance for such month, or (II) if smaller, the total expended as old-age assistance in the form of medical or any other type of remedial care with respect to such month plus the product of \$37.50 multiplied by the total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as old-age assistance under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of \$7.50 multiplied by the total number of such recipients of old-age assistance for such month;

(3) in the case of any State, an amount equal to the Federal medical percentage (as defined in section 306(c) of this title) of the total amounts expended during such quarter as medical assistance for the aged under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof); and

(4) in the case of any State whose State plan approved under section 302 of this title meets the requirements of subsection (c)(1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during

such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are prescribed pursuant to subsection (c) (1) of this section and are provided (in accordance with the next sentence) to applicants for or recipients of assistance under the plan to help them attain or retain capability for self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c) (1) of this section, and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of assistance under the plan, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of assistance under the plan, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such assistance; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraphs (A) and (B) shall include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this subchapter shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) Subject to limitations prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reason-

ably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(5) in the case of any State whose State plan approved under section 302 of this title does not meet the requirements of subsection (c) (1) of this section, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (4) and provided in accordance with the provisions of such paragraph.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a) of this section, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of aged individuals in the State, and (C) such other investigation as the Secretary of Health, Education, and Welfare may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) of this section for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably

entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to assistance furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter: *Provided*, That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c)(1) In order for a State to qualify for payments under paragraph (4) of subsection (a) of this section, its State plan approved under section 302 of this title must provide that the State agency shall make available to applicants for or recipients of old-age assistance under such State plan at least those services to help them attain or retain capability for self-care which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (4) of subsection (a) of this section until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (4) of subsection (a) of this section but shall instead be made, subject to the other provisions of this subchapter, under paragraph (5) of such subsection. (Aug. 14, 1935, ch. 531, title I, § 3, 49 Stat. 621; Aug. 10, 1939, ch. 666, title I, § 102, 53 Stat. 1361; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title V, § 501, 60 Stat. 991; June 14, 1948, ch. 468, § 3(a), 62 Stat. 439; Aug. 28, 1950, ch. 809, title III, pt. 1, § 302(a), pt. 6, § 361(c)(d), 64 Stat. 548, 558; July 18, 1952, ch. 945, § 8(a), 66 Stat. 778; 1953 Reorg. Plan No. 1,

§§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title III, § 303, 68 Stat. 1097; Aug. 1, 1956, ch. 836, title III, §§ 301, 311(c), 341, 70 Stat. 846, 848, 852; Aug. 28, 1958, Pub. L. 85-840, title V, § 501, 72 Stat. 1047; Sept. 13, 1960, Pub. L. 86-778, title VI, § 601(c), (d), 74 Stat. 989, 990; May 8, 1961, Pub. L. 87-31, § 5 (a), (b), 75 Stat. 77; June 30, 1961, Pub. L. 87-64, title III, § 303(a), 75 Stat. 143; July 25, 1962, Pub. L. 87-543, title I, §§ 101 (a)(1), (b)(1), 132(a), 76 Stat. 173, 179, 193.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (a)(4) (D), (E), is classified to sections 31-42 of Title 29, Labor.

Such Act, referred to in subsec. (a)(4)(D) (i), (ii), refers to the Vocational Rehabilitation Act.

AMENDMENTS

1962—Subsec. (a)(1). Pub. L. 87-543, § 132(a), substituted "29³⁵" and "\$35" for "four-fifths" and "\$31", respectively, in subpar. (A), "\$70" for "\$66" in subpar. (B), and "\$85" and "\$70" for "\$81" and "\$66", respectively, in subpar. (C).

Subsec. (a)(2). Pub. L. 87-543, § 132(a), substituted "\$37.50" for "\$35.50", in subpar. (A) and "\$45" and "\$37.50" for "\$43" and "\$35.50", respectively, in subpar. (B).

Subsec. (a)(4). Pub. L. 87-543, § 101 (a)(1), (b)(1)(A), inserted in the opening provisions "whose State plan approved under section 302 of this title meets the requirements of subsection (c) of this section" following "any State", and substituted provisions which increased the Federal share of expenses of administration of State public assistance plans by providing quarterly payments of the sum of 75 per centum of the quarterly expenses for certain prescribed services to help attain and retain capability for self-care, services likely to prevent or reduce dependency, and services appropriate for individuals who were or are likely to become applicants for or recipients of assistance and request such services, and training of State or local public assistance personnel administering such plans and one-half of other administrative expenses for other services, permitted State health or vocational rehabilitation or other appropriate State agencies to furnish such services, except vocational rehabilitation services, and required the determination of the portion of expenses covered by the 75 and 50 per centum provisions in accordance with methods and procedures permitted by the Secretary for former provisions requiring quarterly payments of one-half of quarterly expenses of administration of State plans, including staff services of State or local public assistance agencies to applicants for and recipients of old-age assistance to help them attain self-care.

Subsec. (a)(5). Pub. L. 87-543, § 101(b)(1)(B), added subsec. (a)(5).

Subsec. (c). Pub. L. 87-543, § 101(b)(1)(C), added subsec. (c).

1961—Subsec. (a)(1). Pub. L. 87-64, § 303(a)(1), substituted "\$31" for "\$30" in subpar. (A), "\$66" for "\$65" in subpar. (B), and "\$81" for "\$80" and "\$66" for "\$65" in subpar. (C).

Pub. L. 87-31, § 5(a), substituted "\$80" and "\$15" for "\$77" and "\$12", respectively, in subpar. (C).

Subsec. (a)(2). Pub. L. 87-64, § 303(a)(2), substituted "\$35.50" for "\$35" in subpar. (A), and "\$35.50" for "\$35" and "\$43" for "\$42.50" in subpar. (B).

Pub. L. 87-31, § 5(b), substituted "\$42.50" and "\$7.50" for "\$41" and "\$6", respectively, in subpar. (B).

1960—Subsec. (a). Pub. L. 86-778, § 601(c), added pars. (1)(C), (2)(B), and (3).

Subsec. (b)(2). Pub. L. 86-778, § 601(d), substituted "assistance furnished under the State plan" for "old-age assistance furnished under the State plan" in cl. (B).

1958—Subsec. (a). Pub. L. 85-840 increased the payments to the States to four-fifths of the first \$30 of the average monthly payment per recipient, including assistance in the form of money payments and in the form of medical or any other type of remedial care, plus the Federal percentage of the amount by which the expenditures

exceed the maximum which may be counted under cl. (A), but excluding that part of the average monthly payment per recipient in excess of \$65, increased the average monthly payment to Puerto Rico and the Virgin Islands from \$30 to \$35, excluded Guam from the provisions which authorize an average monthly payment of \$65 and included Guam within the provisions which authorize an average monthly payment of \$35, and permitted the counting of individuals with respect to whom expenditures were made as old-age assistance in the form of medical or any other type of remedial care in determining the total number of recipients.

1956—Subsec. (a). Act Aug. 1, 1956, § 301, substituted "during such quarter as old-age assistance in the form of money payments under the State plan" for "during such quarter as old-age assistance under the State plan" in clauses (1) and (2), "who received old-age assistance in the form of money payments for such month" for "who received old-age assistance for such month" in par. (A) of clause (1), and inserted clause (4).

Subsec. (a). Act Aug. 1, 1956, § 311 (c), eliminated "which shall be used exclusively as old-age assistance," following "the Virgin Islands, an amount" in clauses (1) and (2), and substituted "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of old-age assistance to help them attain self-care" for "which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose" in clause (3).

Subsec. (a). Act Aug. 1, 1956, § 341, substituted "October 1, 1956" for "October 1, 1952", eliminated "which shall be used exclusively as old-age assistance," following "the Virgin Islands, an amount", and substituted "\$60" for "\$55", in clause (1), substituted "the product of \$30" for "the product of \$25" in par. (A) of clause (1), and "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of old-age assistance to help them attain self-care" for "which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose" in clause (3).

1954—Subsec. (b). Act Sept. 1, 1954, § 303 (b), substituted "subsection (a)" for "clause (1) of subsection (a)", wherever appearing, substituted "such subsection" for "such clause" in par. (1), and struck out "increased by five per centum" at the end of par. (3).

Subsec. (b) (1). Act Sept. 1, 1954, § 303 (a), substituted the words "the State's proportionate share" for "one-half."

1952—Subsec. (a). Act July 18, 1952, increased the Federal share of the State's average monthly payment to four-fifths of the first \$25 plus one-half of the remainder within individual maximums of \$55, and changed formulas for computing the Federal share of public assistance for Puerto Rico and Virgin Islands.

1950—Subsec. (a). Act Aug. 28, 1950, § 302 (a) changed the basis for computation of the Federal portion of old-age assistance.

1948—Subsec. (a). Act June 14, 1948, substituted \$50 for \$45 and \$20 for \$15.

1946—Subsec. (a). Act Aug. 10, 1946, § 501 (a), increased the maximum monthly State expenditure for an individual to which the Federal Government will contribute from \$40 to \$45, increased the Federal contribution for assistance from one-half the State's expenditure to two-thirds the State's expenditure up to \$15 monthly per individual plus one-half the State's expenditure over \$15 and changed the Federal contribution for administration from 5 percent of the Federal contribution for assistance to one-half the State expenditure for administration.

Subsec. (b). Act Aug. 10, 1946, § 501 (b), changed references to clause (1) of subsec. (a) to refer to the entire subsection, substituted "the State's proportionate share" for "one-half" in par. (1) and struck out "increased by 5 per centum" at end of par. (3).

1939—Act Aug. 10, 1939, amended section generally, including the substitution of \$40 for \$30 in subsec. (a).

EFFECTIVE DATE OF 1962 AMENDMENT

Section 202 (d) of Pub. L. 87-543 provided that: "The amendments made by sections 109 and 132 (other than subsections (d) and (e) thereof) [amending sections 303 (a) (1), (2), 606 (b), 1203 (a) (1), (2) and 1353 (a) (1), (2) of this title] shall be applicable in the case of expenditures, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapter I, IV, X, or XIV of this chapter], as the case may be, made after September 30, 1962."

Section 202 (f) of Pub. L. 87-543 provided that: "The amendments made by section 101 (a) [amending sections 303 (a) (4), 603 (a) (1)–(3), 1203 (a) (3) and 1353 (a) (3) of this title] shall be applicable in the case of expenditures, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapters I, IV, X, or XIV of this chapter], as the case may be, made after August 31, 1962. The amendments made by section 101 (b) [adding sections 303 (a) (5), (c), 603 (a) (4), (c), 1203 (a) (4), (c) and 1353 (a) (4), (e) of this title and amending sections 303 (a) (4), 603 (a) (3), 608 (d), 609 (b), 1203 (a) (3) and 1353 (a) (3) of this title] shall be applicable in the case of expenditures, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapters I, IV, X, or XIV of this chapter], as the case may be, made after June 30, 1963."

EFFECTIVE DATE OF 1961 AMENDMENTS

Section 303 (e) of Pub. L. 87-64, as amended by Pub. L. 87-543, title I, § 132 (e), July 25, 1962, 76 Stat. 196, provided that: "The amendments made by subsections (a), (b), and (c) of this section [to subsec. (a) of this section and sections 1203 (a) and 1353 (a) of this title] shall apply only in the case of expenditures made after September 30, 1961, and before October 1, 1962, under a State plan approved under title I, X, or XIV, as the case may be, of the Social Security Act [subchapters I, X or XIV of this chapter]."

Section 5 (c) of Pub. L. 87-31 provided that: "The amendments made by subsections (a) and (b) [to subsecs. (a) (1) (C) and (a) (2) (B) of this section] shall apply in the case of expenditures made after June 30, 1961, under a State plan approved under title I of the Social Security Act [this subchapter]."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsecs. (a) and (b) (2) (B) of this section by Pub. L. 86-778 effective Oct. 1, 1960, see section 604 of Pub. L. 86-778, set out as a note under section 301 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 512 of Pub. L. 85-840 provided that: "Notwithstanding the provisions of sections 305 and 345 of the Social Security Amendments of 1956, as amended [set out as note under this section], the amendments made by sections 501, 502, 503, 504, 505, and 506 [to subsec. (a) of this section and sections 603 (a), 1203 (a), 1301 (a) (1), (8) and 1353 (a) of this title] shall be effective—

"(1) in the case of money payments, under a State plan approved under title I, IV, X, or XIV of the Social Security Act, for months after September 1958, and

"(2) in the case of assistance in the form of medical or any other type of remedial care, under such a plan, with respect to expenditures made after September 1958. The amendment made by section 506 [to section 1301 (a) (1) of this title] shall also become effective, for purposes of title V of the Social Security Act [subchapter V of this chapter], for fiscal years ending after June 30, 1959. The amendments made by section 507 [to section 1308 of this title] shall be effective for fiscal years ending after June 30, 1958. The amendment made by section 508 [to section 1304 of this title] shall be effective for fiscal years ending after June 30, 1959. The amendment made by section 510 shall become effective October 1, 1958."

EFFECTIVE AND TERMINATION DATE OF 1956 AMENDMENT

Section 345 of part V of title III of act Aug. 1, 1956, provided that: "The amendments made by this part [by sections 341–344 of act Aug. 1, 1956, to sections 303 (a), 603 (a), 1203 (a), and 1353 (a) of this title] shall be

effective for the period beginning October 1, 1956, and ending with the close of June 30, 1959, and after such amendments cease to be in effect any provision of law amended thereby shall be in full force and effect as though this part had not been enacted."

EFFECTIVE DATE OF 1956 AMENDMENT

Section 305 of part I of title III of act Aug. 1, 1956, as amended by Pub. L. 85-110, July 17, 1957, 71 Stat. 308, provided that:

"(a) Except as provided in subsection (b), the amendments made by this part [to subsec. (a) of this section and sections 603 (a), 1203 (a) and 1353 (a) of this title] shall become effective July 1, 1957.

"(b) The amendments made by any section of this part shall not apply to any State (as defined in section 1101 of the Social Security Act [section 1301 of this title] for purposes of title I thereof [subchapter I of this chapter]) for any fiscal year for which there is in effect an election by it not to have the amendments made by such section apply to it. Any such election shall be in effect for a fiscal year only if notice of the election has been filed with the Secretary of Health, Education, and Welfare at some time prior to May 16 of the preceding fiscal year, except that any such election shall be in effect for the fiscal year beginning July 1, 1957, if notice of the election is filed with the Secretary prior to August 1, 1957. An election by a State under this subsection shall continue in effect until the close of any fiscal year designated in a notice of termination of such election which is filed with the Secretary of Health, Education, and Welfare prior to May 16 of such year. Elections hereunder shall be made, and notices thereof and notices of termination shall be filed, on such form or forms and in such manner as the Secretary of Health, Education, and Welfare may prescribe."

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT

Section 8 (e) of act July 18, 1952, as amended by act Sept. 1, 1954, § 301, provided that: "The amendments made by this section [to sections 303 (a), 603 (a), 1203 (a), and 1353 (a) of this title] shall be effective for the period beginning October 1, 1952, and ending with the close of September 30, 1956, and after such amendments cease to be in effect any provision of law amended thereby shall be in full force and effect as though this Act [July 18, 1952] had not been enacted." See, also, effective and termination date note above.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 302 (a) of act Aug. 28, 1950, provided that the amendment of subsection (a) shall take effect as of Oct. 1, 1950.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 3 (d) of act June 14, 1948, provided that the amendment of subsec. (a) of this section by section 3 (a) of act June 14, 1948, shall become effective on Oct. 1, 1948.

TERMINATION DATE OF 1946 AMENDMENTS

Section 504 of act Aug. 10, 1946, as amended by act Aug. 6, 1947, ch. 510, § 3, 61 Stat. 794, provided that amendments to this section and sections 608 and 1203 of this title by sections 501, 502, and 503 of that act shall be effective with respect to the period commencing Oct. 1, 1946, and ending on June 30, 1950.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 102 of act Aug. 10, 1939.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of the 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board," and "he", "him", or "his" or "it" or "its" wherever appearing by act Aug. 28, 1950, § 361 (c), (d).

Identical changes were effected by 1946 Reorg. Plan No. 2, § 4. See note under section 902 of this title.

Division of Disbursement and certain other offices and agencies and their functions were consolidated into Fiscal Service of Treasury Department by 1940 Reorg. Plan No. III, § 1 (a), set out in note under section 133t of Title 5, Executive Departments and Government Officers and Employees.

ADVISORY COUNCIL ON PUBLIC ASSISTANCE

Section 704 of Pub. L. 85-840 established an Advisory Council on Public Assistance for the purpose of reviewing the status of the public assistance program in relation to the old-age, survivors, and disability insurance program, the fiscal capacities of the States and the Federal Government, and any other factors bearing on the amount and proportion of the Federal and State shares in the public assistance program. The Council was directed to make a report of its findings and recommendations to the Secretary and the Congress, not later than January 1, 1960, after which date such Council ceased to exist.

ELECTION OF PAYMENTS UNDER COMBINED STATE PLAN RATHER THAN SEPARATE PLANS

Payments to States under combined State plan under subchapter XVI of this chapter as precluding payment under State plan conforming to this subchapter, see section 141(b) of Pub. L. 87-543, set out as a note under section 1383 of this title.

CROSS REFERENCES

Navajo and Hopi Indians, additional Federal contributions in connection with rehabilitation program, see section 639 of Title 25, Indians.

§ 304. Stopping payment on deviation from required provisions of plan or failure to comply therewith.

In the case of any State plan which has been approved under this subchapter by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any age, residence, or citizenship requirement prohibited by section 302 (b) of this title, or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 302 (a) of this title to be included in the plan;

the Secretary of Health, Education, and Welfare shall notify such State agency that further payments will not be made to the State until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State. (Aug. 14, 1935, ch. 531, title I, § 4, 49 Stat. 622; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (c), (d), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Sept. 13, 1960, Pub. L. 86-778, title VI, § 601 (e), 74 Stat. 991.)

AMENDMENTS

1960—Pub. L. 86-778 substituted "State plan which has been approved under this subchapter" for "State plan for old-age assistance which has been approved."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of section by Pub. L. 86-778 effective Oct. 1, 1960, see section 604 of Pub. L. 86-778, set out as a note under section 301 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950.

Identical changes were effected by 1946 Reorg. Plan. No. 2. See note under section 902 of this title.

§ 305. Appropriation.

CODIFICATION

Section, act Aug. 14, 1935, ch. 531, Title I, § 5, 49 Stat. 622, made an appropriation for the fiscal year ending June 30, 1936.

§ 306. Definitions.

(a) For the purposes of this subchapter, the term "old-age assistance" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for assistance) medical care in behalf of or any type of remedial care recognized under State law in behalf of, needy individuals who are sixty-five years of age or older, but does not include—

(1) any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an institution for tuberculosis or mental diseases, or

(2) any such payments to any individual who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof, or

(3) any such care in behalf of any individual, who is a patient in a medical institution as a result of a diagnosis that he has tuberculosis or psychosis, with respect to any period after the individual has been a patient in such an institution, as a result of such diagnosis, for forty-two days.

(b) For purposes of this subchapter, the term "medical assistance for the aged" means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance) for individuals sixty-five years of age or older who are not recipients of old-age assistance but whose income and resources are insufficient to meet all of such cost—

- (1) inpatient hospital services;
- (2) skilled nursing-home services;
- (3) physicians' services;
- (4) outpatient hospital or clinic services;
- (5) home health care services;
- (6) private duty nursing services;

(7) physical therapy and related services;

(8) dental services;

(9) laboratory and X-ray services;

(10) prescribed drugs, eyeglasses, dentures, and prosthetic devices;

(11) diagnostic, screening, and preventive services; and

(12) any other medical care or remedial care recognized under State law;

except that such term does not include any such payments with respect to—

(A) care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an institution for tuberculosis or mental diseases; or

(B) care or services for any individual, who is a patient in a medical institution as a result of a diagnosis of tuberculosis or psychosis, with respect to any period after the individual has been a patient in such an institution, as a result of such diagnosis, for forty-two days.

(c) For purposes of this subchapter, the term "Federal medical percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (i) the Federal medical percentage shall in no case be less than 50 per centum or more than 80 per centum, and (ii) the Federal medical percentage for Puerto Rico, the Virgin Islands, and Guam shall be 50 per centum. The Federal medical percentage for any State shall be determined and promulgated in accordance with the provisions of subparagraph (B) of section 1301(a)(8) of this title (other than the proviso at the end thereof); except that the Secretary shall, as soon as possible after September 13, 1960, determine and promulgate the Federal medical percentage for each State—

(1) for the period beginning October 1, 1960, and ending with the close of June 30, 1961, which promulgation shall be based on the same data with respect to per capita income as the data used by the Secretary in promulgating the Federal percentage (under section 1301(a)(8) of this title) for such State for the fiscal year ending June 30, 1961 (which promulgation of the Federal medical percentage shall be conclusive for such period), and

(2) for the period beginning July 1, 1961, and ending with the close of June 30, 1963, which promulgation shall be based on the same data with respect to per capita income as the data used by the Secretary in promulgating the Federal percentage (under section 1301(a)(8) of this title) for such State for such period (which promulgation of the Federal medical percentage shall be conclusive for such period).

(Aug. 14, 1935, ch. 531, title I, § 6, 49 Stat. 622; Aug. 10, 1939, ch. 666, title I, § 103, 53 Stat. 1362; Aug. 28, 1950, ch. 809, title III, pt. 1, § 303(a), 64 Stat. 549; Sept. 13, 1960, Pub. L. 86-778, title VI, § 601(f), 74

Stat. 991; July 25, 1962, Pub. L. 87-543, title I, §156(a), 76 Stat. 207.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-543, § 156 (a) (1), inserted "(if provided in or after the third month before the month in which the recipient makes application for assistance)" preceding "medical care."

Subsec. (b). Pub. L. 87-543, § 156(a) (2), inserted "(if provided in or after the third month before the month in which the recipient makes application for assistance)" following "care and services."

1960—Subsec. (a). Pub. L. 86-778, § 601(f) (1), (2), designated existing provisions as subsec. (a), and inserted provisions therein excluding from the definition "old-age assistance" any care in behalf of any individual, who is a patient in a medical institution as a result of a diagnosis that he has tuberculosis or psychosis, with respect to any period after the individual has been a patient in an institution, as a result of such diagnosis, for forty-two days.

Subsecs. (b), (c). Pub. L. 86-778, § 601(f) (2), added subsecs. (b) and (c).

1950—Act Aug. 28, 1950, redefined "old-age assistance".

1939—Act Aug. 10, 1939, inserted "needy" preceding "individuals who".

EFFECTIVE DATE OF 1962 AMENDMENT

Section 156(e) of Pub. L. 87-543 provided that: "The amendments made by this section [to sections 306 (a), (b), 606(b), 1206 and 1355 of this title] shall apply in the case of applications made after September 30, 1962, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapter I, IV, X, or XIV of this chapter]."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of section by Pub. L. 86-778 effective Oct. 1, 1960, see section 604 of Pub. L. 86-778, set out as a note under section 301 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 303 (b) of act Aug. 28, 1950, provided that: "The amendment made by subsection (a) [to this section] shall take effect October 1, 1950, except that the exclusion of money payments to needy individuals described in clause (a) or (b) of section 6 of the Social Security Act as so amended [clauses (a) or (b) of this section] shall, in the case of any of such individuals who are not patients in a public institution, be effective July 1, 1952."

SUBCHAPTER II.—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

AMENDMENTS

1956—Act Aug. 1, 1956, ch. 836, title I, § 103 (1), 70 Stat. 824, included disability insurance benefits in subchapter heading.

§ 401. Federal old-age and survivors insurance trust fund and Federal disability insurance trust fund.

(a) There is created on the books of the Treasury of the United States a trust fund to be known as the "Federal Old-Age and Survivors Insurance Trust Fund." The Federal Old-Age and Survivors Insurance Trust Fund shall consist of the securities held by the Secretary of the Treasury for the Old-Age Reserve Account and the amount standing to the credit of the Old-Age Reserve Account on the books of the Treasury on January 1, 1940, which securities and amount the Secretary of the Treasury is authorized and directed to transfer to the Federal Old-Age and Survivors Insurance Trust Fund, and, in addition, such amounts as may be appropriated to, or deposited in, the Federal Old-Age and Survivors Insurance Trust Fund as hereinafter provided. There is appropriated to the Federal Old-Age and

Survivors Insurance Trust Fund for the fiscal year ending June 30, 1941, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) the taxes (including interest, penalties, and additions to the taxes) received under subchapter A of chapter 9 of Title 26, Internal Revenue Code of 1939, (and covered into the Treasury) which are deposited into the Treasury by collectors of internal revenue before January 1, 1951; and

(2) the taxes certified each month by the Commissioner of Internal Revenue as taxes received under subchapter A of chapter 9 of Title 26, Internal Revenue Code of 1939 which are deposited into the Treasury by collectors of internal revenue after December 31, 1950, and before January 1, 1953, with respect to assessments of such taxes made before January 1, 1951; and

(3) the taxes imposed by subchapter A of chapter 9 of Title 26, Internal Revenue Code of 1939 with respect to wages (as defined in section 1426 of Title 26, Internal Revenue Code of 1939), and by chapter 21 of Title 26, Internal Revenue Code of 1954 with respect to wages (as defined in section 3121 of Title 26, Internal Revenue Code of 1954), reported to the Commissioner of Internal Revenue pursuant to section 1420 (c) of Title 26, Internal Revenue Code of 1939, after December 31, 1950, or to the Secretary of the Treasury or his delegates pursuant to subtitle F of Title 26, Internal Revenue Code of 1954, after December 31, 1954, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such subchapter or chapter 21 to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports, less the amounts specified in clause (1) of subsection (b) of this section; and

(4) the taxes imposed by subchapter E of chapter 1 of Title 26, Internal Revenue Code of 1939, with respect to self-employment income (as defined in section 481 of Title 26, Internal Revenue Code of 1939), and by chapter 2 of Title 26, Internal Revenue Code of 1954, with respect to self-employment income (as defined in section 1402 of Title 26, Internal Revenue Code of 1954) reported to the Commissioner of Internal Revenue on tax returns under such subchapter or to the Secretary of the Treasury or his delegate on tax returns under subtitle F of Title 26, Internal Revenue Code of 1954, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such subchapter or chapter to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns, less the amounts specified in clause (2) of subsection (b) of this section.

The amounts appropriated by clauses (3) and (4) of this subsection shall be transferred from time to time from the general fund in the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund, and the amounts appropriated by clauses (1) and (2) of subsection (b) of this section shall be transferred from time to time from the general fund in the Treasury to the Federal Disability Insurance Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in clauses (3) and (4) of this subsection, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such clauses (3) and (4) of this subsection.

(b) There is created on the books of the Treasury of the United States a trust fund to be known as the "Federal Disability Insurance Trust Fund". The Federal Disability Insurance Trust Fund shall consist of such amounts as may be appropriated to, or deposited in, such fund as provided in this section. There is appropriated to the Federal Disability Insurance Trust Fund for the fiscal year ending June 30, 1957, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) one-half of 1 per centum of the wages (as defined in section 3121 of Title 26, Internal Revenue Code of 1954) paid after December 31, 1956, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of Title 26, Internal Revenue Code of 1954, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and

(2) three-eighths of 1 per centum of the amount of self-employment income (as defined in section 1402 of Title 26, Internal Revenue Code of 1954) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of Title 26, Internal Revenue Code of 1954 for any taxable year beginning after December 31, 1956, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

(c) With respect to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (hereinafter in this subchapter called the "Trust Funds") there is created a body to be known as the Board of Trustees of the Trust Funds (hereinafter in this subchapter called the "Board of Trustees") which Board of Trustees shall be composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this subchapter called the "Managing Trustee"). The Commissioner of Social Security shall serve as Secretary of the Board of Trustees. The Board of

Trustees shall meet not less frequently than once each six months. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Funds;

(2) Report to the Congress not later than the first day of March of each year on the operation and status of the Trust Funds during the preceding fiscal year and on their expected operation and status during the next ensuing five fiscal years;

(3) Report immediately to the Congress whenever the Board of Trustees is of the opinion that the amount of either of the Trust Funds is unduly small;

(4) Recommend improvements in administrative procedures and policies designed to effectuate the proper coordination of the old-age and survivors insurance and Federal-State unemployment compensation program; and

(5) Review the general policies followed in managing the Trust Funds, and recommend changes in such policies, including necessary changes in the provisions of the law which govern the way in which the Trust Funds are to be managed.

The report provided for in paragraph (2) of this subsection shall include a statement of the assets of, and the disbursements made from, the Trust Funds during the preceding fiscal year, an estimate of the expected future income to, and disbursements to be made from, the Trust Funds during each of the next ensuing five fiscal years, and a statement of the actuarial status of the Trust Funds. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(d) It shall be the duty of the Managing Trustee to invest such portion of the Trust Funds as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are extended to authorize the issuance at par of public-debt obligation for purchase by the Trust Funds. Such obligations issued for purchase by the Trust Funds shall have maturities fixed with due regard for the needs of the Trust Funds and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligations shall be the multiple of one-eighth of 1 per

centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(e) Any obligations acquired by the Trust Funds (except public-debt obligations issued exclusively to the Trust Funds) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(f) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall be credited to and form a part of the Federal Old-Age and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund, respectively.

(g) (1) The Managing Trustee is directed to pay from the Trust Funds into the Treasury the amounts estimated by him and the Secretary of Health, Education, and Welfare which will be expended, out of moneys appropriated from the general funds in the Treasury, during a three-month period by the Department of Health, Education, and Welfare and the Treasury Department for the administration of subchapters II and VIII of this chapter and subchapter E of chapter 1 and subchapter A of chapter 9 of Title 26, Internal Revenue Code of 1939, and chapters 2 and 21 of Title 26, Internal Revenue Code of 1954. Such payments shall be covered into the Treasury as repayments to the account for reimbursement of expenses incurred in connection with the administration of subchapters II and VIII of this chapter and subchapter E of chapter 1 and subchapter A of chapter 9 of Title 26, Internal Revenue Code of 1939, and chapters 2 and 21 of Title 26, Internal Revenue Code of 1954. There are authorized to be made available for expenditure, out of either or both of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of administration of this subchapter. After the close of each fiscal year, the Secretary of Health, Education, and Welfare shall analyze the costs of administration of this subchapter incurred during such fiscal year in order to determine the portion of such costs which should have been borne by each of the Trust Funds and shall certify to the Managing Trustee the amount, if any, which should be transferred from one to the other of such Trust Funds in order to insure that each of the Trust Funds has borne its proper share of the costs of administration of this subchapter incurred during such fiscal year. The Managing Trustee is authorized and directed to transfer any such amount from one to the other of such Trust Funds in accordance with any certification so made.

(2) The Managing Trustee is directed to pay from time to time from the Trust Funds into the Treasury the amount estimated by him as taxes which are subject to refund under section 6413 (c) of Title 26, Internal Revenue Code of 1954 with respect to wages (as defined in section 1426 of the Internal Revenue

Code of 1939 and section 3121 of Title 26, Internal Revenue Code of 1954) paid after December 31, 1950. Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Commissioner of Internal Revenue pursuant to section 1420 (c) of Title 26, Internal Revenue Code of 1939 and to the Secretary of the Treasury or his delegate pursuant to subtitle F of Title 26, Internal Revenue Code of 1954, and the Secretary shall furnish the Managing Trustee such information as may be required by the Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections. Payments pursuant to the first sentence of this paragraph shall be made from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund in the ratio in which amounts were appropriated to such Trust Funds under clause (3) of subsection (a) of this section and clause (1) of subsection (b) of this section.

(3) Repayments made under paragraph (1) or (2) of this subsection shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under either such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

(h) Benefit payments required to be made under section 423 of this title, and benefit payments required to be made under subsection (b), (c), or (d) of section 402 of this title to individuals entitled to benefits on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, shall be made only from the Federal Disability Insurance Trust Fund. All other benefit payments required to be made under this subchapter shall be made only from the Federal Old-Age and Survivors Insurance Trust Fund. (Aug. 14, 1935, ch. 531, title II, § 201, 49 Stat. 622; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; Feb. 25, 1944, ch. 63, title IX, § 902, 58 Stat. 93; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title I, § 109(a), 64 Stat. 521; Aug. 1, 1956, ch. 836, title I, § 103(e), 70 Stat. 819; Aug. 28, 1958, Pub. L. 85-840, title II, § 205(a), 72 Stat. 1021; Sept. 22, 1959, Pub. L. 86-346, title I, § 104(2), 73 Stat. 622; Sept. 13, 1960, Pub. L. 86-778, title VII, § 701(a—e), 74 Stat. 992.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (d), is classified to sections 745, 752—754b, 757, 757b—758, 760, 764—766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

AMENDMENTS

1960—Subsec. (c). Pub. L. 86-778, § 701(a—c), required the Board of Trustees to meet not less frequently than once each six months, eliminated provisions from cl. (3) which required the Board to report immediately to the Congress whenever the Board is of the opinion that during the ensuing five fiscal years either of the Trust Funds will exceed three times the highest annual expenditures from such Trust Fund anticipated during that five-fiscal-year period, and added cl. (5).

Subsec. (d). Pub. L. 86-778, § 701(d), substituted "shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month" for "bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt that are not due or callable until after the expiration of five years from the date of original issue", and substituted provisions authorizing the purchase of other interest-bearing obligations when the Managing Trustee determines that it is in the public interest for provisions which authorized the issuance of obligations by the Trust Funds only if the Managing Trustee determined that the purchase of other obligations was not in the public interest.

Subsec. (e). Pub. L. 86-778, § 701(e), substituted "public-debt obligations" for "special obligations" in two instances.

1959—Subsec. (d). Pub. L. 86-346 substituted "on original issue at the issue price" for "on original issue at par."

1958—Subsec. (h). Pub. L. 85-840 provided that benefit payments required to be made under subsection (b), (c), or (d) of section 402 of this title to individuals entitled to benefits on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits be made only from the Federal Disability Insurance Trust Fund.

1956—Act Aug. 1, 1956, amended section generally by inserting references to taxes imposed by the Internal Revenue Code of 1954, substituting "Secretary of Health, Education, and Welfare" for "Federal Security Administrator," creating the Federal Disability Insurance Trust Fund, requiring obligations issued for purchase by the Trust Funds to have maturities fixed with due regard for the needs of the Trust Funds, authorizing to be made available for expenditure out of the Trust Funds such amounts as Congress deems necessary to pay costs of administration of subchapter, and requiring the Secretary of Health, Education, and Welfare to analyze costs of administration so that each Trust Fund may be charged with its proper share.

1950—Subsec. (a). Act Aug. 28, 1950, § 109(a)(1)—(3), substituted "such amounts as may be appropriated to, or deposited in, the Trust Fund" for "such amounts as may be appropriated to the Trust Fund" in the second sentence, simplified the accounting and collection processes required for determining the amounts appropriated to the trust fund, as set out in the third sentence, and struck out the fourth sentence authorizing the appropriation of additional funds.

Subsec. (b). Act Aug. 28, 1950, § 109(a)(4)—(8), substituted "Federal Security Administrator" for "Chairman of the Social Security Board", changed the filing date for the annual report from the first day of each regular session of Congress to March 1 of each year, added par. (4), added sentence to require the report to be printed as a House document, and made Commissioner of Social Security the Secretary of the Board of Trustees.

Subsec. (f). Act Aug. 28, 1950, § 109(a)(9), changed reference in text from Title II of the Federal Insurance Contributions Act to subchapter A of chapter 9 and subchapter E of chapter 1 of Title 26 to avoid confusion and to include the new provisions of Title 26 relating to the collection of taxes from the self-employed.

1944—Subsec. (a). Act Feb. 25, 1944, added a sentence authorizing the appropriation of additional funds.

1939—Act Aug. 10, 1939, amended section generally.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 701(f) of Pub. L. 86-778 provided that: "The amendments made by this section [to subsecs. (c), (d) and (e) of this section] shall take effect on the first day of the first month beginning after the date of the enactment of this Act [Sept. 13, 1960]."

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsec. (h) of this section by section 205 of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after August 1958, but only if an application for such benefits is filed on or after August 28, 1958, see section 207(a) of Pub. L. 85-840, set out as a note under section 418 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of such act.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

In subsections (b) and (f), "Federal Security Administrator" was substituted for "Chairman of the Social Security Board" and "Social Security Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

TAXES ON SERVICES RENDERED BY EMPLOYEES OF INTERNATIONAL ORGANIZATIONS PRIOR TO JAN. 1, 1946

Section 5(b) of act Dec. 29, 1945, ch. 652, title I, 59 Stat. 669, prohibited collection of tax under title VIII or IX of the Social Security Act or under the Federal Insurance Contributions Act or the Federal Unemployment Tax Act with respect to services rendered prior to January 1, 1946, which were described in paragraph (16) of sections 1426(b) and 1607(c) of the Internal Revenue Code of 1939, and authorized refund of taxes collected.

§ 401a. Advisory Council on Social Security Financing.

(a) There is established an Advisory Council on Social Security Financing for the purpose of reviewing the status of the Federal Old-Age and Survivors Insurance Trust Fund and of the Federal Disability Insurance Trust Fund in relation to the long-term commitments of the old-age, survivors, and disability insurance program.

(b) The Council shall be appointed by the Secretary after February 1957 and before January 1958 without regard to the civil-service laws and shall consist of the Commissioner of Social Security, as chairman, and of twelve other persons who shall, to the extent possible, represent employers and employees in equal numbers, and self-employed persons and the public.

(c) (1) The Council is authorized to engage such technical assistance, including actuarial services, as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such actuarial and other pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out such functions.

(2) Members of the Council, while serving on business of the Council (inclusive of travel time), shall receive compensation at rates fixed by the Secretary, but not exceeding \$50 per day; and shall be entitled to receive actual and necessary traveling expenses and per diem in lieu of subsistence while so serving away from their places of residence.

(d) The Council shall make a report of its findings and recommendations (including recommendations for changes in the tax rates in sections 1401,

3101, and 3111 of Title 26, Internal Revenue Code of 1954) to the Secretary of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, such report to be submitted not later than January 1, 1959, after which date such Council shall cease to exist. Such findings and recommendations shall be included in the annual report of the Board of Trustees to be submitted to the Congress not later than March 1, 1959.

(e) During 1963, 1966, and every fifth year thereafter, the Secretary shall appoint an Advisory Council on Social Security Financing, with the same functions, and constituted in the same manner, as prescribed in the preceding subsections of this section. Each such Council shall report its findings and recommendations, as prescribed in subsection (d) of this section, not later than January 1 of the second year after the year in which it is appointed, after which date such Council shall cease to exist, and such report and recommendations shall be included in the annual report of the Board of Trustees to be submitted to the Congress not later than the March 1 following such January 1.

(f) The Advisory Council appointed under subsection (e) of this section during 1963 shall, in addition to the other findings and recommendations it is required to make, include in its report its findings and recommendations with respect to extensions of the coverage of the old-age, survivors, and disability insurance program, the adequacy of benefits under the program, and all other aspects of the program. (Aug. 1, 1956, ch. 836, title I, § 116, 70 Stat. 833; Sept. 13, 1960, Pub. L. 86-778, title VII, § 704, 74 Stat. 994.)

CODIFICATION

Section was not enacted as part of Title II of the Social Security Act which comprises this subchapter.

AMENDMENTS

1960—Subsec. (e). Pub. L. 86-778, § 704(a), substituted "During 1963, 1966, and every fifth year thereafter, the Secretary shall appoint" for "Not earlier than three years and not later than two years prior to January 1 of the first year for which each ensuing scheduled increase (after 1960) in the tax rates is effective under the provisions of sections 3101 and 3111 of Title 26, Internal Revenue Code of 1954, the Secretary shall appoint" and "January 1 of the second year after the year in which it is appointed" for "January 1 of the year preceding the year in which such scheduled change in the tax rates occurs."

Subsec. (f). Pub. L. 86-778, § 704(b), added subsec. (f).

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

§ 402. Old-age and survivors insurance benefit payments.

(a) Old-age insurance benefits.

Every individual who—

(1) is a fully insured individual (as defined in section 414 (a) of this title),

(2) has attained age 62, and

(3) has filed application for old-age insurance benefits or was entitled to disability insurance benefits for the month preceding the month in which he attained the age of 65,

shall be entitled to an old-age insurance benefit for each month, beginning with the first month after August 1950 in which such individual becomes so entitled to such insurance benefits and ending with the month preceding the month in which he dies. Except as provided in subsection (q) of this section, such individual's old-age insurance benefit for any month shall be equal to his primary insurance amount (as defined in section 415 (a) of this title) for such month.

(b) Wife's insurance benefits.

(1) The wife (as defined in section 416 (b) of this title) of an individual entitled to old-age or disability insurance benefits, if such wife—

(A) has filed application for wife's insurance benefits,

(B) has attained age 62 or has in her care (individually or jointly with her husband) at the time of filing such application a child entitled to a child's insurance benefit on the basis of the wages and self-employment income of her husband,

(C) is not entitled to old-age or disability insurance benefits, or is entitled to old-age or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of her husband, shall be entitled to a wife's insurance benefit for each month, beginning with the first month after August 1950 in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: she dies, her husband dies, they are divorced a vinculo matrimonii, no child of her husband is entitled to a child's insurance benefit and she has not attained age 62, she becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of her husband, or her husband is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

(2) Except as provided in subsection (q) of this section such wife's insurance benefit for each month shall be equal to one-half of the primary insurance amount of her husband for such month.

(c) Husband's insurance benefits.

(1) The husband (as defined in section 416 (f) of this title) of a currently insured individual (as defined in section 414 (b) of this title) entitled to old-age or disability insurance benefits, if such husband—

(A) has filed application for husband's insurance benefits,

(B) has attained age 62,

(C) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual—

(1) if she had a period of disability which did not end prior to the month in which she became entitled to old-age or disability insurance benefits, at the beginning of such period or at the time she became entitled to such benefits, or

(ii) if she did not have such a period of disability, at the time she became entitled to such benefits,

and filed proof of such support within two years after the month in which she filed application with respect to such period of disability or after the month in which she became entitled to such benefits, as the case may be, or, if she did not have such a period, two years after the month in which she became entitled to such benefits, and

(D) is not entitled to old-age or disability insurance benefits, or is entitled to old-age or disability insurance benefits based on a primary insurance amount which is less than one-half of the primary insurance amount of his wife,

shall be entitled to a husband's insurance benefit for each month, beginning with the first month after August 1950 in which he becomes so entitled to such insurance benefits and ending with the month preceding the month in which any of the following occurs: he dies, his wife dies, they are divorced a vinculo matrimonii, he becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of his wife, or his wife is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

(2) The requirement in paragraph (1) of this subsection that the individual entitled to old-age or disability insurance benefits be a currently insured individual, and the provisions of subparagraph (C) of such paragraph, shall not be applicable in the case of any husband who—

(A) in the month prior to the month of his marriage to such individual was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (f) or (h) of this section; or

(B) in the month prior to the month of his marriage to such individual had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of this section.

(3) Except as provided in subsection (q) of this section, such husband's insurance benefit for each month shall be equal to one-half of the primary insurance amount of his wife for such month.

(d) Child's insurance benefits.

(1) Every child (as defined in section 416(e) of this title) of an individual entitled to old-age or disability insurance benefits, or of an individual who dies a fully or currently insured individual, if such child—

(A) has filed application for child's insurance benefits,

(B) at the time such application was filed was unmarried and either (i) had not attained the age of eighteen or (ii) was under a disability (as defined in section 423(c) of this title) which began before he attained the age of eighteen, and

(C) was dependent upon such individual—

(i) if such individual is living, at the time such application was filed,

(ii) if such individual has died, at the time of such death, or

(iii) if such individual had a period of disability which continued until he became entitled to old-age or disability insurance benefits, or (if he has died) until the month of his death, at the beginning of such period of disability or at the time he became entitled to such benefits,

shall be entitled to a child's insurance benefit for each month, beginning with the first month after August 1950 in which such child becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: such child dies, marries, is adopted (except for adoption by a step-parent, grandparent, aunt, or uncle subsequent to the death of such fully or currently insured individual), or attains the age of eighteen and is not under a disability (as defined in section 423(c) of this title), which began before he attained such age. Entitlement of any child to benefits under this subsection shall also end with the month preceding the third month following the month in which he ceases to be under a disability (as so defined) after the month in which he attains age eighteen. Entitlement of any child to benefits under this subsection on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits shall also end with the month before the first month for which such individual is not entitled to such benefits unless such individual is, for such later month, entitled to old-age insurance benefits or unless he dies in such month. In the case of an individual entitled to disability insurance benefits, the provisions of clause (i) of subparagraph (C) of this paragraph shall not apply to a child of such individual unless he (A) is the natural child or step-child of such individual (including such a child who was legally adopted by such individual) or (B) was legally adopted by such individual before the end of the twenty-four month period beginning with the month after the month in which such individual most recently became entitled to disability insurance benefits, but only if (i) proceedings for such adoption of the child had been instituted by such individual in or before the month in which began the period of disability of such individual which still exists at the time of such adoption or (ii) such adopted child was living with such individual in such month.

(2) Such child's insurance benefit for each month shall, if the individual on the basis of whose wages and self-employment income the child is entitled to such benefit has not died prior to the end of such month, be equal to one-half of the primary insurance amount of such individual for such month. Such child's insurance benefit for each month shall, if such individual has died in or prior to such month, be equal to three-fourths of the primary insurance amount of such individual.

(3) A child shall be deemed dependent upon his father or adopting father at the time specified in paragraph (1) (C) of this subsection unless, at such time, such individual was not living with or contributing to the support of such child and—

(A) such child is neither the legitimate nor adopted child of such individual, or

(B) such child has been adopted by some other individual.

For purposes of this paragraph, a child deemed to be a child of a fully or currently insured individual pursuant to section 416(h) (2) (B) of this title shall, if such individual is the child's father, be deemed to be the legitimate child of such individual.

(4) A child shall be deemed dependent upon his stepfather at the time specified in paragraph (1) (C) of this subsection if, at such time, the child was living with or was receiving at least one-half of his support from such stepfather.

(5) A child shall be deemed dependent upon his natural or adopting mother at the time specified in paragraph (1) (C) of this subsection if such mother or adopting mother was a currently insured individual. A child shall also be deemed dependent upon his natural or adopting mother, or upon his stepmother, at the time specified in paragraph (1) (C) of this subsection if, at such time, (A) she was living with or contributing to the support of such child, and (B) either (i) such child was neither living with nor receiving contributions from his father or adopting father, or (ii) such child was receiving at least one-half of his support from her.

(6) In the case of a child who has attained the age of eighteen and who marries—

(A) an individual entitled to benefits under subsection (a), (e), (f), (g), or (h) of this section or under section 423 (a) of this title, or

(B) another individual who has attained the age of eighteen and is entitled to benefits under this subsection,

such child's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection, not be terminated by reason of such marriage; except that, in the case of such a marriage to a male individual entitled to benefits under section 423 (a) of this title or this subsection, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 423 (a) of this title or this subsection unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 423 (a) of this title, he is entitled, for the month following such last month, to benefits under subsection (a) of this section.

(e) Widow's insurance benefits.

(1) The widow (as defined in section 416 (c) of this title) of an individual who died a fully insured individual, if such widow—

(A) has not remarried,

(B) has attained age 62,

(C) (i) has filed application for widow's insurance benefits or was entitled, after attainment of age 62, to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which he died, or

(ii) was entitled, on the basis of such wages and self-employment income, to mother's insur-

ance benefits for the month preceding the month in which she attained age 62, and

(D) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than 82½ percent of the primary insurance amount of her deceased husband,

shall be entitled to a widow's insurance benefit for each month, beginning with the first month after August 1950 in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: she remarries, dies, or becomes entitled to an old-age insurance benefit equal to or exceeding 82½ percent of the primary insurance amount of her deceased husband.

(2) Such widow's insurance benefit for each month shall be equal to 82½ percent of the primary insurance amount of her deceased husband.

(3) In the case of any widow of an individual—

(A) who marries another individual, and

(B) whose marriage to the individual referred to in subparagraph (A) is terminated by his death which occurs within one year after such marriage and he did not die a fully insured individual, the marriage to the individual referred to in clause (A) shall, for purposes of paragraph (1) of this subsection, be deemed not to have occurred. No benefits shall be payable under this subsection by reason of the preceding sentence for any month prior to whichever of the following is the latest: (i) the month in which the death referred to in subparagraph (B) of the preceding sentence occurs, (ii) the twelfth month before the month in which such widow files application for purposes of this paragraph, or (iii) November 1956.

(4) In the case of a widow who marries—

(A) an individual entitled to benefits under subsection (f) or (h) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section,

such widow's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection, not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless he ceases to be so entitled by reason of his death.

(f) Widower's insurance benefits.

(1) The widower (as defined in section 416 (g) of this title) of an individual who died a fully and currently insured individual, if such widower—

(A) has not remarried,

(B) has attained age 62,

(C) has filed application for widower's insurance benefits or was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which she died,

(D) (i) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual at the time of her death or, if such individual had a period of disability which did not end prior to the month in which she died, at the time such period began or at the time of her death, and filed proof of such support within two years after the date of such death, or, if she had such a period of disability, within two years after the month in which she filed application with respect to such period of disability or two years after the date of such death, as the case may be, or (ii) was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary, from such individual, and she was a currently insured individual, at the time she became entitled to old-age or disability insurance benefits or, if such individual had a period of disability which did not end prior to the month in which she became so entitled, at the time such period began or at the time she became entitled to such benefits, and filed proof of such support within two years after the month in which she became entitled to such benefits, or, if she had such a period of disability, within two years after the month in which she filed application with respect to such period of disability or two years after the month in which she became entitled to such benefits, as the case may be, and

(E) is not entitled to old-age insurance benefits or is entitled to old-age insurance benefits each of which is less than 82½ percent of the primary insurance amount of his deceased wife, shall be entitled to a widower's insurance benefit for each month, beginning with the first month after August 1950 in which he becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: he remarries, dies, or becomes entitled to an old-age insurance benefit equal to or exceeding 82½ percent of the primary insurance amount of his deceased wife.

(2) The requirement in paragraph (1) of this subsection that the deceased fully insured individual also be a currently insured individual, and the provisions of subparagraph (D) of such paragraph, shall not be applicable in the case of any individual who—

(A) in the month prior to the month of his marriage to such individual was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under this subsection or subsection (h) of this section; or

(B) in the month prior to the month of his marriage to such individual had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of this section.

(3) Such widower's insurance benefit for each month shall be equal to 82½ percent of the primary insurance amount of his deceased wife.

(4) In the case of a widower who marries—

(A) an individual entitled to benefits under subsection (e), (g), or (h) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section,

such widower's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection, not be terminated by reason of such marriage.

(g) Mother's insurance benefits.

(1) The widow and every former wife divorced (as defined in section 416 (d) of this title) of an individual who died a fully or currently insured individual, if such widow or former wife divorced—

(A) has not remarried,

(B) is not entitled to a widow's insurance benefit,

(C) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than three-fourths of the primary insurance amount of such individual,

(D) has filed application for mother's insurance benefits, or was entitled to wife's insurance benefits on the basis of the wages and self-employment income of such individual for the month preceding the month in which he died,

(E) at the time of filing such application has in her care a child of such individual entitled to a child's insurance benefit, and

(F) in the case of a former wife divorced, was receiving from such individual (pursuant to agreement or court order) at least one-half of her support at the time of his death or, if such individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of such death, and the child referred to in subparagraph (E) is her son, daughter, or legally adopted child and the benefits referred to in such subparagraph are payable on the basis of such individual's wages and self-employment income.

shall be entitled to a mother's insurance benefit for each month, beginning with the first month after August 1950 in which she becomes so entitled to such insurance benefits and ending with the month preceding the first month in which any of the following occurs: no child of such deceased individual is entitled to a child's insurance benefit, such widow or former wife divorced becomes entitled to an old-age insurance benefit equal to or exceeding three-fourths of the primary insurance amount of such deceased individual, she becomes entitled to a widow's insurance benefit, she remarries, or she dies. Entitlement to such benefits shall also end, in the case of a former wife divorced, with the month immediately preceding the first month in which no son, daughter, or legally adopted child of such former wife divorced is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased individual.

(2) Such mother's insurance benefit for each month shall be equal to three-fourths of the primary insurance amount of such deceased individual.

(3) In the case of any widow or former wife divorced of an individual—

(A) who marries another individual, and

(B) whose marriage to the individual referred to in subparagraph (A) is terminated by his death but she is not, and upon filing application therefor in the month in which he died would not be, entitled to benefits for such month on the basis of his wages and self-employment income, the marriage to the individual referred to in clause (A) shall, for the purpose of paragraph (1), be deemed not to have occurred. No benefits shall be payable under this subsection by reason of the preceding sentence for any month prior to whichever of the following is the latest: (i) the month in which the death referred to in subparagraph (B) of the preceding sentence occurs, (ii) the twelfth month before the month in which such widow or former wife divorced files application for purposes of this paragraph, or (iii) September 1958.

(4) In the case of a widow or former wife divorced who marries—

(A) an individual entitled to benefits under subsection (a), (f), or (h) of this section, or under section 423 (a) of this title, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section, the entitlement of such widow or former wife divorced to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection, not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under section 423 (a) of this title or subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 423 (a) of this title or subsection (d) of this section unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 423 (a) of this title, he is entitled, for the month following such last month, to benefits under subsection (a) of this section.

(h) Parent's insurance benefits.

(1) Every parent (as defined in this subsection) of an individual who died a fully insured individual, if such parent—

(A) has attained age 62,

(B) (i) was receiving at least one-half of his support from such individual at the time of such individual's death or, if such individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of such death, and (ii) filed proof of such support within two years after the date of such death, or, if such individual had such a period of disability, within two years after the month in which such individual filed application with respect to such period of disability or two years after the date of such death, as the case may be,

(C) has not married since such individual's death,

(D) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits

each of which is less than 82½ percent of the primary insurance amount of such deceased individual if the amount of the parent's insurance benefit for such month is determinable under paragraph (2) (A) (or 75 percent of such primary insurance amount in any other case), and

(E) has filed application for parent's insurance benefits,

shall be entitled to a parent's insurance benefit for each month beginning with the first month after August 1950 in which such parent becomes so entitled to such parent's insurance benefits and ending with the month preceding the first month in which any of the following occurs: such parent dies, marries, or becomes entitled to an old-age insurance benefit equal to or exceeding 82½ percent of the primary insurance amount of such deceased individual if the amount of the parent's insurance benefit for such month is determinable under paragraph (2) (A) (or 75 percent of such primary insurance amount in any other case).

(2) (A) Except as provided in subparagraphs (B) and (C), such parent's insurance benefit for each month shall be equal to 82½ percent of the primary insurance amount of such deceased individual.

(B) For any month for which more than one parent is entitled to parent's insurance benefits on the basis of such deceased individual's wages and self-employment income, such benefit for each such parent for such month shall (except as provided in subparagraph (C)) be equal to 75 percent of the primary insurance amount of such deceased individual.

(C) In any case in which—

(i) any parent is entitled to a parent's insurance benefit for a month on the basis of a deceased individual's wages and self-employment income, and

(ii) another parent of such deceased individual is entitled to a parent's insurance benefit for such month on the basis of such wages and self-employment income, and on the basis of an application filed after such month and after the month in which the application for the parent's benefits referred to in clause (i) was filed, the amount of the parent's insurance benefit of the parent referred to in clause (i) for the month referred to in such clause shall be determined under subparagraph (A) instead of subparagraph (B) and the amount of the parent's insurance benefit of a parent referred to in clause (ii) for such month shall be equal to 150 percent of the primary insurance amount of the deceased individual minus the amount (before the application of section 403(a) of this title) of the benefit for such month of the parent referred to in clause (i).

(3) As used in this subsection, the term "parent" means the mother or father of an individual, a stepparent of an individual by a marriage contracted before such individual attained the age of sixteen, or an adopting parent by whom an individual was adopted before he attained the age of sixteen.

(4) In the case of a parent who marries—

(A) an individual entitled to benefits under this subsection or subsection (e), (f), or (g) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d) of this section, such parent's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) of this subsection, not be terminated by reason of such marriage; except that, in the case of such a marriage to a male individual entitled to benefits under subsection (d) of this section, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) of this section unless he ceases to be so entitled by reason of his death.

(i) Lump-sum death payments.

Upon the death, after August 1950, of an individual who died a fully or currently insured individual, an amount equal to three times such individual's primary insurance amount, or an amount equal to \$255, whichever is the smaller, shall be paid in a lump sum to the person, if any, determined by the Secretary to be the widow or widower of the deceased and to have been living in the same household with the deceased at the time of death. If there is no such person, or if such person dies before receiving payment, then such amount shall be paid—

(1) if all or part of the burial expenses of such insured individual which are incurred by or through a funeral home or funeral homes remains unpaid, to such funeral home or funeral homes to the extent of such unpaid expenses, but only if (A) any person who assumed the responsibility for the payment of all or any part of such burial expenses files an application, prior to the expiration of two years after the date of death of such insured individual, requesting that such payment be made to such funeral home or funeral homes, or (B) at least 90 days have elapsed after the date of death of such insured individual and prior to the expiration of such 90 days no person has assumed responsibility for the payment of any of such burial expenses;

(2) if all of the burial expenses of such insured individual which were incurred by or through a funeral home or funeral homes have been paid (including payments made under clause (1)), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such burial expenses; or

(3) if any part of the amount payable under this subsection remains after payments have been made pursuant to clauses (1) and (2), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid other expenses in connection with the burial of such insured individual, in the following order of priority: (A) expenses of opening and closing the grave of such insured individual, (B) expenses of providing the burial plot of such insured individual, and (C) any remaining expenses in connection with the burial of such insured individual.

No payment (except a payment authorized pursuant to clause (1) (A) of the preceding sentence) shall be made to any person under this subsection unless

application therefor shall have been filed, by or on behalf of such person (whether or not legally competent), prior to the expiration of two years after the date of death of such insured individual, or unless such person was entitled to wife's or husband's insurance benefits, on the basis of the wages and self-employment income of such insured individual, for the month preceding the month in which such individual died. In the case of any individual who died outside the forty-eight States and the District of Columbia after December 1953 and before January 1, 1957, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa for interment or reinterment, the provisions of the preceding sentence shall not prevent payment to any person under the second sentence of this subsection if application for a lump-sum death payment with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment. In the case of any individual who died outside the fifty States and the District of Columbia after December 1956 while he was performing service, as a member of a uniformed service, to which the provisions of section 410(l)(1) of this title are applicable, and who is returned to any State, or to any Territory or possession of the United States, for interment or reinterment, the provisions of the third sentence of this subsection shall not prevent payment to any person under the second sentence of this subsection if application for a lump-sum death payment with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment.

(j) Application for monthly insurance benefits.

(1) An individual who would have been entitled to a benefit under subsections (a)—(g), or (h) for any month after August 1950 had he filed application therefor prior to the end of such month shall be entitled to such benefit for such month if he files application therefor prior to the end of the twelfth month immediately succeeding such month. Any benefit for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Secretary has certified for payment for such prior month.

(2) No application for any benefit under this section for any month after August 1950 which is filed prior to three months before the first month for which the applicant becomes entitled to such benefit shall be accepted as an application for the purposes of this section; and any application filed within such three months' period shall be deemed to have been filed in such first month.

(3) Notwithstanding the provisions of paragraph (1), an individual may, at his option, waive entitlement to any benefit referred to in paragraph (1) for any one or more consecutive months (beginning

with the earliest month for which such individual would otherwise be entitled to such benefit) which occur before the month in which such individual files application for such benefit; and, in such case, such individual shall not be considered as entitled to such benefits for any such month or months before such individual filed such application. An individual shall be deemed to have waived such entitlement for any such month for which such benefit would, under the second sentence of paragraph (1), be reduced to zero.

(k) Simultaneous entitlement to benefits.

(1) A child, entitled to child's insurance benefits on the basis of the wages and self-employment income of an insured individual, who would be entitled, on filing application, to child's insurance benefits on the basis of the wages and self-employment income of some other insured individual, shall be deemed entitled, subject to the provisions of paragraph (2) of this subsection, to child's insurance benefits on the basis of the wages and self-employment income of such other individual if an application for child's insurance benefits on the basis of the wages and self-employment income of such other individual has been filed by any other child who would, on filing application, be entitled to child's insurance benefits on the basis of the wages and self-employment income of both such insured individuals.

(2) (A) Any child who under the preceding provisions of this section is entitled for any month to more than one child's insurance benefit shall, notwithstanding such provisions, be entitled to only one of such child's insurance benefits for such month, such benefit to be the one based on the wages and self-employment income of the insured individual who has the greatest primary insurance amount.

(B) Any individual who, under the preceding provisions of this section and under the provisions of section 423 of this title is entitled for any month to more than one monthly insurance benefit (other than an old-age or disability insurance benefit) under this subchapter shall be entitled to only one such monthly benefit for such month, such benefit to be the largest of the monthly benefits to which he (but for this subparagraph) would otherwise be entitled for such month.

(3) If an individual is entitled to an old-age or disability insurance benefit for any month and to any other monthly insurance benefit for such month, such other insurance benefit for such month, after any reduction under subsection (q) of this section and any reduction under section 403 (a) of this title, shall be reduced, but not below zero, by an amount equal to such old-age or disability insurance benefit (after reduction under such subsection (q) of this section).

(l) Entitlement to survivor benefits under Railroad Retirement Act.

If any person would be entitled, upon filing application therefor to an annuity under section 228e of Title 45 or to a lump-sum payment under subsection (f) (1) of section 228e of Title 45 with respect to the death of an employee (as defined in section 228a of Title 45) no lump-sum death payment, and no monthly benefit for the month in which such employee died or for any month thereafter, shall be

paid under this section to any person on the basis of the wages and self-employment income of such employee.

(m) Minimum survivor's or dependent's benefit.

In any case in which the benefit of any individual for any month under this section (other than subsection (a)) is, prior to reduction under subsection (k) (3) and subsection (q) of this section, less than the first figure in column IV of the table in section 415 (a) of this title and no other individual is (with-out the application of subsection (j) (1) of this section) entitled to a benefit under this section for such month on the basis of the same wages and self-employment income, such benefit for such month shall, prior to reduction under subsection (k) (3) and subsection (q) of this section, be increased to the first figure in column IV of the table in section 415 (a) of this title.

(n) Termination of benefits upon deportation of primary beneficiary.

(1) If any individual is (after September 1, 1954) deported under paragraphs (1), (2), (4)—(7), (10)—(12), (14)—(17), or (18) of section 1251 (a) of Title 8 then, notwithstanding any other provisions of this subchapter—

(A) no monthly benefit under this section or section 423 of this title shall be paid to such individual, on the basis of his wages and self-employment income, for any month occurring (i) after the month in which the Secretary is notified by the Attorney General that such individual has been so deported, and (ii) before the month in which such individual is thereafter lawfully admitted to the United States for permanent residence.

(B) if no benefit could be paid to such individual (or if no benefit could be paid to him if he were alive) for any month by reason of subparagraph (A), no monthly benefit under this section shall be paid, on the basis of his wages and self-employment income, for such month to any other person who is not a citizen of the United States and is outside the United States for any part of such month, and

(C) no lump-sum death payment shall be made on the basis of such individual's wages and self-employment income if he dies (i) in or after the month in which such notice is received, and (ii) before the month in which he is thereafter lawfully admitted to the United States for permanent residence.

Section 402 (b), (c), and (d) of this title shall not apply with respect to any such individual for any month for which no monthly benefit may be paid to him by reason of this paragraph.

(2) As soon as practicable after the deportation of any individual under any of the paragraphs of section 1251 (a) of Title 8 enumerated in paragraph (1) in this subsection, the Attorney General shall notify the Secretary of such deportation.

(o) Application for benefits by survivors of members and former members of the uniformed services.

In the case of any individual who would be entitled to benefits under subsection (d), (e), (g), or (h) of this section upon filing proper application

therefor, the filing with the Administrator of Veterans' Affairs by or on behalf of such individual of an application for such benefits, on the form described in section 3005 of Title 38, shall satisfy the requirement of such subsection (d), (e), (g), or (h) that an application for such benefits be filed.

(p) Extension of period for filing proof of support and applications for lump-sum death payment.

In any case in which there is a failure—

(1) to file proof of support under subparagraph (C) of subsection (c) (1) of this section, clause (i) or (ii) of subparagraph (D) of subsection (f) (1) of this section, or subparagraph (B) of subsection (h) (1), or under clause (B) of subsection (f) (1) of this section as in effect prior to the Social Security Act Amendments of 1950 within the period prescribed by such subparagraph or clause, or

(2) to file, in the case of a death after 1946, application for a lump-sum death payment under subsection (i) of this section, or under subsection (g) of this section as in effect prior to the Social Security Act Amendments of 1950, within the period prescribed by such subsection,

and it is shown to the satisfaction of the Secretary that there was good cause for failure to file such proof or application, as the case may be, within such period, such proof or application shall be deemed to have been filed within such period if it is filed within two years following such period or within two years following August 1956, whichever is later. The determination of what constitutes good cause for purposes of this subsection shall be made in accordance with regulations of the Secretary.

(q) Adjustment of old-age, wife's or husband's insurance benefit amounts in accordance with age of beneficiary.

(1) If the first month for which an individual is entitled to an old-age, wife's or husband's insurance benefit is a month before the month in which such individual attains age 65, the amount of such benefit for each month shall, subject to the succeeding paragraphs of this subsection, be reduced by—

(A) $\frac{1}{2}$ percent of such amount if such benefit is an old-age insurance benefit, or $\frac{2}{3}$ percent of such amount if such benefit is a wife's or husband's insurance benefit; multiplied by

(B) (i) the number of months in the reduction period for such benefit (determined under paragraph (5)), if such benefit is for a month before the month in which such individual attains age 65, or

(ii) the number of months in the adjusted reduction period for such benefit (determined under paragraph (6)), if such benefit is for the month in which such individual attains age 65 or for any other month thereafter.

(2) (A) If the first month for which an individual both is entitled to a wife's or husband's insurance benefit and has attained age 62 is a month for which such individual is also entitled to—

(i) an old-age insurance benefit (to which such individual was first entitled for a month before he attains age 65), or

(ii) a disability insurance benefit,

then in lieu of any reduction under paragraph (1) (but subject to the succeeding paragraphs of this subsection) such wife's or husband's insurance benefit for each month shall be reduced as provided in subparagraph (B), (C), or (D).

(B) For any month for which such individual is entitled to an old-age insurance benefit, such individual's wife's or husband's insurance benefit shall be reduced by the sum of—

(i) the amount by which such old-age insurance benefit is reduced under paragraph (1), and

(ii) the amount by which such wife's or husband's insurance benefit would be reduced under paragraph (1) if it were equal to the excess of such wife's or husband's insurance benefit (before reduction under this subsection) over such old-age insurance benefit (before reduction under this subsection).

(C) For any month for which such individual is entitled to a disability insurance benefit, such individual's wife's or husband's insurance benefit shall be reduced by the amount by which such benefit would be reduced under paragraph (1) if it were equal to the excess of such benefit (before reduction under this subsection) over such disability insurance benefit.

(D) For any month for which such individual is entitled neither to an old-age insurance benefit nor to a disability insurance benefit, such individual's wife's or husband's insurance benefit shall be reduced by the amount by which it would be reduced under paragraph (1).

(3) If—

(A) an individual is or was entitled to a benefit subject to reduction under this subsection, and

(B) such benefit is increased by reason of an increase in the primary insurance amount of the individual on whose wages and self-employment income such benefit is based,

then the amount of the reduction of such benefit for each month shall be computed separately (under paragraph (1) or (2), whichever applies) for the portion of such benefit which constitutes such benefit before any increase described in subparagraph (B), and separately (under paragraph (1) or (2), whichever applies to the benefit being increased) for each such increase. For purposes of determining the amount of the reduction under paragraph (1) or (2) in any such increase, the reduction period and the adjusted reduction period shall be determined as if such increase were a separate benefit to which such individual was entitled for and after the first month for which such increase is effective.

(4) (A) No wife's insurance benefit shall be reduced under this subsection—

(i) for any month before the first month for which there is in effect a certificate filed by her with the Secretary, in accordance with regulations prescribed by him, in which she elects to receive wife's insurance benefits reduced as provided in this subsection, or

(ii) for any month in which she has in her care (individually or jointly with the person on whose wages and self-employment income her wife's insurance benefit is based) a child of such person entitled to child's insurance benefits.

(B) Any certificate described in subparagraph (A) (i) shall be effective for purposes of this subsection (and for purposes of preventing deductions under section 403(c) (2) of this title) —

(i) for the month in which it is filed and for any month thereafter, and

(ii) for months, in the period designated by the woman filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which she attains age 62, nor shall it be effective for any month to which subparagraph (A) (ii) applies.

(C) If a woman does not have in her care a child described in subparagraph (A) (ii) in the first month for which she is entitled to a wife's insurance benefit, and if such first month is a month before the month in which she attains age 65, she shall be deemed to have filed in such first month the certificate described in subparagraph (A) (i).

(5) For purposes of this subsection, the "reduction period" for an individual's old-age, wife's, or husband's insurance benefit is the period—

(A) beginning—

(i) in the case of an old-age or husband's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit, or

(ii) in the case of a wife's insurance benefit, with the first day of the first month for which a certificate described in paragraph (4) (A) (i) is effective, and

(B) ending with the last day of the month before the month in which such individual attains age 65.

(6) For purposes of this subsection, the "adjusted reduction period" for an individual's old-age, wife's, or husband's insurance benefit is the reduction period prescribed by paragraph (5) for such benefit, excluding from such period—

(A) any month in which such benefit was subject to deductions under section 403(b), 403(c) (1), 403(d) (1), or 422(b) of this title,

(B) in the case of wife's insurance benefits, any month in which she had in her care (individually or jointly with the person on whose wages and self-employment income such benefit is based) a child of such person entitled to child's insurance benefits, and

(C) in the case of wife's or husband's insurance benefits, any month for which such individual was not entitled to such benefits because the spouse on whose wages and self-employment income such benefits were based ceased to be under a disability.

(7) This subsection shall be applied after reduction under section 403(a) of this title and after application of section 415(g) of this title. If the amount of any reduction computed under paragraph (1) or (2) is not a multiple of \$0.10, it shall be reduced to the next lower multiple of \$0.10.

(r) Presumed filing of application by individuals eligible for old-age insurance benefits and for wife's or husband's insurance benefits.

(1) If the first month for which an individual is entitled to an old-age insurance benefit is a month before the month in which such individual attains age 65, and if such individual is eligible for a wife's or husband's insurance benefit for such first month, such individual shall be deemed to have filed an application in such month for wife's or husband's insurance benefits.

(2) If the first month for which an individual is entitled to a wife's or husband's insurance benefit reduced under subsection (q) of this section is a month before the month in which such individual attains age 65, and if such individual is eligible for an old-age insurance benefit for such first month such individual shall be deemed to have filed an application for old-age insurance benefits—

(A) in such month, or

(B) if such individual is also entitled to a disability insurance benefit for such month, in the first subsequent month for which such individual is not entitled to a disability insurance benefit.

(3) For purposes of this subsection, an individual shall be deemed eligible for a benefit for a month if, upon filing application therefor in such month, he would be entitled to such benefit for such month.

(s) Repealed. Pub. L. 87-64, title I, § 102(h)(2)(A), June 30, 1961, 75 Stat. 134.

(t) Suspension of benefits of aliens who are outside the United States.

(1) Notwithstanding any other provision of this subchapter, no monthly benefits shall be paid under this section or under section 423 of this title to any individual who is not a citizen or national of the United States for any month which is—

(A) after the sixth consecutive calendar month during all of which the Secretary finds, on the basis of information furnished to him by the Attorney General or information which otherwise comes to his attention, that such individual is outside the United States, and

(B) prior to the first month thereafter for all of which such individual has been in the United States.

(2) Paragraph (1) of this subsection shall not apply to any individual who is a citizen of a foreign country which the Secretary finds has in effect a social insurance or pension system which is of general application in such country and under which—

(A) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death, and

(B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

(3) Paragraph (1) of this subsection shall not apply in any case where its application would be contrary to any treaty obligation of the United States in effect on August 1, 1956.

(4) Paragraph (1) of this subsection shall not apply to any benefit for any month if—

(A) not less than forty of the quarters elapsing before such month are quarters of coverage for the individual on whose wages and self-employment income such benefit is based, or

(B) the individual on whose wages and self-employment income such benefit is based has, before such month, resided in the United States for a period or periods aggregating ten years or more, or

(C) the individual entitled to such benefit is outside, the United States while in the active military or naval service of the United States, or

(D) the individual on whose wages and self-employment income such benefit is based died, before such month, either (i) while on active duty or inactive duty training (as those terms are defined in section 410 (l) (2) and (3) of this title) as a member of a uniformed service (as defined in section 410 (m) of this title), or (ii) as the result of a disease or injury which the Administrator of Veterans' Affairs determines was incurred or aggravated in line of duty while on active duty (as defined in section 410 (l) (2) of this title), or an injury which he determines was incurred or aggravated in line of duty while on inactive duty training (as defined in section 410 (l) (3) of this title), as a member of a uniformed service (as defined in section 410 (l) of this title), if the Administrator determines that such individual was discharged or released from the period of such active duty or inactive duty training under conditions other than dishonorable, and if the Administrator certifies to the Secretary his determinations with respect to such individual under this clause.

(E) the individual on whose employment such benefit is based had been in service covered by the Railroad Retirement Act which was treated as employment covered by this Act pursuant to the provisions of section 228e (k) (1) of Title 45.

(5) No person who is, or upon application would be, entitled to a monthly benefit under this section for December 1956 shall be deprived, by reason of paragraph (1) of this subsection, of such benefit or any other benefit based on the wages and self-employment income of the individual on whose wages and self-employment income such monthly benefit for December 1956 is based.

(6) If an individual is outside the United States when he dies and no benefit may, by reason of paragraph (1) of this subsection, be paid to him for the month preceding the month in which he dies, no lump-sum death payment may be made on the basis of such individual's wages and self-employment income.

(7) Subsection (b), (c), and (d) of section 403 of this title shall not apply with respect to any individual for any month for which no monthly benefit may be paid to him by reason of paragraph (1) of this subsection.

(8) The Attorney General shall certify to the Secretary such information regarding aliens who depart from the United States to any foreign country (other than a foreign country which is territorially con-

tiguous to the continental United States) as may be necessary to enable the Secretary to carry out the purposes of this subsection and shall otherwise aid, assist, and cooperate with the Secretary in obtaining such other information as may be necessary to enable the Secretary to carry out the purposes of this subsection.

(u) Conviction of subversive activities, etc.

(1) If any individual is convicted of any offense (committed after August 1, 1956) under—

(A) chapter 37 (relating to espionage and censorship), chapter 105 (relating to sabotage), or chapter 115 (relating to treason, sedition, and subversive activities) of Title 18, or

(B) section 783, 822, or 823 of Title 50,

then the court may, in addition to all other penalties provided by law, impose a penalty that in determining whether any monthly insurance benefit under this section or section 423 of this title is payable to such individual for the month in which he is convicted or for any month thereafter, and in determining the amount of any such benefit payable to such individual for any such month, there shall not be taken into account—

(C) any wages paid to such individual or to any other individual in the calendar quarter in which such conviction occurs or in any prior calendar quarter, and

(D) any net earnings from self-employment derived by such individual or by any other individual during a taxable year in which such conviction occurs or during any prior taxable year.

(2) As soon as practicable after an additional penalty has, pursuant to paragraph (1) of this subsection, been imposed with respect to any individual, the Attorney General shall notify the Secretary of such imposition.

(3) If any individual with respect to whom an additional penalty has been imposed pursuant to paragraph (1) of this subsection is granted a pardon of the offense by the President of the United States, such additional penalty shall not apply for any month beginning after the date on which such pardon is granted. (Aug. 14, 1935, ch. 531, title II, § 202, 49 Stat. 623; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, §§ 402, 403 (a), 404 (a), 405 (a), 60 Stat. 986, 987; Aug. 28, 1950, ch. 809, title I, § 101 (a), 64 Stat. 482; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Aug. 14, 1953, ch. 483, § 2, 67 Stat. 580; Sept. 1, 1954, ch. 1206, title I, §§ 102 (i), 105 (a), 107, 110 (a)—(c), 68 Stat. 1073, 1079, 1083, 1085; Aug. 9, 1955, ch. 685, § 2, 69 Stat. 621; Aug. 1, 1956, ch. 836, title I, §§ 101 (a)—(c), 102 (c), (d) (1)—(10), 103 (c) (1)—(3), 113, 114 (a), 118 (a), 121 (a), 70 Stat. 807, 810—814, 818, 831, 832, 835, 838; Aug. 1, 1956, ch. 837, title IV, §§ 403 (a), 407, 70 Stat. 871, 876; Aug. 30, 1957, Pub. L. 85-238, §§ 1, 3 (a)—(g), 71 Stat. 518; Aug. 28, 1958, Pub. L. 85-798, § 1, 72 Stat. 964; Aug. 28, 1958, Pub. L. 85-840, title I, § 101 (e), title II, § 205 (b)—(i), title III, §§ 301 (a) (1) (b) (1), (c) (1), 303, 304 (a) (1), 305 (a), 306 (a), 307 (a)—(e), 72 Stat. 1017, 1021—1024, 1026, 1027, 1029—1032; Sept. 2, 1958, Pub.

L. 85-857, § 13 (i) (1), 72 Stat. 1265; Sept. 6, 1958, Pub. L. 85-927, § 301, 72 Stat. 1783; June 25, 1959, Pub. L. 86-70, § 32(c) (1), 73 Stat. 149; July 12, 1960, Pub. L. 86-624, § 30(c) (1), 74 Stat. 420; Sept. 13, 1960, Pub. L. 86-778, title I, § 103 (a) (1), (j) (2) (C), (D), title II, §§ 201 (a), (b), 202(a), 203(a), 205 (a), (b), 208(d), 211 (i)—(I), title III, § 301(a), title IV, § 403(d), 74 Stat. 936, 937, 946, 947, 949, 952, 957—959, 969; June 30, 1961, Pub. L. 87-64, title I, §§ 102 (a), (b), (1), (2) (A), (3), (e), 104(a)—(d), 75 Stat. 131, 134, 136, 138, 139.)

REFERENCES IN TEXT

"Clause (B) of subsection (f) (1) of this section as in effect prior to the Social Security Act Amendments of 1950", and "subsection (g) of this section as in effect prior to the Social Security Act Amendments of 1950", referred to in subsec. (p), means such subsections as in effect prior to September 1, 1950, which was the effective date of section 101 (a) of act Aug. 28, 1950. See section 101 (b) (1), (3) of act Aug. 28, 1950, set out as a note under this section.

Railroad Retirement Act, referred to in the catchline of subsec. (l) and in subsec. (t) (4) (E), is classified to sections 228a to 228c-1, 228e—228h, and 228i to 228s-1 of Title 45, Railroads.

AMENDMENTS

1961—Subsec. (a) (2). Pub. L. 87-64, § 102(a), substituted "has attained age 62" for "has attained retirement age (as defined in section 416(a) of this title)."

Subsec. (b) (1). Pub. L. 87-64, § 102 (a), (e) (1), (2), substituted "age 62" for "retirement age" in two instances, "less than one-half of the primary insurance amount of her husband" for "less than one-half of an old-age or disability insurance benefit of her husband", and "equal to or exceeds one-half of the primary insurance amount of her husband" for "equal to or exceeds one-half of an old-age or disability insurance benefit of her husband."

Subsec. (b) (2). Pub. L. 87-64, § 102(e) (3), substituted "primary insurance amount" for "old-age or disability insurance benefit."

Subsec. (c) (1). Pub. L. 87-64, § 102 (a), (e) (4), (5), substituted "has attained age 62" for "has attained retirement age" in cl. (B), "based on a primary insurance amount which is less than one-half" for "each of which is less than one-half" in cl. (D), and "based on a primary insurance amount which is equal to or exceeds one-half" for "equal to or exceeding one-half" in the closing provisions.

Subsec. (c) (2) (A). Pub. L. 87-64, § 102(a), substituted "attainment of age 62" for "attainment of retirement age."

Subsec. (c) (3). Pub. L. 87-64, § 102(e) (6), substituted "Except as provided in subsection (q) of this section, such" for "Such."

Subsec. (e) (1). Pub. L. 87-64, §§ 102(a), 104(d) (1), substituted "has attained age 62" for "has attained retirement age" in subpar. (B), "attainment of age 62" for "attainment of retirement age" and "attained age 62" for "attained retirement age" in subpar. (C), and "82½ percent" for "three-fourths" in subpar. (D) and in the closing provisions.

Subsec. (e) (2). Pub. L. 87-64, § 104(a), substituted "82½ percent" for "three-fourths."

Subsec. (f) (1). Pub. L. 87-64, §§ 102(a), 104(d) (1), substituted "has attained age 62" for "has attained retirement age" in subpar. (B), and "82½ percent" for "three-fourths" in subpar. (E) and in the closing provisions.

Subsec. (f) (2) (A). Pub. L. 87-64, § 102(a), substituted "attainment of age 62" for "attainment of retirement age."

Subsec. (f) (3). Pub. L. 87-64, § 104(b), substituted "82½ percent" for "three-fourths."

Subsec. (h) (1). Pub. L. 87-64, §§ 102(a), 104(d) (2), substituted "has attained age 62" for "has attained retirement age" in subpar. (A), and "82½ percent of the primary insurance amount of such deceased individual if the amount of the parent's insurance benefit for

such month is determinable under paragraph (2) (A) (or 75 percent of such primary insurance amount in any other case)" for "three-fourths of the primary insurance amount of such deceased individual" in subpar. (D) and in the closing provisions.

Subsec. (h) (2). Pub. L. 87-64, § 104(c), designated existing provisions as subpar. (A), increased the benefit from three-fourths to 82½ percent of the primary insurance amount, and added subpars. (B) and (C).

Subsec. (j). Pub. L. 87-64, § 102(b) (3), extended provisions which formerly authorized waiver of old-age benefits or wife's benefits by a woman to permit waiver of any benefit by any individual.

Subsec. (q). Pub. L. 87-64, § 102(b) (1), among other changes, authorized adjustment of the old-age insurance benefits for men and of the husband's insurance benefits for months prior to the month in which the individual attains age 65, simplified the formula for reducing benefits, and, in cases where an individual is entitled to a reduced benefit and such benefit is increased by reason of an increase in the primary insurance amount, required separate computation of the increase for and after the first month for which such increase is effective.

Subsec. (r). Pub. L. 87-64, § 102(b) (1), extended application of the subsection to men, and provided in cases where an individual is entitled to a disability insurance benefit for the same month for which an application for a reduced wife's or husband's insurance benefit is effective, that the individual will be deemed to have filed an application for old-age insurance benefit in the first subsequent month for which the individual is not entitled to a disability insurance benefit.

Subsec. (s). Pub. L. 87-64, § 102(b) (2) (A), repealed subsec. (s) which related to female disability insurance beneficiaries.

1960—Subsec. (d) (1). Pub. L. 86-778, §§ 201 (a), (b), 205(a), 403(d), among other changes, eliminated words, "after 1939" which followed "fully or currently insured individual" in the opening clause, substituted "a period of disability which continued until he became entitled to old-age or disability insurance benefits, or (if he has died) until the month of his death, at the beginning of such period of disability or at the time he became entitled to such benefits" for "a period of disability which did not end prior to the month in which he became entitled to old-age or disability insurance benefits or (if he has died) prior to the month in which he died, at the beginning of such period or at the time he became entitled to such benefits or died)" in subpar. (C), and inserted provisions making subpar. (C) (1) inapplicable, in the case of an individual entitled to disability insurance benefits, to a child of such individual unless he is the natural child or stepchild of such individual (including such a child who was legally adopted by such individual) or was legally adopted by such individual before the end of the 24-month period beginning with the month after the month in which such individual most recently became entitled to disability insurance benefits, and substituted provisions authorizing the payment of benefits until the month preceding the third month following the month in which a child ceases to be under a disability (as so defined) after the month in which he attains age 18 for provisions which authorized payment of benefits until the child ceases to be under a disability (as so defined) on or after the day on which he attains age 18.

Subsec. (d) (2). Pub. L. 86-778, § 301(a), eliminated provisions which required each child's insurance benefit, if there is more than one child entitled to benefits on the basis of an individual's wages and self-employment income, to be equal to the sum of (A) one-half of the primary insurance amount of the individual, and (B) one-fourth of the primary insurance amount divided by the number of such children.

Subsec. (d) (3). Pub. L. 86-778, §§ 202(a), 208(d), inserted provisions requiring that for purposes of such paragraph, a child deemed to be a child of a fully or currently insured individual pursuant to section 416(h) (2) (B) of this title, shall, if such individual is the child's father, be deemed to be the legitimate child of such individual, and eliminated subpar. (C) which related to a child living with and receiving more than one-half of his support from his stepfather.

Subsec. (e)(1). Pub. L. 86-778, § 205(a), eliminated words "after 1939" which followed "died a fully insured individual" in the opening clause.

Subsec. (f)(1). Pub. L. 86-778, § 205(b), eliminated words "after August 1950" which followed "died a fully and currently insured individual" in the opening clause.

Subsec. (g)(1). Pub. L. 86-778, § 205(a), eliminated words "after 1939" which followed "died a fully or currently insured individual" in the opening clause.

Subsec. (h)(1). Pub. L. 86-778, § 205(a), eliminated words "after 1939" which followed "died a fully insured individual" in the opening clause.

Subsec. (i). Pub. L. 86-778, §§ 103 (a), (j)(2)(C), 203(a), amended the second and third sentences to require payment to the funeral home to the extent of the unpaid expenses if all or part of the burial expenses remain unpaid, and to prescribe the manner of payment of any balance that may remain after the funeral home and the persons equitably entitled thereto have received payment, and substituted "the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa" for "Puerto Rico, or the Virgin Islands", "section 410(l)(1) of this title" for "section 410(m)(1) of this title", and "is returned to any State" for "is returned to any of such States, or the District of Columbia."

Pub. L. 86-624 substituted "fifty States" for "forty-nine States."

Subsec. (n). Pub. L. 86-778, § 211(i), substituted "Section 403 (b), (c), and (d) of this title" for "Section 403 (b) and (c) of this title" in the last sentence of cl. (1).

Subsec. (q)(5). Pub. L. 86-778, § 211(j), substituted "under section 403(b) of this title or paragraph (1) of section 403(c) of this title" for "under paragraph (1) or (2) of section 403(b) of this title" in cl. (A), and "section 403(b), under section 403(c)(1), under section 403 (d)(1), or under section 422(b) of this title" for "paragraph (1) or (2) of section 403(b) of this title, under section 403(c) of this title, or under section 422(b) of this title" in cl. (B).

Subsec. (q)(6). Pub. L. 86-778, § 211(k), substituted "section 403(b), under section 403(c)(1), under section 403(d)(1), or under section 422(b) of this title" for "section 403(b) (1) or (2), under section 403(c), or under section 422(b) of this title" in cl. (A), and "under section 403(b) of this title or paragraph (1) of section 403(c) of this title" for "under paragraph (1) or (2) of section 403(b) of this title" in cl. (D).

Subsec. (t)(4)(D). Pub. L. 86-778, § 103(j)(2)(D), substituted "section 410(l)(2)" for "section 410(m)(2)", "section 410(l)(3)" for "section 410(m)(3)", and "section 410(m)" for "section 410(n)", wherever appearing.

Subsec. (t)(7). Pub. L. 86-778, § 211(l), substituted "Subsections (b), (c), and (d) of section 403 of this title" for "Subsections (b) and (c) of section 403 of this title."

1959—Subsec. (l). Pub. L. 86-70 substituted "forty-nine States" for "forty-eight States."

1958—Subsec. (b). Pub. L. 85-840, § 205 (b), substituted "old-age or disability insurance" for "old-age insurance" in seven instances, and inserted provisions terminating the wife's insurance benefit the month preceding the first month in which her husband is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

Subsec. (c)(1). Pub. L. 85-840, § 205(c), substituted "old-age or disability insurance" for "old-age insurance" wherever appearing, inserted provisions in subpar. (C) entitling the husband to an insurance benefit if he was receiving at least one-half of his support from the individual if she had a period of disability which did not end prior to the month in which she became entitled to old-age or disability insurance benefits, at the beginning of such period or at the time she became entitled to such benefits provided he filed proof of such support within two years after the month in which she filed application with respect to such period of disability or after the month in which she became entitled to such benefits, and added provisions terminating the husband's insurance benefit the month preceding the first month in which his wife is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.

Subsec. (c)(2). Pub. L. 85-840, § 301(a)(1), added new subsec. (c)(2) and redesignated former subsec. (c)(2) as (c)(3).

Subsec. (c)(3). Pub. L. 85-840, § 301(a)(1), redesignated former subsec. (c)(2) as (c)(3).

Subsec. (d)(1). Pub. L. 85-840, § 205(d), inserted provisions entitling the child of an individual entitled to disability insurance benefits to insurance benefits if the child was dependent upon such individual if such individual had a period of disability which did not end prior to the month in which he became entitled to old-age or disability insurance benefits or (if he has died) prior to the month in which he died, at the beginning of such period or at the time he became entitled to such benefits or died, and providing that the benefits to a child of a disability insurance beneficiary shall cease with the month before the first month for which the individual is not entitled to such benefits unless such individual is, for such later month, entitled to old-age insurance benefits or unless he dies in such month.

Subsec. (d)(3). Pub. L. 85-840, § 306(a), eliminated words "who has not attained the age of eighteen" following "A child".

Subsec. (d)(4). Pub. L. 85-840, § 306(a), eliminated words "who has not attained the age of eighteen" following "A child".

Subsec. (d)(5). Pub. L. 85-840, § 306(a), eliminated words "who has not attained the age of eighteen" following "A child" in two instances.

Subsec. (d)(6). Pub. L. 85-840, § 307(a), added subsec. (d)(6), and Pub. L. 85-840, § 306(a), repealed former subsec. (d)(6), which related to dependency of a child who has attained the age of eighteen and who is under a disability which began before he attained the age of eighteen.

Subsec. (e)(3)(B). Pub. L. 85-840, § 301(b)(1), substituted "which occurs within one year after such marriage and he did not die a fully insured individual" for "but she is not his widow (as defined in section 416(c) of this title)".

Subsec. (e)(4). Pub. L. 85-840, § 307(b), added subsec. (e)(4).

Subsec. (f)(1)(D). Pub. L. 85-840, § 205(e), inserted provisions entitling a widower to an insurance benefit if he was receiving at least one-half of his support from the individual, if the individual had a period of disability which did not end prior to the month in which she died, at the time such period began, or at the time of her death, or at the time she became entitled to old-age or disability insurance benefits, and he filed proof of such support within two years after the month in which she filed application with respect to the period of disability or two years after the date of her entitlement to old-age or disability insurance benefits or her death.

Subsec. (f)(2). Pub. L. 85-840, § 301(c)(1), added subsec. (f)(2) and redesignated former subsec. (f)(2) as (f)(3).

Subsec. (f)(3). Pub. L. 85-840, § 301(c)(1), redesignated former subsec. (f)(2) as (f)(3).

Subsec. (f)(4). Pub. L. 85-840, § 307(c), added subsec. (f)(4).

Subsec. (g)(1)(F). Pub. L. 85-840, § 205(f), inserted provisions entitling a former wife divorced to an insurance benefit, if she was receiving at least one-half of her support from an individual, if the individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of his death.

Subsec. (g)(3). Pub. L. 85-840, § 303(a), added subsec. (g)(3). Another subsec. (g)(3), which was added by Pub. L. 85-798, was repealed by Pub. L. 85-840, § 303(b), effective with respect to benefits payable for any month following August 1958.

Subsec. (g)(4). Pub. L. 85-840, § 307(d), added subsec. (g)(4).

Subsec. (h)(1). Pub. L. 85-840, § 304(a)(1), eliminated from the opening clause provisions which prevented payment of a parent's benefit if the deceased individual left a widow who met the conditions in subsec. (e)(1)(D) of this section, a widower who met the conditions in subsec. (f)(1)(D) of this section, an unmarried child under the age of eighteen deemed

dependent on such individual under subsec. (d) (3), (4), or (5) of this section, or an unmarried child who had attained the age of eighteen and was under a disability which began before he attained such age and who is deemed dependent on such individual under subsec. (d) (6) of this section.

Subsec. (h) (1) (B). Pub. L. 85-840, § 205(g), inserted provisions entitling a parent to an insurance benefit if the parent was receiving at least one-half of his support from the individual, if the individual had a period of disability which did not end prior to the month in which he died, at the time such period began or at the time of such death, and the parent filed proof of such support within two years after the month in which the individual filed application with respect to such period of disability or two years after the date of such death.

Subsec. (h) (4). Pub. L. 85-840, § 307(e), added subsec. (h) (4).

Subsec. (i). Pub. L. 85-840, § 305(a), required a widow or widower to be living in the same household with the deceased at the time of death in order to receive a lump-sum death payment.

Subsec. (k). Pub. L. 85-840, § 205(h), substituted "old-age or disability insurance" for "old-age insurance" wherever appearing.

Subsec. (m). Pub. L. 85-840, § 101(e), substituted "less than the first figure in column IV of the table in section 415(a) of this title" for "less than \$30", and "increased to the first figure in column IV of the table in section 415(a) of this title" for "increased to \$30."

Subsec. (o). Pub. L. 85-857, substituted "described in section 3005 of Title 38" for "prescribed under section 601 of the Servicemen's and Veterans' Survivor Benefits Act".

Subsec. (q) (5). Pub. L. 85-840, § 205(i) (1), (2), inserted a reference to section 422(b) of this title in subpar. (B), added subpar. (D), and substituted "clauses (A), (B), (C), and (D)" for "clauses (A), (B), and (C)" in the closing provisions.

Subsec. (q) (6). Pub. L. 85-840, § 205(i) (3), (4), inserted a reference to section 422(b) of this title in subpar. (A), added subpar. (C), redesignated former subpar. (C) as (D), and substituted "clauses (A), (B), (C), and (D)" for "clauses (A), (B), and (C)" in the closing provisions.

Subsec. (t) (4) (E). Pub. L. 85-927, added subsec. (t) (4) (E).

1957—Subsec. (b) (1). Pub. L. 85-238, § 3(a), redesignated subpar. (D) as (C), and repealed former subpar. (C), which required the wife to be living with her husband at the time the application for benefits was filed.

Subsec. (c) (1). Pub. L. 85-238, § 3(b), redesignated subpars. (D) and (E) as (C) and (D), respectively, and repealed former subpar. (C), which required the husband to be living with his wife at the time the application for benefits was filed.

Subsec. (e) (1). Pub. L. 85-238, § 3(c), redesignated subpar. (E) as (D), and repealed former subpar. (D), which required the widow to be living with her husband at the time of his death.

Subsec. (f) (1). Pub. L. 85-238, § 3(d), redesignated subpars. (E) and (F) as (D) and (E), respectively, and repealed former subpar. (D), which required the widower to be living with his wife at the time of her death.

Subsec. (g) (1) (F). Pub. L. 85-238, § 3(e), eliminated provisions which required the widow to be living with her husband at the time of his death.

Subsec. (h) (1). Pub. L. 85-238, § 3(f), eliminated references to subpar. (E) of subsec. (e) (1) of this section and to subpar. (F) of subsec. (f) (1) of this section.

Subsec. (p) (1). Pub. L. 85-238, § 3(g), substituted "subparagraph (C) of subsection (c) (1)" for "subparagraph (D) of subsection (c) (1)" and "subparagraph (D) of subsection (f) (1)" for "subparagraph (E) of subsection (f) (1)".

Subsec. (t) (4) (D). Pub. L. 85-238, § 1, added subsec. (t) (4) (D).

1956—Subsec. (a). Act Aug. 1, 1956, ch. 836, § 102(d) (1), inserted "Except as provided in subsection (q) of this section".

Subsec. (a) (3). Act Aug. 1, 1956, ch. 836, § 103(c) (1), included an individual entitled to disability insurance benefits for the month preceding the month in which he attained the age of 65.

Subsec. (b) (1). Act Aug. 1, 1956, ch. 836, § 102(d) (2), (3), substituted "old-age insurance benefits based on a primary insurance amount which" for "old-age insurance benefits each of which" in clause (D), and "old-age insurance benefit based on a primary insurance amount which is equal to or exceeds" for "old-age insurance benefit equal to or exceeding" in the provisions following clause (D).

Subsec. (b) (2). Act Aug. 1, 1956, ch. 836, § 102(d) (4), inserted "Except as provided in subsection (q) of this section".

Subsec. (c) (1). Act Aug. 1, 1956, ch. 836, § 102(d) (5), (6), substituted "the primary insurance amount of his wife" for "an old-age insurance benefit of his wife" in clause (E), and in the provisions following clause (E).

Subsec. (c) (2). Act Aug. 1, 1956, ch. 836, § 102(d) (7), substituted "primary insurance amount" for "old-age insurance benefit".

Subsec. (d) (1). Act Aug. 1, 1956, ch. 836, § 101(a), authorized child's insurance benefit for children, who at the time of filing application, are under a disability which began before they attained the age of 18, and permitted payment of such benefit until such disability ceases.

Subsec. (d) (2). Act Aug. 1, 1956, ch. 836, § 102(d) (7), substituted "primary insurance amount" for "old-age insurance benefit".

Subsec. (d) (3—5). Act Aug. 1, 1956, ch. 836, § 101(b) (1), substituted "A child who has not attained the age of eighteen" for "A child" wherever appearing in such paragraphs.

Subsec. (d) (6). Act Aug. 1, 1956, ch. 836, § 101(b) (2), added subsec. (d) (6).

Subsec. (e) (3). Act Aug. 1, 1956, ch. 836, § 113, added subsec. (e) (3).

Subsec. (h) (1). Act Aug. 1, 1956, ch. 836, § 101(c), precluded payment of parent's benefit if an individual dies leaving an unmarried child over 18 who is under a disability which began before the age of 18 and who is deemed dependent on such individual.

Subsec. (i). Act Aug. 1, 1956, ch. 837, § 403(a), substituted "January 1, 1957" for "April 1956", and inserted provisions authorizing payment of lumpsum death payment in the case of any individual who died outside the United States and the District of Columbia after December 1956 while performing service, as a member of a uniformed service, to which the provisions of section 410(m) (1) of this title are applicable.

Subsec. (j) (3). Act Aug. 1, 1956, ch. 836, § 102(d) (8), added subsec. (j) (3).

Subsec. (k) (2) (B). Act Aug. 1, 1956, ch. 836, § 103 (c) (2), inserted reference to section 423 of this title.

Subsec. (k) (3). Act Aug. 1, 1956, ch. 836, § 102(d) (9), inserted provisions requiring reduction under subsection (q) of this section, and provided that the reduction should be not below zero.

Subsec. (m). Act Aug. 1, 1956, ch. 836, § 102(d) (10), inserted references to subsection (q) of this section.

Subsec. (n) (1) (A). Act Aug. 1, 1956, ch. 836, § 103 (c) (3), inserted reference to section 423 of this title.

Subsec. (o). Act Aug. 1, 1956, ch. 837, § 407, added subsec. (o).

Subsec. (p). Act Aug. 1, 1956, ch. 836, § 114(a), added subsec. (p).

Subsecs. (q)—(s). Act Aug. 1, 1956, ch. 836, § 102(c), added subsecs. (q)—(s).

Subsecs. (t), (u). Act Aug. 1, 1956, ch. 836, §§ 118(a) and 121(a), added subsecs. (t) and (u) respectively.

1955—Subsec. (i). Act Aug. 9, 1955, made subsection applicable to cases of deaths occurring before April 1956.

1954—Subsec. (e) (1) (C). Act Sept. 1, 1954, § 110(a), provided that applications for widow's insurance benefits would not be required if the widow was entitled to a mother's insurance benefit in the month prior to the month in which she attained retirement age.

Subsec. (g) (1) (D). Act Sept. 1, 1954, § 110(b), provided that applications for mother's insurance benefits would not be required if the widow was entitled to a wife's insurance benefit for the month preceding the month in which the insured individual died.

Subsec. (i). Act Sept. 1, 1954, §§ 102(i) (2), 110(c), inserted the words ", or an amount equal to \$255, whichever is the smaller" after "primary insurance amount," and provided that an application for a lump-sum death

payment would not be required from an individual who was entitled to wife's or husband's insurance benefits for the month preceding the month in which the insured individual died.

Subsec. (j)(1). Act Sept. 1, 1954, § 105(a), substituted the word "twelfth" for "sixth".

Subsec. (m). Act Sept. 1, 1954, § 102(i)(1), added subsec. (m).

Subsec. (n). Act Sept. 1, 1954, § 107, added subsec. (n). 1953—Subsec. (i). Act Aug. 14, 1953, made subsec. applicable to cases of deaths occurring before July 1955.

1950—Subsec. (a). Act Aug. 28, 1950, changed the name of the benefit provided by this subsection from "primary insurance benefit" to "old-age insurance benefit", and continued the conditions under which an individual becomes entitled to the benefits.

Subsec. (b). Act Aug. 28, 1950, continued the conditions required for the wife to be entitled to benefits.

Subsec. (c). Act Aug. 28, 1950, provided benefits for the dependent husband of a female old-age insurance beneficiary who was currently insured at the time of her entitlement to the old-age insurance benefit.

Subsec. (d). Act Aug. 28, 1950, increased the total amount of the family benefits in a survivor family in which there is at least one entitled child by one-fourth of the worker's old-age benefit and restates the circumstances under which a child is deemed dependent upon an individual.

Subsec. (e). Act Aug. 28, 1950, permitted a wife entitled to wife's insurance benefits to become entitled to widow's insurance benefits upon the husband's death without filing a new application.

Subsec. (f). Act Aug. 28, 1950, provided benefits for the dependent widower of a woman who is fully and currently insured at the time of her death.

Subsec. (g). Act Aug. 28, 1950, changed title of widow's current insurance benefits to mother's insurance benefits and provided for payment of such benefits to the divorced wife of a deceased insured worker if she had been receiving at least half her support from the worker, and if she is caring for her son, daughter, or legally adopted child who is receiving benefits on the worker's wage record.

Subsec. (h). Act Aug. 28, 1950, changed the requirement that a parent must have been chiefly dependent upon and supported by the wage earner to the requirement that the parent only need have been receiving one-half his support in order for the parent to be found a dependent.

Subsec. (i). Act Aug. 28, 1950, limited the amount of the lump-sum death payment to three times the worker's primary insurance amount instead of six times the amount.

Subsec. (j). Act Aug. 28, 1950, increased from 3 to 6 the number of months for which benefits may be paid retroactively to individuals who failed to file their applications as soon as they were otherwise eligible.

Subsecs. (k), (l). Act Aug. 28, 1950, added subsecs. (k) and (l).

1946—Subsec. (c). Act Aug. 10, 1946, § 402, changed par. (1) to prevent termination of benefits on adoption by a stepparent, grandparent, aunt or uncle and changed par. (3) (C) to omit qualification as to the time of such individual's death and to require the child to be chiefly supported by the stepfather.

Subsec. (f)(1). Act Aug. 10, 1946, § 403(a), provided that benefit payments to parents are prevented only if the individual leaves a widow or child who could become entitled to benefits and required parents to be chiefly instead of wholly dependent.

Subsec. (g). Act Aug. 10, 1946, § 404(a), required that a widow or widower must have been living with deceased at time of death to be entitled to a lump sum payment and provided that if there was no such spouse, the payment will be made to the person or persons equitably entitled thereto in the proportion and to the extent that he or they have paid the burial expenses.

Subsec. (h). Act Aug. 10, 1946, § 405(a), extended the provision for payment of benefits retroactively for three months to the primary beneficiary and provided that retroactive benefits shall be reduced so as not to render erroneous any benefit previously paid.

1939—Act Aug. 10, 1939, amended section generally.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 109 of Pub. L. 87-64 provided that: "Except as otherwise provided, the effective date of this title is the first day of the first calendar month which begins on or after the 30th day after the date of the enactment of this Act [June 30, 1961]."

EFFECTIVE DATE OF 1960 AMENDMENTS

Section 201(c) of Pub. L. 86-778 provided that: "The amendments made by this section [to par. (c) and the last sentence of subsec. (d)(1) of this section] shall apply as though this Act had been enacted on August 28, 1958, and with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after August 1958 based on applications for such benefits filed on or after August 28, 1953."

Amendment of subsec. (d)(1) of this section by Pub. L. 86-778 applicable only with respect to benefits under subsec. (d) of this section or section 423(a) of this title for months after Sept. 1960, in the case of individuals who, without regard to such amendment, would have been entitled to such benefits for Sept. 1960, or for any succeeding month, see section 403(e) of Pub. L. 86-778, set out as a note under section 422 of this title.

Section 205(d) of Pub. L. 86-778 provided that: "The preceding provisions of this section and the amendments made thereby [to the opening clauses of subsecs. (d)(1), (e)(1), (f)(1), (g)(1) and (h)(1) of this section] shall apply only in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months after the month in which this Act is enacted [Sept. 1960], on the basis of applications filed in or after such month."

Section 301(b) of Pub. L. 86-778 provided that: "The amendment made by this section [to subsec. (d)(2) of this section] shall apply only with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after the second month following the month in which this Act is enacted [Sept. 1960]."

Amendment of subsec. (d)(3) of this section by Pub. L. 86-778, § 208(d), which added sentence following subpar. (B), applicable (1) with respect to monthly benefits under this subchapter for months beginning with Sept. 1960 on the basis of an application filed in or after such month, and (2) in the case of a lump-sum death payment under this subchapter based on an application filed in or after Sept. 1960, but only if no person, other than the person filing such application, has filed an application for a lump-sum death payment under this subchapter prior to Sept. 13, 1960 with respect to the death of the same individual, see section 208(f) of Pub. L. 86-778, set out as a note under section 416 of this title.

Section 202(b) of Pub. L. 86-773 provided that: "The amendments made by subsection (a) [which eliminated subpar. (C) of subsec. (d)(3) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning with the month in which this Act is enacted [Sept. 1930], but only if an application for such benefits is filed in or after such month."

Section 203(b) of Pub. L. 86-778 provided that: "The amendment made by subsection (a) [to the second and third sentences of subsec. (i) of this section] shall apply—

"(1) in the case of the death of an individual occurring on or after the date of the enactment of this Act [Sept. 13, 1960], and

"(2) in the case of the death of an individual occurring prior to such date, but only if no application for a lump-sum death payment under section 202(i) of the Social Security Act [subsec. (i) of this section] is filed on the basis of such individual's wages and self-employment income prior to the third calendar month beginning after such date."

Section 103(v) of Pub. L. 86-778 provided that: "(1) The amendments made by subsection (a) [to last two sentences of subsec. (i) of this section and to notes under this section] shall apply only with respect to reinterments after the date of the enactment of this Act [Sept. 13, 1960]. The amendments made by subsections (b), (e), and (f) to sections 403(k) and 410 (h), (i) of this title] shall apply only with respect to service performed after 1960; except that insofar as the carrying on of a trade or business (other than performance of serv-

ice as an employee) is concerned, such amendments shall apply only in the case of taxable years beginning after 1960. The amendments made by subsections (d), (i), (o), and (p) [adding section 410(a)(18) of this title and section 3121(b)(18) of Title 26 and amending section 418 (b)(1) of this title and section 3121(e) of Title 26] shall apply only with respect to service performed after 1960. The amendments made by subsections (h) and (l) [to section 411(b) of this title and section 1402(b) of Title 26] shall apply only in the case of taxable years beginning after 1960. The amendments made by subsections (c), (n), (q), and (r) [adding sections 3125, 6205(a)(3), 6413(a)(3) and 6413(c)(2) (D), (E) of Title 26, and amending section 410(a)(7) of this title and section 3121(b)(7) of Title 26] shall apply only with respect to (1) service in the employ of the Government of Guam or any political subdivision thereof, or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of Guam that legislation has been enacted by the Government of Guam expressing its desire to have the insurance system established by title II of the Social Security Act [this subchapter] extended to the officers and employees of such Government and such political subdivisions and instrumentalities, and (2) service in the employ of the Government of American Samoa or any political subdivision thereof or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of American Samoa that the Government of American Samoa desires to have the insurance system established by such title II extended to the officers and employees of such Government and such political subdivisions and instrumentalities. The amendments made by subsections (g) and (k) [to section 411 (a)(7), (8) of this title and section 1402(a)(8), (9) of Title 26] shall apply only in the case of taxable years beginning after 1960, except that, insofar as they involve the nonapplication of section 932 of the Internal Revenue Code of 1954 [section 932 of Title 26] to the Virgin Islands for purposes of chapter 2 of such Code and section 211 of the Social Security Act [section 411 of this title], such amendments shall be effective in the case of all taxable years with respect to which such chapter 2 (and corresponding provisions of prior law) and such section 211 [section 411 of this title] are applicable. The amendments made by subsections (j), (s), and (t) [adding section 7213(d) of Title 26, amending subsections (i) (last sentence), and (t)(4)(D) of this section and sections 405(p)(1), 409(j), 409 (last par.), 410 (j)—(n), 411(a)(6), 415(h)(1), 417(e)(1) and 418(c)(6)(C) of this title and section 7701(a)(12) of Title 26, and repealing section 419 of this title] shall take effect on the date of the enactment of this Act [Sept. 13, 1950]; and there are authorized to be appropriated such sums as may be necessary for the performance by any officer or employee of functions delegated to him by the Secretary of the Treasury in accordance with the amendment made by such subsection (t) [to section 7701(a)(12) of Title 26].

"(2) The amendments made by subsections (c) and (n) [to section 410(a)(7) of this title and section 3121(b)(7) of Title 26] shall have application only as expressly provided therein, and determinations as to whether an officer or employee of the Government of Guam or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, is an employee of the United States or any agency or instrumentality thereof within the meaning of any provision of law not affected by such amendments, shall be made without any inferences drawn from such amendments.

"(3) The repeal (by subsection (j)(1)) of section 219 of the Social Security Act [section 419 of this title], and the elimination (by subsections (e), (f), (h), (j)(2), and (j)(3)) of other provisions of such Act [from sections 410(h)—(j) and 411 (a)(6), (b) of this title] making reference to such section 219 [section 419 of this title], shall

not be construed as changing or otherwise affecting the effective date specified in such section for the extension to the Commonwealth of Puerto Rico of the insurance system under title II of such Act [this subchapter], the manner or consequences of such extension, or the status of any individual with respect to whom the provisions so eliminated are applicable."

Section 47(e) of Pub. L. 86-624 provided that: "The amendment made by section 30(c)(1) [amending subsec. (i) of this section] shall be applicable in the case of deaths occurring on or after August 21, 1959."

Amendment of subsections (n)(1), (q)(5), (6) and (t)(7) of this section by Pub. L. 86-778 effective in the manner provided in section 211 (p) and (q) of Pub. L. 86-778, see note under section 403 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 47(e) of Pub. L. 86-70 provided that: "The amendment made by paragraph (1) of subsection (c) of section 32 [to subsec. (i) of this section] shall apply in the case of deaths occurring on or after January 3, 1959."

EFFECTIVE DATE OF 1958 AMENDMENTS

Amendment of subsections (b), (c)(1), (d)(1), (f)(1) (D), (g)(1) (F), (h)(1) (B), (k), and (q)(5), (6) of this section by section 205 of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after August 1958, but only if an application for such benefits is filed on or after Aug. 28, 1958, see section 207 (a) of Pub. L. 85-840, set out as a note under section 416 of this title.

Section 301 (f) of Pub. L. 85-840 provided that: "The amendments made by this section [to subsections (c)(2), (3), (e)(3) (B) and (f)(2), (3) of this section, and section 416 (b)—(d), (f), (g) of this title] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning after the date of enactment of this Act [August 28, 1958], but only if an application for such benefits is filed on or after such date."

Section 306 (b) of Pub. L. 85-840 provided that: "The amendments made by this section [to subsections (d)(3)—(6) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning after the date of enactment of this Act [August 28, 1958], but only if an application for such benefits is filed on or after such date."

Section 307 (h)(1) of Pub. L. 85-840 provided that: "The amendments made by this section (other than by subsections (f) and (g) [adding subsections (d)(6), (e)(4), (f)(4), and (h)(4) to this section]) shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months following the month in which this Act is enacted [August 1958]; except that in any case in which benefits were terminated with the close of the month in which this Act is enacted [August 1958] or any prior month and, if the amendments made by this section had been in effect for such month, such benefits would not have been terminated, the amendments made by this section shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning after the date of enactment of this Act [August 28, 1958], but only if an application for such benefits is filed after such date."

Section 304 (a)(2) of Pub. L. 85-840 provided that: "The amendment made by this subsection [to the opening provisions of subsec. (h)(1) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning after the date of enactment of this Act [August 28, 1958], but only if an application for such benefits is filed on or after such date."

Section 305 (c) of Pub. L. 85-840 provided that: "The amendments made by this section [to the first sentence of subsec. (1) of this section, and section 416(h)(3) of this title] shall apply in the case of lump-sum death payments under such section 202(1) [subsec. (1) of this section] on the basis of the wages and self-employment income of any individual who dies after the month in which this Act is enacted [August 1958]."

Amendment of subsec. (m) of this section by Pub. L. 85-840 applicable in the case of monthly benefits under

subchapter II of this chapter for months after December 1958, and in the case of lump-sum death payments under subchapter II of this chapter, with respect to deaths occurring after such month, see section 101 (g) of Pub. L. 85-840, set out as a note under section 415 of this title.

Amendment of subsec. (o) by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as a note preceding section 101 of Title 38, Veterans' Benefits.

Section 302 of Pub. L. 85-927 provided that: "The amendments made by section 301 of this Act [adding subsec. (t) (4) (E) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after December 1956, and with respect to lump-sum death payments under such section 202 [this section] in the case of deaths occurring after December 1956."

EFFECTIVE DATE OF 1957 AMENDMENT

Section 2 of Pub. L. 85-238 provided that: "The amendments made by the first section of this Act [adding subsec. (t) (4) (D)] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after December 1956, and with respect to lump-sum death payments under such section 202 [this section] in the case of deaths occurring after December 1956."

Section 3 (1) of Pub. L. 85-238 provided that:

"(1) Except as provided in paragraph (2), the amendments made by this section [to subsecs. (b), (c), (e)—(h) and (p) of this section and section 416 (h) of this title] shall apply in the case of monthly benefits under section 202 of the Social Security Act [this section] for months after the month in which this Act is enacted [August 1957].

"(2) The amendment made by subsection (f) [to subsec. (h) (1) of this section] shall not apply in the case of benefits under section 202 (h) of the Social Security Act [subsec. (h) of this section], based on the wages and self-employment income of a deceased individual who died in or prior to the month in which this Act is enacted [August 1957] for any parent who files the proof of support, required by such section 202 (h) [subsec. (h) of this section], in or prior to the month in which this Act is enacted [August 1957]; and the amendment to section 216 (h) (1) of such Act [section 416 (h) (1) of this title] made by subsection (h) of this section shall not operate to deprive any such parent of benefits to which he would otherwise be entitled under section 202 (h) of such Act [subsec. (h) of this section]."

EFFECTIVE DATE OF 1956 AMENDMENTS

Section 403 (b) of act Aug. 1, 1956, ch. 837, provided that: "The amendment made by subsection (a) [to subsec. (i) of this section] shall be effective as though it had been enacted on March 31, 1956."

Section 101 (h) of act Aug. 1, 1956, ch. 836, provided that:

"(1) The amendments made by this section [to sections 402 (d) (1, 3—5, 6), (h) (1), and 403 (a), (b), (d), (h) of this title], other than subsection (c) [to subsec. (h) (1) of this section], shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months after December 1956, but only, except as provided in paragraph (2), on the basis of an application filed after September 1956. For purposes of title II of the Social Security Act, as amended by this Act [this subchapter], an application for wife's, child's, or mother's insurance benefits under such title II filed, by reason of this paragraph, by an individual who was entitled to benefits prior to, but not for, December 1956 and whose entitlement terminated as a result of a child's attainment of age eighteen shall be treated as the application referred to in subsection (b), (d), and (g), respectively, of section 202 of such Act [subsec. (b), (d), and (g) of this section].

"(2) In the case of an individual who was entitled, without the application of subsection (j) (1) of such section 202 [subsec. (j) (1) of this section], to a child's insurance benefit under subsection (d) of such section [subsec. (d) of this section] for December 1956, such amendments shall apply with respect to benefits under such section 202 [this section] for months after December 1956.

"(3) The amendment made by subsection (c) [to subsec. (h) (1) of this section] shall apply in the case of benefits under section 202 (h) of the Social Security Act [subsec. (h) of this section] based on the wages and self-employment income of an individual who dies after August 1956."

Section 114 (b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) [adding subsec. (p) of this section] shall apply in the case of lump-sum death payments under title II of the Social Security Act [this subchapter], and monthly benefits under such title for months after August 1956, based on applications filed after August 1956."

Section 118 (b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) [adding subsec. (t) of this section] shall apply in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months after December 1956 and in the case of lump-sum death payments under section 202 (i) of such Act [section 402 (i) of this title] with respect to deaths occurring after December 1956."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 105 (b) of act Sept. 1, 1954, provided that: "The amendment [to subsec. (j) (1)] made by subsection (a) shall be applicable only in the case of applications for monthly benefits under section 202 of the Social Security Act [this section] filed after August 1954; except that no individual shall, by reason of such amendment, be entitled to any benefit for any month prior to February 1954."

EFFECTIVE DATE OF 1950 AMENDMENT

Section 101 (b) (1), (3), of act Aug. 28, 1950, provided that all amendments of the subsections of this section by section 101(a) of act Aug. 28, 1950, shall be effective as of Sept. 1, 1950, except that subsection (j) (2) of this section shall be effective as of Aug. 28, 1950.

EFFECTIVE DATE OF 1946 AMENDMENT

Section 403 (b) of act Aug. 10, 1946, provided that the amendment to subsec. (f) by section 403 (a) of act Aug. 10, 1946, shall be applicable only in cases of applications for benefits under that act filed after December 31, 1946.

Section 404 (b) of act Aug. 10, 1946, provided that the amendment to subsec. (g) by section 404 (a) of act Aug. 10, 1946, shall be applicable only in cases where the death of the insured individual occurs after December 31, 1946.

Subsec. 405 (b) of act Aug. 10, 1946, provided that the amendment to subsec. (h) by section 405 (a) of act Aug. 10, 1946, shall be applicable only in cases of applications for benefits filed under sections 401—410 of this title, filed after Dec. 31, 1946.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

SHORT TITLE OF 1961 AMENDMENTS

Section 1 of Pub. L. 87-64 provided: "That this Act [enacting section 1313 of this title, amending this section and sections 303, 403, 409, 413, 414, 415, 416, 418, 423, 1203, 1308 and 1353 of this title, sections 1401, 1402, 3101 and 3111 of Title 26, Internal Revenue Code, and section 228a of Title 45, Railroads, and enacting provisions set out as notes under this section and sections 303, 403, 414, 415, 416 and 1308 of this title and under sections 1401 and 1402 of Title 26] may be cited as the 'Social Security Amendments of 1961.'"

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

1961 INCREASE IN MONTHLY BENEFITS; EFFECTIVE DATE

Section 102(f) of Pub. L. 87-64 provided that:

"(1) The amendments made by subsection (a) [substituting "age 62" for "retirement age" and "retirement age (as defined in section 416(a) of this title)" in subssecs. (a)—(c), (e), (f) and (h) of this section] shall apply with respect to monthly benefits for months beginning on or after the effective date of this title [see effective date note under this section] based on applications filed in or after March 1961.

"(2) (A) Except as provided in subparagraphs (B), (C), and (D), section 202(q) of such Act [subsec. (q) of this section], as amended by subsection (b) (1), shall apply with respect to monthly benefits for months beginning on or after the effective date of this title [see effective date note under this section].

"(B) Section 202(q) (3) of such Act [subsec. (q) (3) of this section], as amended by subsection (b) (1), shall apply with respect to monthly benefits for months beginning on or after the effective date of this title [see note under this section], but only if the increase described in such section 202(q) (3) [subsec. (q) (3) of this section]—

"(i) is not effective for any month beginning before the effective date of this title [see effective date note under this section], or

"(ii) is based on an application for a recomputation filed on or after the effective date of this title [see effective date note under this section]

"(C) In the case of any individual who attained age 65 before the effective date of this title [see effective date note under this section], the adjustment in such individual's reduction period provided for in section 202(q) (6) of such Act [subsec. (q) (6) of this section], as amended by subsection (b) (1), shall not apply to such individual unless the total of the months specified in subparagraphs (A), (B), and (C) of such section 202(q) (6) [subsec. (q) (6) of this section] is not less than 3.

"(D) In the case of any individual entitled to a monthly benefit for the last month beginning before the effective date of this title [see effective date note under this section], if the amount of such benefit for any month thereafter is, solely by reason of the change in section 202(q) of such Act [subsec. (q) of this section] made by subsection (b) (1), lower than the amount of such benefit for such last month, then it shall be increased to the amount of such benefit for such last month.

"(3) Section 202(r) of such Act [subsec. (r) of this section], as amended by subsection (b) (1), shall apply only with respect to monthly benefits for months beginning on or after the effective date of this title [see effective date note under this section], except that subparagraph (B) of section 202(r) (2) [subsec. (r) (2) of this section] (as so amended) shall apply only if the first subsequent month described in such subparagraph (B) is a month beginning on or after the effective date of this title [see effective date note under this section].

"(4) The amendments made by subsection (b) (2) [adding subsec. (a) (3) to section 423 of this title, amending sections 416(1) (2) and 423(a) (1) of this title, and repealing subsec. (s) of this section] shall take effect on the effective date of this title [see effective date note under this section].

"(5) The amendments made by subsection (b) (3) [to subsec. (j) (3) of this section] shall apply with respect to applications for monthly benefits filed on or after the effective date of this title [see effective date note under this section].

"(6) The amendments made by subsections (c) and (d) (1) and (2) [amending sections 409(1), 413(a), 415(a) (4), (b) (3), 416(b), (c), (f), (g), (i) (3) (A), and 423(a) (2), (c) (1) (A) of this title, and repealing subsec. (a) of section 416 of this title] shall apply with respect to—

"(A) monthly benefits for months beginning on or after the effective date of this title [see effective date note under this section] based on applications filed in or after March 1961, and

"(B) lump-sum death payments under title II of the Social Security Act [this subchapter] in the case of deaths on or after the effective date of this title [see effective date note under this section].

"(7) The amendment made by subsection (d) (3) [adding subsec. (f) (7) to section 415 of this title] shall take effect on the effective date of this title [see effective date note under this section].

"(8) The amendments made by subsection (e) [to subssecs. (b) (1), (2), (c) (1), (3) of this section] shall apply with respect to monthly benefits for months beginning on or after the effective date of this title [see effective date note under this section].

"(9) For purposes of this subsection, the term 'monthly benefits' means monthly insurance benefits under title II of the Social Security Act [this subchapter]."

1961 INCREASE IN WIDOW'S, WIDOWER'S, AND PARENT'S INSURANCE BENEFITS; EFFECTIVE DATE

Section 104(e) of Pub. L. 87-64 provided that: "The amendments made by this section [to subssecs. (e) (1), (2), (f) (1), (3), and (h) (1), (2) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [this section] for months beginning on or after the effective date of this title [see effective date note under this section]."

PROHIBITION ON REDUCTION OF BENEFITS FOR CERTAIN PERSONS DEEMED TO BE WIFE, HUSBAND, WIDOW, WIDOWER, CHILD, OR STEPCHILD

Section 208(e) of Pub. L. 86-778 provided that:

"Where—

"(1) one or more persons were entitled (without the application of section 202(j) (1) of the Social Security Act [subsec. (j) (1) of this section]) to monthly benefits under section 202 of such Act [this section] for the month before the month in which this Act is enacted [Sept. 1960] on the basis of the wages and self-employment income of an individual; and

"(2) any person is entitled to benefits under subsection (b), (c), (d), (e), (f), or (g) of section 202 of the Social Security Act [subsec. (b), (c), (d), (e), (f), or (g) of this section] for any subsequent month on the basis of such individual's wages and self-employment income and such person would not be entitled to such benefits but for the enactment of this section; and

"(3) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act [this section] on the basis of such individual's wages and self-employment income for such subsequent month is reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title], then the amount of the benefit to which each person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall not, after the application of such section 203(a) [section 403(a) of this title], be less than the amount it would have been (determined without regard to section 301 [section 501 of this title]) if no person referred to in paragraph (2) of this subsection was entitled to a benefit referred to in such paragraph for such subsequent month on the basis of such wages and self-employment income of such individual."

PROHIBITION ON REDUCTION OF BENEFITS TO WIDOW, WIDOWER, OR PARENT IN CERTAIN CASES WHERE FAMILY MAXIMUM APPLIES

Section 301(c) of Pub. L. 86-778 provided that:

"Where—

"(1) one or more persons were entitled (without the application of section 202(j) (1) of the Social Security Act [subsec. (j) (1) of this section]) to monthly benefits under section 202 of such Act [this section] for the second month following the month in which this Act is enacted [Sept. 1960] on the basis of the wages and self-employment income of a deceased individual (but not including any person who became so entitled by reason of section 208 of this Act [section 408 of this title]); and

"(2) no person, other than (i) those persons referred to in paragraph (1) of this subsection (ii) those persons who are entitled to benefits under section 202 (d), (e), (f), or (g) of the Social Security Act [subssecs. (d), (e), (f), or (g) of this section] but would not be so entitled except for the enactment of section 208 of this Act [section 408 of this title], is entitled to benefits under such section 202 [this section] on the basis of

such individual's wages and self-employment income for any subsequent month or for any month after the second month following the month in which this Act is enacted [Sept. 1960] and prior to such subsequent month; and

"(3) the total of the benefits to which all persons referred to in paragraph (1) of this subsection are entitled under section 202 of the Social Security Act [this section] on the basis of such individual's wages and self-employment income for such subsequent month exceeds the maximum of benefits payable, as provided in section 203(a) of such Act [section 403(a) of this title], on the basis of such wages and self-employment income,

then the amount of the benefit to which each such person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall be determined—

"(4) in case such person is entitled to benefits under section 202 (e), (f), (g), or (h) [subsecs. (e), (f), (g), or (h) of this section], as though this section and section 208 [section 408 of this title] had not been enacted, or

"(5) in case such person is entitled to benefits under section 202(d) [subsec. (d) of this section], as though (i) no person is entitled to benefits under section 202 (e), (f), (g), or (h) [subsecs. (e), (f), (g), or (h) of this section] for such subsequent month, and (ii) the maximum of benefits payable, as described in paragraph (3), is such maximum less the amount of each person's benefit for such month determined pursuant to paragraph (4)."

PROHIBITION ON REDUCTION OF BENEFITS BECAUSE OF PARENT'S ENTITLEMENT

Section 304 (b) of Pub. L. 85-840 provided that:

"Where—

"(1) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [subsec. (j)(1) of this section]) to monthly benefits under section 202 of such Act [this section] for the month in which this Act is enacted [August 1958] on the basis of the wages and self-employment income of an individual; and

"(2) a person is entitled to a parent's insurance benefit under section 202(h) of the Social Security Act [subsec. (h) of this section] for any subsequent month on the basis of such wages and self-employment income and such person would not be entitled to such benefit but for the enactment of this section; and

"(3) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act [this section] on the basis of such wages and self-employment income for such subsequent month are reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title].

then the amount of the benefit to which each such person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall be increased, after the application of such section 203 (a) [section 403 (a) of this title], to the amount it would have been if no person referred to in paragraph (2) of this subsection was entitled to a parent's insurance benefit for such subsequent month on the basis of such wages and self-employment income."

SAVING CLAUSE; WIDOW'S, WIDOWER'S AND PARENT'S BENEFITS

Section 104(f) of Pub. L. 87-64 provided that:

"Where—

"(1) two or more persons were entitled (without the application of subsection (j)(1) of section 202 of the Social Security Act [subsec. (j)(1) of this section]) to monthly benefits under such section 202 [this section] for the last month beginning before the effective date of this title [see effective date note under this section] on the basis of the wages and self-employment income of a deceased individual, and one or more of such persons is entitled to a monthly insurance benefit under subsection (e), (f), or (h) of such section 202 [subsec. (e), (f), or (h) of this section] for such last month; and

"(2) no person, other than the persons referred to in paragraph (1) of this subsection, is entitled to bene-

fits under such section 202 [this section] on the basis of such individual's wages and self-employment income for a subsequent month or for any month after such last month and before such subsequent month; and

"(3) the total of the benefits to which all persons are entitled under such section 202 [this section] on the basis of such individual's wages and self-employment income for such subsequent month is reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title],

then the amount of the benefit to which each such person referred to in paragraph (1) of this subsection is entitled for such subsequent month shall be determined without regard to this Act if, after the application of this Act, such benefit for such month is less than the amount of such benefit for such last month. The preceding provisions of this subsection shall not apply to any monthly benefit of any person for any month beginning after the effective date of this title [see effective date note under this section] unless paragraph (3) also applies to such benefit for the month beginning on such effective date (or would so apply but for the next to the last sentence of section 203(a) of the Social Security Act [section 403 (a) of this title])."

BENEFITS OF PARENT, WIDOW, WIDOWER, OR MOTHER; SAVINGS CLAUSE

Section 5 of Pub. L. 85-238 provided that:

"Where—

"(a) one or more persons were entitled (without the application of section 202(j)(1) of the Social Security Act [subsec. (j)(1) of this section]) to parents' insurance benefits under section 202(h) of such Act [subsec. (h) of this section] for the month in which this Act [August 1957] is enacted on the basis of the wages and self-employment income of an individual;

"(b) a person becomes entitled to a widow's, widower's or mother's insurance benefit under section 202(e), (f), or (g) of the Social Security Act [subsec. (e), (f), or (g) of this section] for any subsequent month on the basis of such wages and self-employment income;

"(c) the total of the benefits to which all persons are entitled under section 202 of the Social Security Act [this section], on the basis of such wages and self-employment income for such subsequent month are reduced by reason of the application of section 203(a) of such Act [section 403(a) of this title];

then the amount of the benefit to which each such person referred to in paragraph (a) or (b) is entitled for such subsequent month shall be increased, after the application of such section 203 (a) [section 403 (a) of this title], to the amount it would have been—

"(d) if, in the case of a parent's insurance benefit, the person referred to in paragraph (b) was not entitled to the benefit referred to in such paragraph, or

"(e) if, in the case of a benefit referred to in paragraph (b), no person was entitled to a parent's insurance benefit for such subsequent month on the basis of such wages and self-employment income."

PROOF OF SUPPORT BY HUSBAND OR WIDOWER IN CERTAIN CASES

Section 113 of act Sept. 1, 1954, provided that:

"(a) For the purpose of determining the entitlement of any individual to husband's insurance benefits under subsection (c) of section 202 of the Social Security Act [subsec. (c) of this section] on the basis of his wife's wages and self-employment income, the requirements of paragraph (1) (D) of such subsection shall be deemed to be met if—

"(1) such individual was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary of Health, Education, and Welfare, from his wife on the first day of the first month (A) for which she was entitled to a monthly benefit under subsection (a) of such section 202 [subsec. (a) of this section], and (B) in which an event described in paragraph (1) or (2) of section 203 (b) of such Act [section 403(b) of this title] (as in effect before or after the enactment of this Act [Sept. 1, 1954]) did not occur.

"(2) such individual has filed proof of such support within two years after such first month, and

"(3) such wife was, without the application of subsection (j) (1) of such section 202 [subsec. (j) (1) of this section], entitled to a primary insurance benefit under such Act for August 1950.

"(b) For the purpose of determining the entitlement of any individual to widower's insurance benefits under subsection (f) of section 202 of the Social Security Act [subsec. (f) of this section] on the basis of his deceased wife's wages and self-employment income, the requirements of paragraph (1) (E) (ii) of such subsection shall be deemed to be met if—

"(1) such individual was receiving at least one-half of his support, as determined in accordance with regulations prescribed by the Secretary of Health, Education, and Welfare, from his wife, and she was a currently insured individual, on the first day of the first month (A) for which she was entitled to a monthly benefit under subsection (a) of such section 202 [subsec. (a) of this section], and (B) in which an event described in paragraph (1) or (2) of section 203(b) of such Act [section 403(b) of this title] (as in effect before or after the enactment of this Act [Sept. 1, 1954]) did not occur,

"(2) such individual has filed proof of such support within two years after such first month, and

"(3) such wife was, without the application of subsection (j) (1) of such section 202 [subsec. (j) (1) of this section], entitled to a primary insurance benefit under such Act for August 1950.

"(c) For purposes of subsection (b) (1) of this section, and for purposes of section 202 (c) (1) of the Social Security Act [subsec. (c) (1) of this section] in cases to which subsection (a) of this section is applicable, the wife of an individual shall be deemed a currently insured individual if she had not less than six quarters of coverage (as determined under section 213 of the Social Security Act) [section 413 of this title] during the thirteen-quarter period ending with the calendar quarter in which occurs the first month (1) for which such wife was entitled to a monthly benefit under section 202 (a) of such Act [subsec. (a) of this section], and (2) in which an event described in paragraph (1) or (2) of section 203 (b) of such Act [subsec. (b) (1) or (2) of this section] (as in effect before or after the enactment of this Act [Sept. 1, 1954]) did not occur.

"(d) This section shall apply only with respect to husband's insurance benefits under section 202 (c) of the Social Security Act [subsec. (c) of this section], and widower's insurance benefits under section 202 (f) of such Act [subsec. (f) of this section], for months after August 1954, and only with respect to benefits based on applications filed after such month."

SAVING PROVISIONS FOR PERSONS RECEIVING BENEFITS PRIOR TO SEPT. 1, 1950

Section 101 (c) of act Aug. 28, 1950, provided that:

"(1) Any individual entitled to primary insurance benefits or widow's current insurance benefits under section 202 of the Social Security Act [this section] as in effect prior to its amendment by this Act who would, but for the enactment of this Act, be entitled to such benefits for September 1950 shall be deemed to be entitled to old-age insurance benefits or mother's insurance benefits (as the case may be) under section 202 of the Social Security Act [this section], as amended by this Act, as though such individual became entitled to such benefits in such month.

"(2) Any individual entitled to any other monthly insurance benefits under section 202 of the Social Security Act [this section] as in effect prior to its amendment by this Act who would, but for the enactment of this Act, be entitled to such benefits for September 1950 shall be deemed to be entitled to such benefits under section 202 of the Social Security Act, as amended by this Act, as though such individual became entitled to such benefits in such month.

"(3) Any individual who files application after August 1950 for monthly benefits under any subsection of section 202 of the Social Security Act [this section] who would, but for the enactment of this Act, be entitled to benefits under such subsection (as in effect prior to such enactment) for any month prior to September 1950 shall be deemed entitled to such benefits for such month prior

to September 1950 to the same extent and in the same amounts as though this Act had not been enacted."

EXTENSION OF FILING PERIOD FOR HUSBAND'S, WIDOWER'S, OR PARENT'S BENEFITS IN CERTAIN CASES

Section 210 of Pub. L. 86-778 provided that:

"(a) In the case of any husband who would not be entitled to husband's insurance benefits under section 202(c), of the Social Security Act [subsec. (c) of this section] except for the enactment of this Act, the requirement in section 202(c) (1) (C) of the Social Security Act [subsec. (c) (1) (C) of this section] relating to the time within which proof of support must be filed shall not apply if such proof of support is filed within two years after the month in which this Act is enacted [Sept. 1960].

"(b) In the case of any widower who would not be entitled to widower's insurance benefits under section 202(f) of the Social Security Act [subsec. (f) of this section] except for the enactment of this Act, the requirement in section 202(f) (1) (D) of the Social Security Act [subsec. (f) (1) (D) of this section] relating to the time within which proof of support must be filed shall not apply if such proof of support is filed within two years after the month in which this Act is enacted [Sept. 1960].

"(c) In the case of any parent who would not be entitled to parent's insurance benefits under section 202(h) of the Social Security Act except for the enactment of this Act, the requirement in section 202(h) (1) (B) of the Social Security Act [subsec. (h) (1) (B) of this section] relating to the time within which proof of support must be filed shall not apply if such proof of support is filed within two years after the month in which this Act is enacted [Sept. 1960]."

PROOF OF SUPPORT BY CERTAIN WIDOWERS OR PARENTS

Section 103(c) of Pub. L. 87-64 provided that: "In the case of any widower or parent who would not be entitled to widower's insurance benefits under section 202(f) [subsec. (f) of this section], or parent's insurance benefits under section 202(h) [subsec. (h) of this section], of the Social Security Act except for the enactment of this Act (other than this subsection), the requirement in sections 202(f) (1) (D) and 202(h) (1) (B) [subsec. (f) (1) (D) and (h) (1) (B) of this section], respectively, of the Social Security Act relating to the time within which proof of support must be filed shall not apply if such proof of support is filed before the close of the 2-year period which begins on the effective date of this title [see note under this section]."

FILING OF PROOF OF SUPPORT BY HUSBAND, WIDOWER OR PARENT

Section 207 (b) of Pub. L. 85-840 provided that: "In the case of any husband, widower, or parent who would not be entitled to benefits under section 202(c), section 202(f), and section 202(h), respectively, of the Social Security Act [subsecs. (c), (f) and (h) of this section] except for the enactment of section 205 of this Act [amending subsecs. (b), (c) (1), (d) (1), (f) (1) (D), (g) (1) (F), (h) (1) (B), (k), and (q) (5), (6) of this section and sections 401(h), 403 (c), (h), 414(b), 415(g), 422(b) (3) and 425 of this title], the requirement in such section 202(c), section 202(f), or section 202(h), [subsec. (c), (f) or (h) of this section], as the case may be, that proof of support be filed within a two-year period shall not apply if such proof is filed within two years after the month in which this Act is enacted [August 1958]."

FILING OF PROOF OF SUPPORT BY PARENT

Section 304(c) of Pub. L. 85-840 provided that: "In the case of any parent who would not be entitled to parent's benefits under section 202(h) of the Social Security Act [subsec. (h) of this section] except for the enactment of this section, the requirement in such section 202(h) [subsec. (h) of this section] that proof of support be filed within two years of the date of death of the insured individual referred to therein shall not apply if such proof is filed within the two-year period beginning with the first day of the month after the month in which this Act is enacted [August 1958]."

LUMP-SUM PAYMENTS WHERE DEATH OCCURRED PRIOR TO SEPT. 1, 1950

Section 101 (d) of act Aug. 28, 1950, as amended July 18, 1952, ch. 945, § 5(e) (1), 66 Stat. 775; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(a) (2), 74 Stat. 936, provided that: "Lump-sum death payments shall be made in the case of individuals who died prior to September 1950 as though this Act had not been enacted; except that in the case of any individual who died outside the forty-eight States and the District of Columbia after December 6, 1941, and prior to August 10, 1946, the last sentence of section 202 (g) of the Social Security Act [subsec. (g) of this section] as in effect prior to the enactment of this Act shall not be applicable if application for a lump-sum death payment is filed prior to September 1952, and except that in the case of any individual who died outside the forty-eight States and the District of Columbia on or after June 25, 1950, and prior to September 1950, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa for interment or reinterment, the last sentence of section 202(g) of the Social Security Act [subsec. (g) of this section] as in effect prior to the enactment of this Act [July 18, 1952] shall not prevent payment to any person under the second sentence thereof [subsec. (g) of this section] if application for a lump-sum death payment under such section with respect to such deceased individual is filed by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment."

LUMP-SUM PAYMENTS FOR DEATHS BEFORE 1940; TIME LIMITATION

Lump-sum payments of 3½ percent of total wages paid with respect to employment after Dec. 31, 1936 and before reaching the age of 65 were provided for persons who were not qualified individuals upon reaching that age by section 204 of act Aug. 14, 1935, before amendment in 1939. Such lump-sum payments, except to the estate of an individual who died prior to Jan. 1, 1940, were prohibited after Aug. 10, 1939, by section 902 (g) of act Aug. 10, 1939. Section 415 of act Aug. 10, 1946, provided that no lump-sum payments shall be made under section 204 of the 1935 act or section 902 (g) of the 1939 act unless application therefor has been filed prior to the expiration of six months after Aug. 10, 1946.

DEATH OUTSIDE U.S.; EXTENSION OF FILING TIME FOR LUMP-SUM PAYMENTS

Section 5 (e) (2) of act July 18, 1952, ch. 945, 66 Stat. 775, as amended by Pub. L. 86-778, title I, § 103(a) (2), Sept. 13, 1960, 74 Stat. 936, provided that: "In the case of any individual who died outside the forty-eight States and the District of Columbia after August 1950 and prior to January 1954, whose death occurred while he was in the active military or naval service of the United States, and who is returned to any of such States, the District of Columbia, Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa for interment or reinterment, the last sentence of section 202(1) of the Social Security Act [subsec. (1) of this section] shall not prevent payment to any person under the second sentence thereof if application for a lump-sum death payment with respect to such deceased individual is filed under such section by or on behalf of such person (whether or not legally competent) prior to the expiration of two years after the date of such interment or reinterment."

PAYMENT OF ANNUITIES TO OFFICERS AND EMPLOYEES OF THE UNITED STATES CONVICTED OF CERTAIN OFFENSES

Section 121(b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) of this section [adding subsec. (u) of this section] shall not be construed to restrict or otherwise affect any of the provisions of the Act entitled 'An Act to prohibit payments of annuities to officers and employees of the United States convicted of certain offenses, and for other purposes', approved September 1, 1954 (Public Law 769, Eighty-third Congress) [sections 2281-2288 of Title 5,

Executive Departments and Government Officers and Employees]."

APPLICATION FOR BENEFITS BY SURVIVORS OF MEMBERS AND FORMER MEMBERS OF UNIFORMED SERVICES

Forms for use by survivors of members and former members of the uniformed services in filing applications for benefits under this subchapter to be prescribed jointly by the Administrator of Veterans' Affairs and the Secretary of Health, Education, and Welfare, see section 3005 of Title 38, Veterans' Benefits.

DEFINITION OF "SECRETARY"

Section 304 of Pub. L. 87-64 provided that: "As used in this title and title I, and in the provisions of the Social Security Act amended thereby [see Short Title note under this section], the term 'Secretary', unless the context otherwise requires, means the Secretary of Health, Education, and Welfare."

Section 702 of Pub. L. 85-840 provided that: "As used in the provisions of the Social Security Act amended by this Act, [subsecs. (c) (1) (C) and (f) (1) (D) of this section and sections 403 (g) (1), 417 (h), 418 (d) (6), (f) (2), 702 (a) (2), 712 (a) (2), 721-725, 1301 (a) (8), 1306 (b), and 1308 of this title], the term 'Secretary', unless the context otherwise requires, means the Secretary of Health, Education, and Welfare."

"Secretary" as used in this section means the Secretary of Health, Education, and Welfare. See section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

CROSS REFERENCES

Survivor benefits under Railroad Retirement Act, correlation with payments under this chapter, see section 228e of Title 45, Railroads.

§ 403. Reduction of insurance benefits.

(a) Maximum benefits.

Whenever the total of monthly benefits to which individuals are entitled under sections 402 and 423 of this title for a month on the basis of the wages and self-employment income of an insured individual is greater than the amount appearing in column V of the table in section 415 (a) of this title on the line on which appears in column IV such insured individual's primary insurance amount, such total of benefits shall be reduced to such amount; except that—

(1) when any of such individuals so entitled would (but for the provisions of section 402 (k) (2) (A) of this title) be entitled to child's insurance benefits on the basis of the wages and self-employment income of one or more other insured individuals, such total of benefits shall not be reduced to less than the smaller of: (A) the sum of the maximum amounts of benefits payable on the basis of the wages and self-employment income of all such insured individuals, or (B) the last figure in column V of the table appearing in section 415 (a) of this title, or

(2) when any of such individuals was entitled (without the application of section 402 (j) (1) and 423 (b) of this title) to monthly benefits under section 402 or 423 of this title for December 1958, and the primary insurance amount of the insured individual on the basis of whose wages and self-employment income such monthly benefits are payable is determined under the provisions of section 415 (a) (2) of this title, then such total benefits shall not be reduced to less than the larger of—

(A) the amount determined under this subsection without regard to this paragraph, or

(B) the amount determined under this subsection as in effect prior to August 28, 1958 or the amount determined under section 102 (h) of the Social Security Amendments of 1954, as the case may be, plus the excess of—

(i) the primary insurance amount of such insured individual in column IV of the table appearing in section 415 (a) of this title, over

(ii) his primary insurance amount determined under section 415 (c) of this title, or

(3) when any of such individuals is entitled (without the application of section 402(j) (1) and 423(b) of this title) to monthly benefits based on the wages and self-employment income of an insured individual with respect to whom a period of disability (as defined in section 416(i) of this title) began prior to January 1959 and continued until—

(A) he became entitled to benefits under section 402 or 423 of this title, or

(B) he died, whichever first occurred, and the primary insurance amount of such insured individual is determined under the provisions of section 415(a) (1) or (3) of this title, then such total of benefits shall not be reduced to less than \$99.10 if such primary insurance amount is \$66, to less than \$102.40 if such primary insurance amount is \$67, to less than \$106.50 if such primary insurance amount is \$68, or, if such primary insurance amount is higher than \$68, to less than the smaller of—

(C) the amount determined under this subsection without regard to this paragraph, or \$206.60, whichever is larger, or

(D) the amount in column V of such table on the same line on which, in column IV, appears his primary insurance amount, plus the excess of—

(i) such primary insurance amount, over

(ii) the smaller amount in column II of the table on the line on which appears such primary insurance amount.

In any case in which benefits are reduced pursuant to the preceding provisions of this subsection, such reduction shall be made after any deductions under this section and after any deductions under section 422 (b) of this title. Whenever a reduction is made under this subsection, each benefit, except the old-age or disability insurance benefit, shall be proportionately decreased.

(b) Deductions on account of work.

Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this subchapter to which an individual is entitled, and from any payment or payments to which any other persons are entitled on the basis of such individual's wages and self-employment income, until the total of such deductions equals—

(1) such individual's benefit or benefits under section 402 of this title for any month, and

(2) if such individual was entitled to old-age insurance benefits under section 402(a) of this title for such month, the benefit or benefits of all other persons for such month under section

402 of this title based on such individual's wages and self-employment income,

if for such month he is charged with excess earnings, under the provisions of subsection (f) of this section, equal to the total of benefits referred to in clauses (1) and (2). If the excess earnings so charged are less than such total of benefits, such deductions with respect to such month shall be equal only to the amount of such excess earnings. If a child who has attained the age of 18 and is entitled to child's insurance benefits, or a person who is entitled to mother's insurance benefits, is married to an individual entitled to old-age insurance benefits under section 402(a) of this title, such child or such person, as the case may be, shall, for the purposes of this subsection and subsection (f) of this section, be deemed to be entitled to such benefits on the basis of the wages and self-employment income of such individual entitled to old-age insurance benefits. If a deduction has already been made under this subsection with respect to a person's benefit or benefits under section 402 of this title for a month, he shall be deemed entitled to payments under such section for such month for purposes of further deductions under this subsection, and for purposes of charging of each person's excess earnings under subsection (f) of this section, only to the extent of the total of his benefits remaining after such earlier deductions have been made. For purposes of this subsection and subsection (f) of this section—

(A) an individual shall be deemed to be entitled to payments under section 402 of this title equal to the amount of the benefit or benefits to which he is entitled under such section after the application of subsection (a) of this section, but without the application of the penultimate sentence thereof; and

(B) if a deduction is made with respect to an individual's benefit or benefits under section 402 of this title because of the occurrence in any month of an event specified in subsection (c) or (d) of this section or in section 422(b) of this title, such individual shall not be considered to be entitled to any benefits under such section 402 for such month.

(c) Deductions on account of noncovered work outside the United States or failure to have child in care.

Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this subchapter to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under section 402 of this title for any month—

(1) in which such individual is under the age of seventy-two and on seven or more different calendar days of which he engaged in noncovered remunerative activity outside the United States; or

(2) in which such individual, if a wife under age sixty-five entitled to a wife's insurance benefit, did not have in her care (individually or jointly with her husband) a child of her husband entitled to a child's insurance benefit and such wife's insurance benefit for such month was not

reduced under the provisions of section 402(q) of this title; or

(3) in which such individual, if a widow entitled to a mother's insurance benefit, did not have in her care a child of her deceased husband entitled to a child's insurance benefit; or

(4) in which such individual, if a former wife divorced entitled to a mother's insurance benefit, did not have in her care a child of her deceased former husband who (A) is her son, daughter, or legally adopted child and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of her deceased former husband.

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child's insurance benefit for any month in which an event specified in section 422(b) of this title occurs with respect to such child. No deduction shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of eighteen or any subsequent month.

(d) Deductions from dependent's benefits on account of noncovered work outside the United States by old-age insurance beneficiary.

(1) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to old-age insurance benefits, to which a wife, husband, or child is entitled, until the total of such deductions equals such wife's, husband's, or child's insurance benefit or benefits under section 402 of this title for any month in which such individual is under the age of seventy-two and on seven or more different calendar days of which he engaged in noncovered remunerative activity outside the United States.

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled, or from any mother's insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or mother's insurance benefit or benefits under section 402 of this title for any month in which such child or person entitled to mother's insurance benefits is married to an individual who is entitled to old-age insurance benefits and on seven or more different calendar days of which such individual engaged in noncovered remunerative activity outside the United States.

(e) Occurrence of more than one event.

If more than one of the events specified in subsections (c) and (d) of this section and section 422 (b) of this title occurs in any one month which would occasion deductions equal to a benefit for such month, only an amount equal to such benefit shall be deducted.

(f) Months to which earnings are charged.

For purposes of subsection (b) of this section—

(1) The amount of an individual's excess earnings (as defined in paragraph (3)) shall be charged to months as follows: There shall be charged to the first month of such taxable year an amount of his excess earnings equal to the sum

of the payments to which he and all other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum), and the balance, if any, of such excess earnings shall be charged to each succeeding month in such year to the extent, in the case of each such month, of the sum of the payments to which such individual and all other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income, until the total of such excess has been so charged. Where an individual is entitled to benefits under section 402(a) of this title and other persons are entitled to benefits under section 402 (b), (c), or (d) of this title on the basis of the wages and self-employment income of such individual, the excess earnings of such individual for any taxable year shall be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Notwithstanding the preceding provisions of this paragraph, no part of the excess earnings of an individual shall be charged to any month (A) for which such individual was not entitled to a benefit under this subchapter, (B) in which such individual was age seventy-two or over, (C) in which such individual, if a child entitled to child's insurance benefits, has attained the age of 18, or (D) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than \$100.

(2) As used in paragraph (1), the term "first month of such taxable year" means the earliest month in such year to which the charging of excess earnings described in such paragraph is not prohibited by the application of clauses (A), (B), (C), and (D) thereof.

(3) For purposes of paragraph (1) and subsection (h) of this section, an individual's excess earnings for a taxable year shall be his earnings for such year in excess of the product of \$100 multiplied by the number of months in such year, except that of the first \$500 of such excess (or all of such excess if it is less than \$500), an amount equal to one-half thereof shall not be included. The excess earnings as derived under the preceding sentence, if not a multiple of \$1, shall be reduced to the next lower multiple of \$1.

(4) For purposes of clause (D) of paragraph (1)—

(A) An individual will be presumed, with respect to any month, to have been engaged in self-employment in such month until it is shown to the satisfaction of the Secretary that such individual rendered no substantial services in such month with respect to any trade or business the net income or loss of which is includible in computing (as provided in paragraph (5) of this subsection) his net earnings or net loss from self-employment for any taxable year.

The Secretary shall by regulations prescribe the methods and criteria for determining whether or not an individual has rendered substantial services with respect to any trade or business.

(B) an individual will be presumed, with respect to any month, to have rendered services for wages (determined as provided in paragraph (5) of this subsection) of more than \$100 until it is shown to the satisfaction of the Secretary that such individual did not render such services in such month for more than such amount.

(5) (A) An individual's earnings for a taxable year shall be (i) the sum of his wages for services rendered in such year and his net earnings from self-employment for such year, minus (ii) any net loss from self-employment for such year.

(B) In determining an individual's net earnings from self-employment and his net loss from self-employment for purposes of subparagraph (A) of this paragraph and paragraph (4), the provisions of section 411 of this title, other than paragraphs (1), (4), and (5) of subsection (c), shall be applicable; and any excess of income over deductions resulting from such a computation shall be his net earnings from self-employment and any excess of deductions over income so resulting shall be his net loss from self-employment.

(C) For purposes of this subsection, an individual's wages shall be computed without regard to the limitations as to amounts of remuneration specified in subsections (a), (g)(2), (g)(3), (h)(2), and (j) of section 409 of this title; and in making such computation services which do not constitute employment as defined in section 410 of this title, performed within the United States by the individual as an employee or performed outside the United States in the active military or naval service of the United States, shall be deemed to be employment as so defined if the remuneration for such services is not includible in computing his net earnings or net loss from self-employment.

(6) For purposes of this subsection, wages (determined as provided in paragraph (5)(C)) which, according to reports received by the Secretary, are paid to an individual during a taxable year shall be presumed to have been paid to him for services performed in such year until it is shown to the satisfaction of the Secretary that they were paid for services performed in another taxable year. If such reports with respect to an individual show his wages for a calendar year, such individual's taxable year shall be presumed to be a calendar year for purposes of this subsection until it is shown to the satisfaction of the Secretary that his taxable year is not a calendar year.

(7) Where an individual's excess earnings are charged to a month and the excess earnings so charged are less than the total of the payments (without regard to such charging) to which all persons are entitled under section 402 of this title for such month on the basis of his wages and self-employment income, the difference between such total and the excess so charged to such month shall be paid (if it is otherwise payable under this subchapter) to such individual and other persons

in the proportion that the benefit to which each of them is entitled (without regard to such charging, without the application of section 402(k)(3) of this title, and prior to the application of section 403(a) of this title) bears to the total of the benefits to which all of them are entitled.

(g) Penalty for failure to report certain events.

Any individual in receipt of benefits subject to deduction under subsection (c) of this section, (or who is in receipt of such benefits on behalf of another individual), because of the occurrence of an event specified therein who fails to report such occurrence to the Secretary prior to the receipt and acceptance of an insurance benefit for the second month following the month in which such event occurred, shall suffer an additional deduction equal to that imposed under subsection (c) of this section, except that the first additional deduction imposed by this subsection in the case of any individual shall not exceed an amount equal to one month's benefit even though the failure to report is with respect to more than one month.

(h) Report of earnings to Secretary.

(1) (A) If an individual is entitled to any monthly insurance benefit under section 402 of this title during any taxable year in which he has earnings or wages, as computed pursuant to paragraph (5) of subsection (f) of this section, in excess of the product of \$100 times the number of months in such year, such individual (or the individual who is in receipt of such benefit on his behalf) shall make a report to the Secretary of his earnings (or wages) for such taxable year. Such report shall be made on or before the fifteenth day of the fourth month following the close of such year, and shall contain such information and be made in such manner as the Secretary may by regulations prescribe. Such report need not be made for any taxable year (i) beginning with or after the month in which such individual attained the age of 72, or (ii) if benefit payments for all months (in such taxable year) in which such individual is under age 72 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection.

(B) If the benefit payments of an individual have been suspended for all months in any taxable year under the provisions of the first sentence of paragraph (3) of this subsection, no benefit payment shall be made to such individual for any such month in such taxable year after the expiration of the period of three years, three months, and fifteen days following the close of such taxable year unless within such period the individual, or some other person entitled to benefits under this subchapter on the basis of the same wages and self-employment income, files with the Secretary information showing that a benefit for such month is payable to such individual.

(2) If an individual fails to make a report required under paragraph (1) of this subsection, within the time prescribed therein, for any taxable year and any deduction is imposed under subsection (b) of this section by reason of his earnings for such year, he shall suffer additional deductions as follows:

(A) if such failure is the first one with respect to which an additional deduction is imposed under

this paragraph, such additional deduction shall be equal to his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 402 of this title;

(B) if such failure is the second one for which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to two times his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 402 of this title;

(C) if such failure is the third or a subsequent one for which an additional deduction is imposed under this paragraph, such additional deduction shall be equal to three times his benefit or benefits for the last month of such year for which he was entitled to a benefit under section 402 of this title;

except that the number of the additional deductions required by this paragraph with respect to a failure to report earnings for a taxable year shall not exceed the number of months in such year for which such individual received and accepted insurance benefits under section 402 of this title and for which deductions are imposed under subsection (b) of this section by reason of his earnings. In determining whether a failure to report earnings is the first or a subsequent failure for any individual, all taxable years ending prior to the imposition of the first additional deduction under this paragraph, other than the latest one of such years, shall be disregarded.

(3) If the Secretary determines, on the basis of information obtained by or submitted to him, that it may reasonably be expected that an individual entitled to benefits under section 402 of this title for any taxable year will suffer deductions imposed under subsection (b) of this section by reason of his earnings for such year, the Secretary may, before the close of such taxable year, suspend the total or less than the total payment for each month in such year (or for only such months as the Secretary may specify) of the benefits payable on the basis of such individual's wages and self-employment income; and such suspension shall remain in effect with respect to the benefits for any month until the Secretary has determined whether or not any deduction is imposed for such month under subsection (b) of this section. The Secretary is authorized, before the close of the taxable year of an individual entitled to benefits during such year, to request of such individual that he make, at such time or times as the Secretary may specify, a declaration of his estimated earnings for the taxable year and that he furnish to the Secretary such other information with respect to such earnings as the Secretary may specify. A failure by such individual to comply with any such request shall in itself constitute justification for a determination under this paragraph that it may reasonably be expected that the individual will suffer deductions imposed under subsection (b) of this section by reason of his earnings for such year. If, after the close of a taxable year of an individual entitled to benefits under section 402 of this title for such year, the Secretary requests such individual to furnish a report of his earnings (as computed

pursuant to paragraph (5) of subsection (f) of this section) for such taxable year or any other information with respect to such earnings which the Secretary may specify, and the individual fails to comply with such request, such failure shall in itself constitute justification for a determination that such individual's benefits are subject to deductions under subsection (b) of this section for each month in such taxable year (or only for such months thereof as the Secretary may specify) by reason of his earnings for such year.

(i) Circumstances under which deductions not required.

In the case of any individual, deductions by reason of the provisions of subsection (b), (c), (g), or (h) of this section, or the provisions of section 422 (b) of this title, shall, notwithstanding such provisions, be made from the benefits to which such individual is entitled only to the extent that such deductions reduce the total amount which would otherwise be paid, on the basis of the same wages and self-employment income, to such individual and the other individuals living in the same household.

(j) Attainment of age seventy-two.

For the purposes of this section, an individual shall be considered as seventy-two years of age during the entire month in which he attains such age.

(k) Noncovered remunerative activity outside the United States.

An individual shall be considered to be engaged in noncovered remunerative activity outside the United States if he performs services outside the United States as an employee and such services do not constitute employment as defined in section 410 of this title, and are not performed in the active military or naval service of the United States or if he carries on a trade or business outside the United States (other than the performance of service as an employee) the net income or loss of which (1) is not includible in computing his net earnings from self-employment for a taxable year and (2) would not be excluded from net earnings from self-employment, if carried on in the United States, by any of the numbered paragraphs of section 411 (a) of this title. When used in the preceding sentence with respect to a trade or business (other than the performance of service as an employee), the term "United States" does not include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa in the case of an alien who is not a resident of the United States (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa); and the term "trade or business" shall have the same meaning as when used in section 162 of Title 26, Internal Revenue Code of 1954.

(l) Good cause for failure to make reports required.

The failure of an individual to make any report required by subsection (g) or (h) (1) (A) of this section within the time prescribed therein shall not be regarded as such a failure if it is shown to the satisfaction of the Secretary that he had good cause for failing to make such report within such time. The determination of what constitutes good cause for purposes of this subsection shall be made in accordance with regulations of the Secretary. (Aug.

14, 1935, ch. 531, title II, § 203, 49 Stat. 623; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 406, 60 Stat. 988; Aug. 28, 1950, ch. 809, title I, §§ 102 (a), 103 (a), 64 Stat. 489; July 18, 1952, ch. 945, §§ 2 (b) (2), 4 (a)—(d), 66 Stat. 768, 773; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title I, §§ 102 (e) (7), 103 (a)—(h), (i) (3), 112 (a), 68 Stat. 1070, 1073, 1078, 1085; Aug. 1, 1956, ch. 836, title I, §§ 101 (d)—(g), 102 (d) (11), 107 (a), 112 (a), (b), 70 Stat. 808, 814, 829, 831; Aug. 28, 1958, Pub. L. 85-840, title I, § 101 (f), title II, § 205 (j), (k), title III, §§ 307(f), 308 (a)—(e), 72 Stat. 1017, 1024, 1032, 1033; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(b), title II, §§ 209(a), 211(a)—(h), title III, § 302(a), 74 Stat. 936, 953—955, 957, 960; June 30, 1961, Pub. L. 87-64, title I, § 108(a), 75 Stat. 140.)

REFERENCES IN TEXT

Section 102(h) of the Social Security Amendments of 1954, referred to in subsec. (a) (2) (B), is set out as a note under this section.

AMENDMENTS

1961—Subsec. (f) (3). Pub. L. 87-64 substituted "\$500" for "\$300" in two instances.

1960—Subsec. (a) (3). Pub. L. 86-778, § 302(a), substituted "then such total of benefits shall not be reduced to less than \$99.10 if such primary insurance amount is \$66, to less than \$102.40 if such primary insurance amount is \$67, to less than \$106.50 if such primary insurance amount is \$68, or, if such primary insurance amount is higher than \$68, to less than the smaller of" for "and is not less than \$68, then such total of benefits shall not be reduced to less than the smaller of" in the provisions following cl. (B), and "the amount determined under this subsection without regard to this paragraph, or \$206.60, whichever is larger" for "the last figure in column V of the table appearing in section 415(a) of this title" in cl. (C).

Subsec. (b). Pub. L. 86-778, § 211(a), amended subsec. (b) generally, and among other changes, authorized deductions from payments to which any other persons are entitled on the basis of an individual's wages and self-employed income, substituted provisions requiring deductions for months in which an individual is charged with excess earnings under the provisions of subsec. (f) of this section for provisions which required deductions for months in which an individual is charged with any earnings under the provisions of subsec. (e) of this section, and inserted the second, third, fourth and fifth sentences. Former clauses (2)—(5) and the closing paragraph of subsec. (b) are now covered by subsec. (c) of this section.

Subsec. (c). Pub. L. 86-778, § 211(b), redesignated the opening provisions, clauses (2)—(5) and the closing provisions of former subsec. (b) of this section as the opening provisions, clauses (1)—(4) and the closing provisions of subsec. (c), respectively. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 86-778, § 211(c), added subsec. (d) and redesignated former subsec. (d) as (e). Provisions of subsec. (d) were formerly contained in subsec. (c) of this section.

Subsec. (e). Pub. L. 86-778, § 211 (c) (d), redesignated former subsec. (d) as (e), substituted "subsections (c) and (d) of this section" for "subsections (b) and (c) of this section", and eliminated provisions which required the charging of any earnings to any month to be treated as an event occurring in such month. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 86-778, § 211 (c), (e), redesignated former subsec. (e) as (f), and amended such subsection by inserting pars. (3) and (7), substituting provisions requiring an amount of an individual's excess earnings equal to the sum of the payments to which he and all

other persons are entitled for the month under section 402 of this title on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum) to be charged to the first month of the taxable year, and the balance, if any, of such excess earnings to be charged to each succeeding month in such year to the extent, in the case of each month, of the sum of the payments to which such individual and all other persons are entitled for such month under section 402 of this title on the basis of his wages and self-employment income, until the total of such excess has been so charged, for provisions which required the first \$80 of earnings in excess of \$1,200 to be charged to the first month of the taxable year, and the balance, if any, at the rate of \$80 per month to each succeeding month in such year until all of the balance has been applied, and adding provisions requiring the excess earnings of an individual for any taxable year, where an individual is entitled to benefits under section 402(a) of this title and other persons are entitled to benefits under section 402 (b), (c), or (d) of this title on the basis of the wages and self-employment income of such individual, to be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 86-778, §§ 209(a), 211(c), redesignated former subsec. (f) as (g), and substituted therein "subsection (c) of this section" for "subsection (b) or (c) of this section" in two instances, and eliminated words "(other than an event specified in subsection (b)(1) or (c)(1) of this section)" which followed "of an event specified therein." Former subsec. (g) was redesignated (h).

Subsec. (h). Pub. L. 86-778, § 211(c), (f), redesignated former subsec. (g) as (h), and substituted therein "paragraph (5) of subsection (f) of this section" for "paragraph (4) of subsection (e) of this section" in two instances, "paragraph (3) of this subsection" for "paragraph (3) of subsection (g) of this section", "subsection (b) of this section" for "subsection (b)(1) of this section" in five instances, and "suspend the total or less than the total payment" for "suspend the payment." Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 86-778, § 211 (c), (g), redesignated former subsec. (h) as (i) and substituted therein "subsection (b), (c), (g), or (h) of this section" for "subsection (b), (f), or (g) of this section." Former subsec. (i) was repealed by Act Sept. 1, 1954, c. 1206, Title I, § 112(a), 68 Stat. 1085.

Subsec. (k). Pub. L. 86-778, § 103(b), substituted "the Commonwealth of Puerto Rico, the Virgin Islands, Guam or American Samoa" for "Puerto Rico or the Virgin Islands", and "the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa" for "Puerto Rico and the Virgin Islands."

Subsec. (l). Pub. L. 86-778, § 211(h), substituted "subsection (g) or (h)(1)(A) of this section" for "subsection (f) or (g)(1)(A) of this section."

1958—Subsec. (a). Pub. L. 85-840, § 101(f), substituted provisions limiting the total of monthly benefits under sections 402 and 423 of this title to the amount provided in column V of the table in section 415 (a) of this title for provisions which limited the total of monthly benefits under section 402 of this title to \$50, or 80% of the average monthly wage, or one and one-half times the primary insurance amount, whichever is greater, with a maximum amount of \$200, and inserted provisions limiting the reduction for individuals who were entitled to monthly benefits under section 402 or 423 of this title for December 1958, and for individuals entitled to monthly benefits with respect to whom a period of disability began prior to January 1959 and continued until he became entitled to benefits under section 402 or 423 of this title, or he died, whichever first occurred.

Subsec. (c). Pub. L. 85-840, § 205(j), inserted "based on the wages and self-employment income of an individual entitled to old-age insurance benefits," preceding "to which a wife" in the opening provisions of par. (1), and Pub. L. 85-840, § 307(f), designated existing provisions of subsec. (c) as par. (1), redesignated subpars. (1) and

(2) of par. (1) as subpars. (A) and (B), substituted in subpar. (B) of par. (1) "subparagraph (A)" for "paragraph (1)", and added par. (2).

Subsec. (e) (2). Pub. L. 85-840, § 308 (a), (c), substituted "first month" for "last month" and "succeeding month" for "preceding month" wherever appearing, and "\$100" for "\$80" in cl. (D).

Subsec. (e) (3). Pub. L. 85-840, § 308 (b), (c), substituted "the term 'first month of such taxable year' means the earliest month" for "the term 'last month of such taxable year' means the latest month" in cl. (A), and "\$100" for "\$80" in cl. (B) (ii).

Subsec. (g) (1). Pub. L. 85-840, § 308 (d), designated existing provisions thereof as subpar. (A) and inserted provisions therein dispensing with the need for a report for any taxable year if benefit payments for all months (in such taxable year) in which such individual is under age 72 have been suspended under the provisions of the first sentence of par. (3) of this subsection, and added subpar. (B).

Subsec. (h). Pub. L. 85-840, § 205 (k), eliminated provisions that related to reductions by reason of the provisions of section 424 of this title.

Subsec. (i). Pub. L. 85-840, § 308 (e), substituted "(g) (1) (A) of this section" for "(g) of this section".

1956—Subsec. (a). Act Aug. 1, 1956, § 101 (d), inserted "after any deductions under section 422 (b) of this title, and after any reduction under section 424 of this title" in two instances.

Subsec. (b). Act Aug. 1, 1956, § 101 (e), inserted paragraph providing that a child should not be considered to be entitled to a child's insurance benefit for any month in which an event specified in section 422 (b) of this title occurs with respect to such child, and prohibiting any deduction from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of 18 or any subsequent month.

Subsec. (b) (3). Act Aug. 1, 1956, § 102 (d) (11), substituted "age 65" for "retirement age" and inserted "any such wife's insurance benefit for such month was not reduced under the provisions of section 402 (q) of this title".

Subsec. (d). Act Aug. 1, 1956, § 101 (f), included events specified in section 422 (b) of this title.

Subsec. (e) (4) (C). Act Aug. 1, 1956, § 112 (a), inserted "or performed outside the United States in the active military or naval service of the United States" after "performed within the United States by the individual as an employee".

Subsec. (g) (1). Act Aug. 1, 1956, § 107 (a), permitted reports to be made on or before the fifteenth day of the fourth month following the close of the year.

Subsec. (h). Act Aug. 1, 1956, § 101 (g), included deductions by reason of the provisions of section 422 (b) of this title, and reductions by reason of the provisions of section 424 of this title.

Subsec. (k). Act Aug. 1, 1956, § 112 (b), inserted "and are not performed in the active military or naval service of the United States" following "section 410 of this title".

1954—Subsec. (a). Act Sept. 1, 1954, § 102 (e) (7), increased maximum limitations on the total monthly amount of benefits.

Subsec. (b) (1), (2). Act Sept. 1, 1954, § 103 (a), (1) (3), put into effect an annual retirement test for beneficiaries whether they have wage or self-employment earnings, or both, added a provision for making deductions on account of nonrecovered remunerative activity outside the United States, and provided that deductions because of such provisions be made from an individual's benefits only for months in which he is under the age of 72, rather than 75.

Subsec. (c). Act Sept. 1, 1954, § 103 (b), (1) (3), provided that deductions be made from a dependent's benefits for any month in which the primary beneficiary was under the age of 72, and for which he was charged with any earnings for work deduction purposes under subsec. (e) or on 7 or more different calendar days of which he engaged in noncovered remunerative activity outside the United States.

Subsec. (d). Act Sept. 1, 1954, § 103 (c), provided that the charging of earnings shall be treated as an event occurring in the month to which such earnings are charged.

Subsec. (e) (1), (2). Act Sept. 1, 1942, § 103 (d) (1), (2), (1) (3), provided a method for charging earnings to particular months of the year for purposes of determining the deductions required under subsecs. (b) and (c).

Subsec. (e) (3) (B). Act Sept. 1, 1954, § 103 (d) (3), provided authority to presume, for purposes of charging earnings to calendar months, that an individual rendered services for wages of more than \$80 in any month.

Subsec. (e) (4), (5). Act Sept. 1, 1954, § 103 (d) (4), added subsec. (e) (4), (5).

Subsec. (f). Act Sept. 1, 1954, § 103 (e), clarified the penalty provisions.

Subsec. (g). Act Sept. 1, 1954, § 103 (f) (1), amended catchline.

Subsec. (g) (1). Act Sept. 1, 1954, § 103 (f) (2), (3), provided that if an individual entitled to any monthly benefit in a taxable year has earnings or wages in excess of \$100 times the number of months in such year, he must make a report to the Secretary of his earnings for such taxable year, and substituted "seventy-two" for "seventy-five".

Subsec. (g) (2). Act Sept. 1, 1954, § 103 (f) (4), provided a schedule of penalty deductions for failure to make required reports within the time prescribed by subsec. (g) (1) if any deduction is imposed because of earnings in such year.

Subsec. (g) (3). Act Sept. 1, 1954, § 103 (f) (5), substituted "subsection (b) (1)" for "subsection (b) (2)", "earnings" for "net earnings from self-employment", and "such earnings" for "such net earnings", and added a new sentence at the end.

Subsec. (i). Act Sept. 1, 1954, § 112 (a), repealed subsec. (i), effective Sept. 1, 1954, and also provided that no deductions should be made pursuant to such subsec. (i) from any benefits for any month after August 1954.

Subsec. (j). Act Sept. 1, 1954, § 103 (f) (6), (1) (3), substituted "seventy-two" for "seventy-five".

Subsec. (k). Act Sept. 1, 1954, § 103 (g), added subsec. (k).

Subsec. (l). Act Sept. 1, 1954, § 103 (h), added subsec. (l).

1952—Subsec. (a). Act July 18, 1952, § 2 (b) (2), increased the maximum and minimum monthly benefits payable a family.

Subsecs. (b) (1), (2), (c) (1), (2), (e), and (g). Act July 18, 1952, § 4 (a)—(d), substituted \$75 for \$50 wherever appearing.

1950—Subsec. (a). Act Aug. 28, 1950, § 102 (a), amended subsec. (a) generally to consolidate provisions of former subsecs. (a)—(c) of this section and to liberalize the maximum amount of monthly benefits payable.

Subsec. (b). Act Aug. 28, 1950, § 103 (a), provided that deductions are to be made from benefits for any month in which a beneficiary is under age 75 and either renders services for wages of more than \$50, or is charged with net earnings from self-employment of more than \$50, and provided that deductions are to be made for any month in which a wife, widow or divorced wife does not have in her care a child or her husband or former husband entitled to a child's insurance benefit.

Subsec. (c). Act Aug. 28, 1950, § 103 (a), provided for the making of deductions from dependents' benefits for any month in which the old-age beneficiary suffers a reduction in his benefit.

Subsec. (d). Act Aug. 28, 1950, § 103 (a), added second sentence.

Subsec. (e). Act Aug. 28, 1950, § 103 (a), provided the method for charging net earnings from self-employment to the particular months of the taxable year for the purpose of determining deductions under subsecs. (b) (2) and (c) (2) of this section.

Subsec. (f). Act Aug. 28, 1950, § 103 (a), continued provisions requiring the reporting of any event which causes a deduction from benefits.

Subsec. (g). Act Aug. 28, 1950, § 103 (a), outlined circumstances under which beneficiaries with net earnings from self-employment are required to file report with the Federal Security Administrator.

Subsec. (h). Act Aug. 28, 1950, § 103 (a), pointed out circumstances under which deductions otherwise required under subsecs. (b), (f), and (g) of this section will not be made.

Subsecs. (i), (j). Act Aug. 28, 1950, § 103(a), added subsecs. (i) and (j).

1946—Subsec. (g). Act Aug. 10, 1946, § 406 (b), added exception limiting the first deduction for failure to report to one month's benefit.

Subsec. (d)(2). Act Aug. 10, 1946, § 406(a), which related to deductions for failure to attend school.

1939—Act Aug. 10, 1939, amended section generally.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 108(b) of Pub. L. 87-64 provided that: "The amendment made by subsection (a) [to subsec. (f)(3) of this section] shall apply in the case of taxable years ending after the enactment of this Act [June 30, 1961]."

EFFECTIVE DATE OF 1960 AMENDMENT

Section 302(b) of Pub. L. 86-778 provided that: "The amendments made by subsection (a) [to subsec. (a)(3) of this section] shall apply only in the case of monthly benefits under section 202 or section 223 of the Social Security Act [section 402 or section 423 of this title] for months after the month following the month in which this Act is enacted [Sept. 1960], and then only (1) if the insured individual on the basis of whose wages and self-employment income such monthly benefits are payable became entitled (without the application of section 202(j)(1) or section 223(b) of such Act [section 402(j)(1) or section 423(b) of this title]) to benefits under section 202(a) or section 223 of such Act [section 402(a) or section 423 of this title] after the month following the month in which this Act is enacted [Sept. 1960], or (2) if such insured individual died before becoming so entitled and no person was entitled (without the application of section 202(j)(1) or section 223(b) of such Act [section 402(j)(1) or section 423(b) of this title]) on the basis of such wages and self-employment income to monthly benefits under title II of the Social Security Act [this subchapter] for the month following the month in which this Act is enacted [Sept. 1960] or any prior month."

Section 211 (p)—(s) of Pub. L. 86-778 provided that:

"(p) Section 203 (c), (d), (e), (g), and (i) of the Social Security Act as amended by this Act [subsecs. (c), (d), (e), (g), and (i) of this section] shall be effective with respect to monthly benefits for months after December 1960.

"(q) Section 203 (b), (f), and (h) of the Social Security Act as amended by this Act [subsecs. (b) (f) and (h) of this section] shall be effective with respect to taxable years beginning after December 1960.

"(r) Section 203(l) of the Social Security Act as amended by this Act [subsec. (l) of this section], to the extent that it applies to section 203(g) of the Social Security Act as amended by this Act [subsec. (g) of this section], shall be effective with respect to monthly benefits for months after December 1960 and, to the extent that it applies to section 203(h)(1)(A) of the Social Security Act as amended by this Act [subsec. (h)(1)(A) of this section], shall be effective with respect to taxable years beginning after December 1960.

"(s) The amendments made by subsections (l), (j), (k), (i), (m), (n), and (o) of this section [to sections 402(n)(1), (q)(5), (6), (t)(7), 408(a)(3), and 415(g) of this title and sections 228c and 228e of Title 45], to the extent that they make changes in references to provisions of section 203 of the Social Security Act [this section], shall take effect in the manner provided in subsections (p) and (q) of this section for the provisions of such section 203 to which the respective references so changed relate."

Amendment of subsec. (k) of this section by Pub. L. 86-778 applicable only with respect to service performed after 1960, except that insofar as the carrying on of a trade or business (other than performance of service as an employee) is concerned, the amendment shall be applicable only in the case of taxable years beginning after 1960, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Amendment of subsec. (a) of this section by Pub. L. 85-840 applicable in the case of monthly benefits under subchapter II of this chapter for months after December

1958, and in the case of lump-sum death payments under subchapter II of this chapter, with respect to deaths occurring after such month, see section 101 (g) of Pub. L. 85-840, set out as a note under section 415 of this title.

Amendment of subsec. (c) of this section by section 205 of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after August 1958, but only if an application for such benefits is filed on or after Aug. 28, 1958, see section 207 (a) of Pub. L. 85-840, set out as a note under section 416 of this title.

Section 307 (h) (2) of Pub. L. 85-840 provided that: "The amendments made by subsection (f) [to subsec. (c)(1), (2) of this section] shall apply with respect to monthly benefits under subsection (d) or (g) of section 202 of the Social Security Act [subsec. (d) or (g) of section 402 of this title] for months in any taxable year, of the individual to whom the person entitled to such benefits is married, beginning after the month in which this Act is enacted [August 1958]."

Section 308 (f) of Pub. L. 85-840 provided that: "The amendments made by this section [to subsecs. (e) (2), (3), (g) (1) and (l) of this section] shall be applicable with respect to taxable years beginning after the month in which this Act is enacted [August 1958]."

Amendment of subsec. (h) of this section by section 205 (k) of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for August 1958 and succeeding months, see section 207 (a) of Pub. L. 85-840, set out as a note under section 416 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of subsecs. (a), (b), (d), and (h) of this section by section 101 (d)—(g) of act Aug. 1, 1956, applicable with respect to monthly benefits under section 402 of this title for months after December 1956, but only on the basis of an application filed after September 1956, see section 101 (h) of act Aug. 1, 1956, set out as a note under section 402 of this title.

Section 107 (a) of act Aug. 1, 1956, provided in part that the amendment to subsec. (g) (1) of this section shall be applicable in the case of monthly benefits under this subchapter for months in any taxable year (of the individual entitled to such benefits) beginning after 1954.

Section 112 (c) of act Aug. 1, 1956, provided that: "The amendments made by subsections (a) and (b) [to subsecs. (e)(4)(C) and (k) of this section] shall be applicable with respect to taxable years ending after 1955."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 103 (i) (1) and (2) of act Sept. 1, 1954, provided that:

"(1) The amendments [to subsecs. (g) and (b)(1)] made by subsection (f) and by paragraph (1) of subsection (a) of this section shall be applicable in the case of monthly benefits under title II of the Social Security Act [subchapter II of this chapter] for months in any taxable year (of the individual entitled to such benefits) beginning after December 1954. The amendments [to subsec. (c) (1)] made by paragraph (1) of subsection (b) of this section shall be applicable in the case of monthly benefits under such title II for months in any taxable year (of the individual on the basis of whose wages and self-employment income such benefits are payable) beginning after December 1954. The amendments [to subsecs. (f), (k), (b) (2), and (c) (2)] made by subsections (e) and (g), and by paragraph (2) of subsection (a) and paragraph (2) of subsection (b), shall be applicable in the case of monthly benefits under such title II for months after December 1954. The remaining amendments made by this section (other than [the adding of subsec. (l) by] subsection (h)) shall be applicable, insofar as they are related to the monthly benefits of an individual which are based on his wages and self-employment income, in the case of monthly benefits under such title II for months in any taxable year (of such individual) beginning after December 1954 and, insofar as they are related to the monthly benefits of an individual which are based on the wages and self-employment income of someone else, in the case of monthly benefits under such title II for months in any taxable year (of the individual on whose wages and self-employment income such benefits are based) beginning after December 1954.

"(2) No deduction shall be imposed on or after the date of the enactment of this Act [Sept. 1, 1954] under subsection (f) or (g) of section 203 of the Social Security Act [subsecs. (f) or (g) of this section], as in effect prior to such date, on account of failure to file a report of an event described in subsection (b) (1), (b) (2), or (c) (1) of such section [this section] (as in effect prior to such date); and no such deduction imposed prior to such date shall be collected after such date. In determining whether, under section 203 (g) (2) of the Social Security Act, as amended by this Act [subsec. (g) (2) of this section], a failure to file a report is a first or subsequent failure, any failure with respect to a taxable year which began prior to January 1955 shall be disregarded."

Amendment to subsec. (a) by act Sept. 1, 1954, § 102 (e) (7), applicable in the case of lump-sum death payments under section 402 of this title with respect to deaths occurring, and in the case of monthly benefits under such section for months after, August 1954, see note set out under section 415 of this title.

INTERIM AMENDMENT FOR 1954

Subsecs. (b) (1), (b) (2), (c), (e) and (j) as in effect prior to Sept. 1, 1954, to the extent that they were in effect with respect to months after 1954, were each amended by act Sept. 1, 1954, § 103 (1) (3), which substituted "seventy-two" for "seventy-five", but only with respect to such months after 1954.

EFFECTIVE DATE OF 1952 AMENDMENT OF SUBSEC. (A)

For effective date of this amendment see note set out under section 415 of this title.

EFFECTIVE DATE OF 1952 AMENDMENT OF SUBSEC. (B) (1), (2), (C) (1), (2), (E), AND (G)

Section 4 (e) of act July 18, 1952, provided that: "The amendments made by subsection (a) [to subsecs. (b) (1) and (c) (1) of this section] shall apply in the case of monthly benefits under title II of the Social Security Act [subchapter II of this chapter] for months after August 1952. The amendments made by subsection (b) [to subsec. (b) (2) of this section] shall apply in the case of monthly benefits under such title II [subchapter II of this chapter] for months in any taxable year (of the individual entitled to such benefits) ending after August 1952. The amendments made by subsection (c) [to subsec. (c) (2) of this section] shall apply in the case of monthly benefits under such title II [subchapter II of this chapter] for months in any taxable year (of the individual on the basis of whose wages and self-employment income such benefits are payable) ending after August 1952. The amendments made by subsection (d) [to subsecs. (e), (g) of this section] shall apply in the case of taxable years ending after August 1952. As used in this subsection, the term "taxable year" shall have the meaning assigned to it by section 211 (e) of the Social Security Act [section 411 (e) of this title]."

EFFECTIVE DATE OF 1950 AMENDMENT OF SUBSEC. (A)

Section 102 (b) of act Aug. 28, 1950, provided that the amendment of subsection (a) by said act Aug. 28, 1950, shall be applicable with respect to benefits for months after August 1950.

EFFECTIVE DATE OF 1950 AMENDMENTS OF SUBSECS. (B) — (J)

Section 103 (b) of act Aug. 28, 1950, provided that: "The amendments made by this section shall take effect September 1, 1950, except that the provisions of subsections (d), (e), and (f) of section 203 of the Social Security Act [subsections (d) — (f) of this section] as in effect prior to the enactment of this Act [Aug. 28, 1950] shall be applicable for months prior to September 1950."

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

SAVINGS PROVISIONS IN ACT SEPT. 1, 1954

Section 102 (h) of act Sept. 1, 1954, provided that:

"(1) Where—

"(A) an individual was entitled (without the application of section 202 (j) (1) of the Social Security Act [section 402 (j) (1) of this title]) to an old-age insurance benefit under title II of such Act [subchapter II of this chapter] for August 1954;

"(B) one or more other persons were entitled (without the application of such section 202 (j) (1) [section 402 (j) (1) of this title]) to monthly benefits under such title for such month on the basis of the wages and self-employment income of such individual; and

"(C) the total of the benefits to which all persons are entitled under such title on the basis of such individual's wages and self-employment income for any subsequent month for which he is entitled to an old-age insurance benefit under such title, would (but for the provisions of this paragraph) be reduced by reason of the application of section 203 (a) of the Social Security Act, as amended by this Act [subsec. (a) of this section], then the total of benefits referred to in clause (C) for such subsequent month shall be reduced to whichever of the following is the larger—

"(D) the amount determined pursuant to section 203 (a) of the Social Security Act, as amended by this Act [subsec. (a) of this section]; or

"(E) the amount determined pursuant to such section, as in effect prior to the enactment of this Act [Sept. 1, 1954], for August 1954 plus the excess of (1) the amount of his old-age insurance benefit for such month computed as if the amendments [to section 415 of this title and subsec. (a) of this section] made by the preceding subsections of this section had been applicable in the case of such benefit for such month over (2) the amount of his old-age insurance benefit for such month, or

"(F) the amount determined pursuant to section 2 (d) (1) of the Social Security Act Amendments of 1952 [set out as a note under section 415 of this title] for August 1954 plus the excess of (1) the amount of his old-age insurance benefit for such month computed as if the amendments made by the preceding subsections of this section had been applicable in the case of such benefit for such month over (2) the amount of his old-age insurance benefit for such month.

"(2) Where—

"(A) two or more persons were entitled (without the application of section 202 (j) (1) of the Social Security Act [section 402 (j) (1) of this title]) to monthly benefits under title II of such Act [subchapter II of this chapter] for August 1954 on the basis of the wages and self-employment income of a deceased individual; and

"(B) to total of the benefits to which all such persons are entitled on the basis of such deceased individual's wages and self-employment income for any subsequent month would (but for the provisions of this paragraph) be reduced by reason of the application of the first sentence of section 203 (a) of the Social Security Act, as amended by this Act [subsec. (a) of this section], then, notwithstanding any other provision in title II of the Social Security Act [subchapter II of this chapter], such deceased individual's average monthly wage shall, for purposes of such section 203 (a) [subsec. (a) of this section], be whichever of the following is the larger:

"(C) his average monthly wage determined pursuant to section 215 of such Act, as amended by this Act [section 415 of this title]; or

"(D) his average monthly wage determined under such section 215, as in effect prior to the enactment of this Act [Sept. 1, 1954], plus \$7."

PROHIBITION ON IMPOSITION OF DEDUCTION FOR FAILURE TO FILE CERTAIN REPORTS OF EVENTS

Section 209 (b) of Pub. L. 86-778 provided that: "No deduction shall be imposed on or after the date of the enactment of this Act [Sept. 13, 1960] under section 203 (f) of the Social Security Act [subsec. (f) of this section], as in effect prior to such date, on account of failure to file a report of an event described in section 203 (c) of such Act [subsec. (c) of this section], as in effect prior to such date; and no such deduction imposed prior to such date shall be collected after such date."

PROHIBITION ON PAYMENT OF BENEFITS TO CERTAIN SPOUSES OR CHILDREN

Section 211 (t) of Pub. L. 86-778 provided that:

"In any case where—

"(1) an individual has earnings (as defined in section 203 (e) (4) of the Social Security Act [subsec. (e) (4)

of this section] as in effect prior to the enactment of this Act [Sept. 13, 1960]) in a taxable year which begins before 1961 and ends in 1961 (but not on December 31, 1961), and

"(2) such individual's spouse or child entitled to monthly benefits on the basis of such individual's self-employment income has excess earnings (as defined in section 203(f)(3) of the Social Security Act as amended by this Act [subsec. (f)(3) of this section]) in a taxable year which begins after 1960, and

"(3) one or more months in the taxable year specified in paragraph (2) are included in the taxable year specified in paragraph (1), then, if a deduction is imposed against the benefits payable to such individual with respect to a month described in paragraph (3), such spouse or child, as the case may be, shall not, for purposes of subsections (b) and (f) of section 203 of the Social Security Act as amended by this Act [subsecs. (b) and (f) of this section], be entitled to a payment for such month."

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1. "Administrator" was substituted for "Board" in subsec. (d) and (g) by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

"Secretary" as used in this section means the Secretary of Health, Education, and Welfare, see note set out under section 416 of this title.

CROSS REFERENCES

Computation of primary insurance amount, see section 415 of this title.

§ 404. Overpayments and underpayments.

(a) Whenever an error has been made with respect to payments to an individual under this subchapter (including payments made prior to January 1, 1940), proper adjustment shall be made, under regulations prescribed by the Secretary, by increasing or decreasing subsequent payments to which such individual is entitled. If such individual dies before such adjustment has been completed, adjustment shall be made by increasing or decreasing subsequent benefits payable with respect to the wages and self-employment income which were the basis of benefits of such deceased individual.

(b) There shall be no adjustment or recovery by the United States in any case where incorrect payment has been made to an individual who is without fault (including payments made prior to January 1, 1940), and where adjustment or recovery would defeat the purpose of this subchapter or would be against equity and good conscience.

(c) No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any person where the adjustment or recovery of such amount is waived under subsection (b) of this section, or where adjustment under subsection (a) of this section is not completed prior to the death of all persons against whose benefits deductions are authorized. (Aug. 14, 1935, ch. 531, title II, § 204, 49 Stat. 624; Aug. 10, 1939, ch. 666, title II, § 201,

53 Stat. 1362; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title I, § 109 (b) (1), 64 Stat. 523; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title I, § 111 (a), 68 Stat. 1085.)

AMENDMENTS

1954—Subsec. (a). Act Sept. 1, 1954, added in the second sentence the words "and self-employment income" after "wages."

1939—Act Aug. 10, 1939, omitted former provisions relating to payments to aged individuals not qualified for benefits and substituted the present section relating to overpayments and underpayments.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

Act Aug. 28, 1950, substituted "Administrator" for "Board".

Identical change was effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

§ 405. Records of wages and self-employment income.

(a) Rules and regulations; procedures.

The Secretary shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this subchapter, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

(b) Findings of fact; decisions; review; hearings.

The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this subchapter. Upon request by any such individual or upon request by a wife, widow, former wife divorced, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such a decision must be filed within such period after such decision as may be prescribed in regulations of the Secretary, except that the period so prescribed may not be less than six months after notice of such decision is mailed to the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this subchapter. In the course

of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

(c) Definitions; records of self-employed persons; revision of records.

(1) For the purposes of this subsection—

(A) The term "year" means a calendar year when used with respect to wages and a taxable year (as defined in section 411 (e) of this title) when used with respect to self-employment income.

(B) The term "time limitation" means a period of three years, three months, and fifteen days.

(C) The term "survivor" means an individual's spouse, former wife divorced, child, or parent, who survives such individual.

(2) On the basis of information obtained by or submitted to the Secretary, and after such verification thereof as he deems necessary, the Secretary shall establish and maintain records of the amounts of wages paid to, and the amounts of self-employment income derived by, each individual and of the periods in which such wages were paid and such income was derived and, upon request, shall inform any individual or his survivor, or the legal representative of such individual or his estate, of the amounts of wages and self-employment income of such individual and the periods during which such wages were paid and such income was derived, as shown by such records at the time of such request.

(3) The Secretary's records shall be evidence for the purpose of proceedings before the Secretary or any court of the amounts of wages paid to, and self-employment income derived by, an individual and of the periods in which such wages were paid and such income was derived. The absence of an entry in such records as to wages alleged to have been paid to, or as to self-employment income alleged to have been derived by, an individual in any period shall be evidence that no such alleged wages were paid to, or that no such alleged income was derived by, such individual during such period.

(4) Prior to the expiration of the time limitation following any year the Secretary may, if it is brought to his attention that any entry of wages or self-employment income in his records for such year is erroneous or that any item of wages or self-employment income for such year has been omitted from such records, correct such entry or include such omitted item in his records, as the case may be. After the expiration of the time limitation following any year—

(A) the Secretary's records (with changes, if any, made pursuant to paragraph (5) of this subsection) of the amounts of wages paid to, and self-employment income derived by, an individual during any period in such year shall be conclusive for the purposes of this subchapter;

(B) The absence of an entry in the Secretary's records as to the wages alleged to have been paid by an employer to an individual during any period in such year shall be presumptive evidence for the purposes of this subchapter that no such alleged

wages were paid to such individual in such period; and

(C) the absence of an entry in the Secretary's records as to the self-employment income alleged to have been derived by an individual in such year shall be conclusive for the purposes of this subchapter that no such alleged self-employment income was derived by such individual in such year unless it is shown that he filed a tax return of his self-employment income for such year before the expiration of the time limitation following such year, in which case the Secretary shall include in his records the self-employment income of such individual for such year.

(5) After the expiration of the time limitation following any year in which wages were paid or alleged to have been paid to, or self-employment income was derived or alleged to have been derived by, an individual, the Secretary may change or delete any entry with respect to wages or self-employment income in his records of such year for such individual or include in his records of such year for such individual any omitted item of wages or self-employment income but only—

(A) if an application for monthly benefits or for a lump-sum death payment was filed within the time limitation following such year; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon the application for monthly benefits or lump-sum death payment;

(B) if within the time limitation following such year an individual or his survivor makes a request for a change or deletion, or for an inclusion of an omitted item, and alleges in writing that the Secretary's records of the wages paid to, or the self-employment income derived by, such individual in such year are in one or more respects erroneous; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon such request. Written notice of the Secretary's decision on any such request shall be given to the individual who made the request;

(C) to correct errors apparent on the face of such records;

(D) to transfer items to records of the Railroad Retirement Board if such items were credited under this subchapter when they should have been credited under the Railroad Retirement Act, or to enter items transferred by the Railroad Retirement Board which have been credited under the Railroad Retirement Act when they should have been credited under this subchapter;

(E) to delete or reduce the amount of any entry which is erroneous as a result of fraud;

(F) to conform his records to—

(i) tax returns or portions thereof (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act, under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code of 1939, under chapter 2 or 21 of the Internal Revenue Code of 1954, or under regulations made under authority of such title, subchapter, or chapter;

(ii) wage reports filed by a State pursuant to an agreement under section 418 of this title or regulations of the Secretary thereunder; or

(iii) assessments of amounts due under an agreement pursuant to section 418 of this title, if such assessments are made within the period specified in subsection (q) of such section, or allowances of credits or refunds of overpayments by a State under an agreement pursuant to such section;

except that no amount of self-employment income of an individual for any taxable year (if such return or statement was filed after the expiration of the time limitation following the taxable year) shall be included in the Secretary's records pursuant to this subparagraph;

(G) to correct errors made in the allocation, to individuals or periods, of wages or self-employment income entered in the records of the Secretary;

(H) to include wages paid during any period in such year to an individual by an employer if there is an absence of an entry in the Secretary's records of wages having been paid by such employer to such individual in such period;

(I) to enter items which constitute remuneration for employment under subsection (o) of this section, such entries to be in accordance with certified reports of records made by the Railroad Retirement Board pursuant to section 228e (k) (3) of Title 45; or

(J) to include self-employment income for any taxable year, up to, but not in excess of, the amount of wages deleted by the Secretary as payments erroneously included in such records as wages paid to such individual, if such income (or net earnings from self-employment), not already included in such records as self-employment income, is included in a return or statement (referred to in subparagraph (F) of this subsection) filed before the expiration of the time limitation following the taxable year in which such deletion of wages is made.

(6) Written notice of any deletion or reduction under paragraph (4) or (5) of this subsection shall be given to the individual whose record is involved or to his survivor, except that (A) in the case of a deletion or reduction with respect to any entry of wages such notice shall be given to such individual only if he has previously been notified by the Secretary of the amount of his wages for the period involved, and (B) such notice shall be given to such survivor only if he or the individual whose record is involved has previously been notified by the Secretary of the amount of such individual's wages and self-employment income for the period involved.

(7) Upon request in writing (within such period, after any change or refusal of a request for a change of his records pursuant to this subsection, as the Secretary may prescribe), opportunity for hearing with respect to such change or refusal shall be afforded to any individual or his survivor. If a hearing is held pursuant to this paragraph the Secretary shall make findings of fact and a decision based upon the evidence adduced at such hearing and shall include any omitted items, or

change or delete any entry, in his records as may be required by such findings and decision.

(8) Decisions of the Secretary under this subsection shall be reviewable by commencing a civil action in the United States district court as provided in subsection (g) of this section.

(d) Issuance of subpoenas.

For the purpose of any hearing, investigation, or other proceeding authorized or directed under this subchapter, or relative to any other matter within his jurisdiction hereunder, the Secretary shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the Secretary. Such attendance of witnesses and production of evidence at the designated place of such hearing, investigation, or other proceeding may be required from any place in the United States or in any Territory or possession thereof. Subpoenas of the Secretary shall be served by anyone authorized by him (1) by delivering a copy thereof to the individual named therein, or (2) by registered mail or by certified mail addressed to such individual at his last dwelling place or principal place of business. A verified return by the individual so serving the subpoena setting forth the manner of service, or in the case of service by registered mail, or by certified mail, the return post-office receipt therefor signed by the individual so served, shall be proof of service. Witnesses so subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(e) Contempt.

In case of contumacy by, or refusal to obey a subpoena duly served upon, any person, any district court of the United States for the judicial district in which said person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Secretary, shall have jurisdiction to issue on order requiring such person to appear and give testimony, or to appear and produce evidence, or both; any failure to obey such order of the court may be punished by said court as contempt thereof.

(f) Self-incrimination.

No person so subpoenaed or ordered shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(g) Review.

Any individual, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy,

¹ So in original. Probably should read "an".

may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Secretary may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the United States District Court for the District of Columbia. As part of his answer the Secretary shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the cause for a rehearing. The findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive, and where a claim has been denied by the Secretary or a decision is rendered under subsection (b) of this section which is adverse to an individual who was a party to the hearing before the Secretary, because of failure of the claimant or such individual to submit proof in conformity with any regulation prescribed under subsection (a) of this section, the court shall review only the question of conformity with such regulations and the validity of such regulations. The court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary, and may, at any time, on good cause shown, order additional evidence to be taken before the Secretary, and the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or its decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and a transcript of the additional record and testimony upon which his action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(h) Finality of Secretary's decision.

The findings and decisions of the Secretary after a hearing shall be binding upon all individuals who were parties to such hearing. No findings of fact or decision of the Secretary shall be reviewed by any person, tribunal, or governmental agency except as herein provided. No action against the United States, the Secretary, or any officer or employee thereof shall be brought under section 41 of Title 28 to recover on any claim arising under this subchapter.

(i) Certification for payment.

Upon final decision of the Secretary or upon final judgment of any court of competent juris-

diction, that any person is entitled to any payment or payments under this subchapter, the Secretary shall certify to the Managing Trustee the name and address of the person so entitled to receive such payment or payments, the amount of such payment or payments, and the time at which such payment or payments should be made, and the Managing Trustee, through the Division of Disbursement of the Treasury Department, and prior to any action thereon by the General Accounting Office, shall make payment in accordance with the certification of the Secretary: *Provided*, That where a review of the Secretary's decision is or may be sought under subsection (g) of this section the Secretary may withhold certification of payment pending such review. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Secretary.

(j) Same; competency of individual.

When it appears to the Secretary that the interest of an applicant entitled to a payment would be served thereby, certification of payment may be made, regardless of the legal competency or incompetency of the individual entitled thereto, either for direct payment to such applicant, or for his use and benefit to a relative or some other person.

(k) Payments to incompetents.

Any payment made after December 31, 1939, under conditions set forth in subsection (j) of this section, any payment made before January 1, 1940, to, or on behalf of, a legally incompetent individual, and any payment made after December 31, 1939, to a legally incompetent individual without knowledge by the Secretary of incompetency prior to certification of payment, if otherwise valid under this subchapter, shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

(l) Delegation of powers and duties by Secretary.

The Secretary is authorized to delegate to any member, officer, or employee of the Department of Health, Education, and Welfare designated by him any of the powers conferred upon him by this section, and is authorized to be represented by his own attorneys in any court in any case or proceeding arising under the provisions of subsection (e) of this section.

(m) Repealed. Aug. 28, 1950, ch. 809, title I, § 101 (b) (2), 64 Stat. 488.

(n) Joint payments.

The Secretary may, in his discretion, certify to the Managing Trustee any two or more individuals of the same family for joint payment of the total benefits payable to such individuals.

(o) Crediting of compensation under the Railroad Retirement Act.

If there is no person who would be entitled, upon application therefor, to an annuity under section 228e of Title 45, or to a lump-sum payment under subsection (f) (1) of section 228e of Title 45 with respect to the death of an employee (as defined in sections 228 to 228c-1, 228e to 228s-1 of Title 45), then, notwithstanding section 410 (a) (10) of this title, compensation (as defined in sections 228 to 228c-1, 228e to 228s-1 of Title 45, but excluding

compensation attributable as having been paid during any month on account of military service creditable under section 228c-1 of Title 45 if wages are deemed to have been paid to such employee during such month under subsection (a) or (e) of section 417 of this title) of such employee shall constitute remuneration for employment for purposes of determining (A) entitlement to and the amount of any lump-sum death payment under this subchapter on the basis of such employee's wages and self-employment income and (B) entitlement to and the amount of any monthly benefit under this subchapter, for the month in which such employee died or for any month thereafter, on the basis of such wages and self-employment income. For such purposes, compensation (as so defined) paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee rendered services for such compensation.

(p) Special rules in case of federal service.

(1) With respect to service included as employment under section 410 of this title which is performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, including service, performed as a member of a uniformed service to which the provisions of subsection (l)(1) of such section are applicable, and including service, performed as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 410(o) of this title are applicable, the Secretary shall not make determinations as to whether an individual has performed such service, the periods of such service, the amounts of remuneration for such service which constitute wages under the provisions of section 409 of this title, or the periods in which or for which such wages were paid, but shall accept the determinations with respect thereto of the head of the appropriate Federal agency or instrumentality, and of such agents as such head may designate, as evidenced by returns filed in accordance with the provisions of section 1420(e) of Title 26 and certifications made pursuant to this subsection. Such determinations shall be final and conclusive.

(2) The head of any such agency or instrumentality is authorized and directed, upon written request of the Secretary, to make certification to him with respect to any matter determinable for the Secretary by such head or his agents under this subsection, which the Secretary finds necessary in administering this subchapter.

(3) The provisions of paragraphs (1) and (2) of this subsection shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of

such Department; and for purposes of paragraphs (1) and (2) of this subsection the Secretary of Defense shall be deemed to be the head of such instrumentality. The provisions of paragraphs (1) and (2) shall be applicable also in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of the Treasury, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard; and for purposes of paragraphs (1) and (2) the Secretary of the Treasury shall be deemed to be the head of such instrumentality. (Aug. 14, 1935, ch. 531, title II, § 205, 49 Stat. 624; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; June 25, 1948, ch. 646, § 32 (b), as added May 24, 1949, ch. 139, § 127, 63 Stat. 107; Aug. 28, 1950, ch. 809, title I, §§ 101 (b) (2), 108 (a)—(c), 109 (b), 64 Stat. 488, 518, 523; July 18, 1952, ch. 945, § 5 (b), 66 Stat. 775; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title I, § 101 (c) (3), 68 Stat. 1054; Aug. 1, 1956, ch. 836, title I, §§ 107 (b), 111 (a), 117, 70 Stat. 829, 831, 834; Aug. 1, 1956, ch. 837, title IV, § 402 (b), 70 Stat. 871; June 11, 1960, Pub. L. 86-507, § 1 (35), 74 Stat. 202; Sept. 13, 1960, Pub. L. 86-778, title I, §§ 102 (f) (2), 103 (j) (2) (E), title VII, § 702 (a) 74 Stat. 933, 938, 993; Sept. 21, 1961, Pub. L. 87-293, title II, § 202 (b) (3), 75 Stat. 626.)

REFERENCES IN TEXT

The "Railroad Retirement Act", referred to in subsection (c) (5) (D) and in the catchline of subsection (o), is classified to sections 228a to 228c-1, 228e to 228h, 228i to 228p, and 228r to 228s-1 of Title 45, Railroads.

Title VIII of the Social Security Act, referred to in subsec. (c) (5) (F), was classified to section 1001 et seq. of this title, and has been omitted as superseded by the provisions of the Internal Revenue Code of 1939 and the Internal Revenue Code of 1954.

Section 41 of Title 28, referred to in subsection (h), was repealed by act June 25, 1948, ch. 646, § 39, 63 Stat. 992, eff. Sept. 1, 1948. Jurisdictional provisions are now covered by sections 1331-1348, 1350-1357, 1359, 1397, 1399, 2361, 2401, and 2402 of Title 28, Judiciary and Judicial Procedure.

The Peace Corps Act, referred to in subsec. (p)(1), is classified to chapter 34 of Title 22, Foreign Relations and Intercourse.

Section 1420 (e) of Title 26, referred to in subsec. (p) (1), which was a reference to section 1420 (e) of the Internal Revenue Code, 1939, was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by section 3122 of said Title 26. For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

AMENDMENTS

1961—Subsec. (p)(1). Pub. L. 87-293 provided that the head of the Federal agency having control of the service or such agents as the head may designate would make the determinations with respect to employment and wages in the case of service performed by volunteers and volunteer leaders in the Peace Corps.

1960—Subsec. (c) (5) (F). Pub. L. 86-778, § 102(f) (2), authorized the Secretary to add, change or delete entries to conform his records to assessments of amounts due under an agreement pursuant to section 418 of this title, if such assessments are made within the period specified in subsection (q) of such section, or allowances of credits

or refunds of overpayments by a State under an agreement pursuant to such section, and inserted references to chapters 2 and 21 of the Internal Revenue Code of 1954.

Subsec. (d). Pub. L. 86-507 inserted "or by certified mail" following "registered mail" in two instances.

Subsec. (g). Pub. L. 86-778, § 702(a), inserted sentence providing that any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

Subsec. (p) (1). Pub. L. 86-778, § 103(j) (2) (E), substituted "subsection (l) (1)" for "subsection (m) (1)."

1956—Subsec. (b). Act Aug. 1, 1956, ch. 836, § 111 (a), required requests with respect to decisions to be filed within such period as the Secretary prescribes by regulation, which period may not be less than six months after notice of the decision is mailed.

Subsec. (c) (1) (B). Act Aug. 1, 1956, ch. 836, § 107 (b), substituted "three months" for "two months".

Subsec. (c) (5) (F). Act Aug. 1, 1956, ch. 836, § 117, eliminated provisions prohibiting inclusion in records of amount of self-employment income in excess of the amount which had been deleted as payments erroneously included in such records as wages paid to such individual in such taxable year, which provisions are now covered by subsec. (c) (5) (J) of this section.

Subsec. (c) (5) (J). Act Aug. 1, 1956, ch. 836, § 117, added subsec. (c) (5) (J).

Subsec. (p) (1). Act Aug. 1, 1956, ch. 837, provided for determinations with respect to service performed as a member of a uniformed service to which the provisions of section 410 (m) (1) of this title are applicable.

1954—Subsec. (p) (3). Act Sept. 1, 1954, added provisions making subsec. (p) (1) and (2) applicable to services performed by a civilian employee in the Coast Guard Exchanges or certain other activities at Coast Guard Installations.

1952—Subsec. (o). Act July 18, 1952, substituted "subsection (a) or (e) of section 417 of this title" for "section 417 (a) of this title".

1950—Subsec. (b). Act Aug. 28, 1950, § 108 (a), inserted "former wife divorced, husband, widower," after "widow".

Subsec. (c). Act Aug. 28, 1950, § 108 (b), amended subsec. (c) generally to include definitions, to provide for the maintaining of records of self-employed persons, to allow for the revision of the Administrator's record, to authorize corrections after the times limitations if an application for monthly benefits or a lump-sum death payment is filed within the time limitation and no final decision has been made on it, to continue the requirement that written notice of any deletion or reduction of wages be given to the individual whose record is involved, to give the Administrator discretion to prescribe the period, after any change or refusal to change his records, within which an individual may be granted a hearing, and to provide for judicial review.

Subsec. (l). Act Aug. 28, 1950, § 109 (b) (2), amended subsec. (l) generally.

Subsecs. (o), (p). Act Aug. 28, 1950, § 108 (c), added subsecs. (o) and (p).

1939—Act Aug. 10, 1939, omitted former section 405, relating to payments of \$500 or less to estates, and added subsecs. (a)—(n).

CHANGE OF NAME

The District Court of the United States for the District of Columbia was changed to the United States District Court for the District of Columbia by act June 25, 1948, as amended by act May 24, 1949.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of this section by Pub. L. 87-293 applicable with respect to service performed after Sept. 22, 1961, but in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 202(c) of Pub. L. 87-293, set out as a note under section 3121 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1960 AMENDMENTS

Amendment of subsec. (c) (5) (F) of this section by Pub. L. 86-778 effective on the first day of the second calendar year following 1960, see section 102(f) (3) of Pub.

L. 86-778, set out as a note under section 418 of this title.

Section 702(b) of Pub. L. 86-778 provided that: "The amendment made by subsection (a) [to subsec. (g) of this section] shall apply to actions which are pending in court on the date of the enactment of this Act or are commenced after such date."

Amendment of subsec. (p) (1) of this section by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v) (1) of Pub. L. 86-778, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1956 AMENDMENTS

Section 111 (b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) [to subsec. (b) of this section] shall be effective upon enactment [August 1, 1956]; except that the period of time prescribed by the Secretary pursuant to the third sentence of section 205 (b) of the Social Security Act, as amended by subsection (a) of this section [subsec. (b) of this section], with respect to decisions notice of which has been mailed by him to any individual prior to the enactment of this Act [August 1, 1956] may not terminate for such individual less than six months after the date of enactment of this Act [August 1, 1956]."

Amendment of subsec. (p) (1) by act Aug. 1, 1956, ch. 837, effective Jan. 1, 1957.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 101 (n) of act Sept. 1, 1954, provided in part that the amendment to subsec. (p) (3) made by section 101 (c) (3) of act Sept. 1, 1954, shall become effective January 1, 1955.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 108 (d) of act Aug. 28, 1950, provided that: "The amendments made by subsections (a) and (c) of this section [amending subsecs. (b), (o) of this section] shall take effect on September 1, 1950. The amendment made by subsection (b) of this section [amending subsec. (c) of this section] shall take effect January 1, 1951, except that, effective on September 1, 1950, the husband or former wife divorced of an individual shall be treated the same as a parent of such individual, and the legal representative of an individual or his estate shall be treated the same as the individual, for purposes of section 205 (c) of the Social Security Act [subsec. (c) of this section] as in effect prior to the enactment of this Act [Aug. 28, 1950]."

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

REPEALS

Subsec. (m), relating to filing of application for benefits under this subchapter, repealed by act Aug. 28, 1950, § 101 (b) (2), to be effective with respect to monthly payments under section 402 of this title for the months after August 1950.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

Act Aug. 28, 1950, § 109 (b) (1), substituted "Administrator" for "Board", "Administrator's" for "Board's", "he", "him", and "his", for "it" and "its" wherever appearing.

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

INCLUSION OF SELF-EMPLOYMENT INCOME IN RECORDS OF SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Section 101(e) of Pub. L. 86-778 provided that: "The provisions of section 205(c) (5) (F) of the Social Security Act [subsec. (c) (5) (F) of this section], insofar as they prohibit inclusion in the records of the Secretary of

Health, Education, and Welfare of self-employment income for a taxable year when the return or statement including such income is filed after the time limitation following such taxable year, shall not be applicable to earnings which are derived in any taxable year ending before 1960 and which constitute self-employment income solely by reason of the filing of a certificate which is effective under section 1402(e) (3) (B) or (5) of the Internal Revenue Code of 1954 [section 1402(e) (3) (B) or (5) of Title 26]."

DEFINITION OF "SECRETARY"

"Secretary" as used in this section means the Secretary of Health, Education, and Welfare. See section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

CROSS REFERENCES

Criminal contempt, see sections 401, 402, 3285, 3691, 3771, and 3772 of Title 18, Crimes and Criminal Procedure.

Final disability decisions of Secretary, review of, see section 421(d) of this title.

Jurisdiction of court of appeals, see section 1291 of Title 28, Judiciary and Judicial Procedure.

Per diem and mileage of witnesses generally, see section 1821 of title 28.

Venue generally, see chapter 87 of title 28.

§ 406. Representation of claimants before the Secretary.

The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys as hereinafter provided, representing claimants before the Secretary, and may require of such agents or other persons, before being recognized as representatives of claimants that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this section for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this subchapter, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this subchapter by word, circular, letter or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding \$500 or by imprisonment not exceeding one year, or both. (Aug. 14, 1935, ch.

531, title II, § 206, 49 Stat. 624; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title I, § 109 (b) (1), 64 Stat. 523; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Aug. 28, 1958, Pub. L. 85-840, title III, § 309, 72 Stat. 1034.)

AMENDMENTS

1958—Pub. L. 85-840 eliminated provisions which required attorneys to file a certificate of their right to practice.

1939—Act Aug. 10, 1939, substituted the provisions of this section for former provisions relating to overpayments during life, now covered by section 404 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

Act Aug. 28, 1950, substituted "Administrator" for "Board" and "Administrator's" for "Board's".

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

§ 407. Assignment.

The right of any person to any future payment under this subchapter shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law. (Aug. 14, 1935, ch. 531, title II, § 207, 49 Stat. 624; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362.)

AMENDMENTS

1939—Act Aug. 10, 1939, amended section generally by incorporating provisions of former section 408 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see Rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

Seizure of person or property, see Rule 64.

CROSS REFERENCES

Assignment of claims void, see section 203 of Title 31, Money and Finance.

§ 408. Penalties.

Whoever—

(a) for the purpose of causing an increase in any payment authorized to be made under this subchapter, or for the purpose of causing any payment to be made where no payment is authorized under this subchapter, shall make or cause to be made any false statement or representation (including any false statement or representation in connection with any matter arising under subchapter E of chapter 1, or subchapter A or E of chapter 9 of the Internal Revenue Code of 1939,

or chapter 2 or 21 or subtitle F of the Internal Revenue Code of 1954) as to—

(1) whether wages were paid or received for employment (as said terms are defined in this subchapter and the Internal Revenue Code), or the amount of wages or the period during which paid or the person to whom paid; or

(2) whether net earnings from self-employment (as such term is defined in this subchapter and in the Internal Revenue Code) were derived, or as to the amount of such net earnings or the period during which or the person by whom derived; or

(3) whether a person entitled to benefits under this subchapter had earnings in or for a particular period (as determined under section 403 (f) of this title for purposes of deductions from benefits), or as to the amount thereof; or

(b) makes or causes to be made any false statement or representation of a material fact in any application for any payment or for a disability determination under this subchapter; or

(c) at any time makes or causes to be made any false statement or representation of a material fact for use in determining rights to payment under this subchapter; or

(d) having knowledge of the occurrence of any event affecting (1) his initial or continued right to any payment under this subchapter, or (2) the initial or continued right to any payment of any other individual in whose behalf he has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure payment either in a greater amount than is due or when no payment is authorized; or

(e) having made application to receive payment under this subchapter for the use and benefit of another and having received such a payment, knowingly and willfully converts such a payment, or any part thereof, to a use other than for the use and benefit of such other person; shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both. (Aug. 14, 1935, ch. 531, title II, § 208, 49 Stat. 625; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; Aug. 28, 1950, ch. 809, title I, § 109 (c), 64 Stat. 523; Sept. 1, 1954, ch. 1206, title I, § 111 (b), 68 Stat. 1085; Aug. 28, 1958, Pub. L. 85-840, title III, § 310, 72 Stat. 1034; Sept. 13, 1960, Pub. L. 86-778, title II, § 211 (m), 74 Stat. 958.)

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-778 substituted "section 403 (f) of this title" for "section 403 (e) of this title" in cl. (3).

1958—Pub. L. 85-840 amended section generally, by, among other changes, inserting references to the Internal Revenue Code of 1954, and making penalty provisions applicable to cases (1) where false statements or representations as to whether wages were paid or received for employment, or whether net earnings from self-employment were derived, or whether a person entitled to benefits under this subchapter had earnings in or for a particular period, or as to the amount thereof, are made for the purpose of obtaining or increasing benefits; (2) where false statements or representations are made in any application for disability determination; (3) where a person intentionally conceals or fails to dis-

close knowledge of any event affecting his or another's initial or continued right to payment, and (4) where a person converts a payment that he received for the use and benefit of another.

1954—Act Sept. 1, 1954, made it clear that the penalty provisions of the section extend to cases of false statements or representations as to the amount of net earnings from self-employment derived or the period during which derived.

1950—Act Aug. 28, 1950, substituted "subchapter E of chapter 1 or subchapter A or E of chapter 9 of Title 26" for "the Federal Insurance Contributions Act".

1939—Act Aug. 10, 1939, amended section generally by incorporating provisions of former section 409 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (a) (3) of this section by Pub. L. 86-778 effective in the manner provided in section 211 (p) and (q) of Pub. L. 86-778, see note under section 403 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of act Aug. 10, 1939.

§ 409. Definition of wages.

For the purposes of this subchapter, the term "wages" means remuneration paid prior to 1951 which was wages for the purposes of this subchapter under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

(a) (1) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to \$3,600 with respect to employment has been paid to an individual during any calendar year prior to 1955, is paid to such individual during such calendar year;

(2) That part of remuneration, which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to \$4,200 with respect to employment has been paid to an individual during any calendar year after 1954 and prior to 1959, is paid to such individual during such calendar year;

(3) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to \$4,800 with respect to employment has been paid to an individual during any calendar year after 1958, is paid to such individual during such calendar year;

(b) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of (1) retirement, or (2) sickness or accident disability, or (3) medical or hospitalization expenses in connection with sickness or accident disability, or (4) death;

(c) Any payment made to an employee (including any amount paid by an employer for insurance or

annuities, or into a fund, to provide for any such payment) on account of retirement;

(d) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer;

(e) Any payment made to, or on behalf of, an employee or his beneficiary (1) from or to a trust exempt from tax under section 165(a) of the Internal Revenue Code of 1939 at the time of such payment or, in the case of a payment after 1954, under sections 401 and 501(a) of the Internal Revenue Code of 1954, unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (2) under or to an annuity plan which, at the time of such payment, meets the requirements of section 165(a), (3), (4), (5), and (6) of the Internal Revenue Code of 1939 or, in the case of a payment after 1954 and prior to 1963, the requirements of section 401(a), (3), (4), (5), and (6) of the Internal Revenue Code of 1954, or (3) under or to an annuity plan which, at the time of any such payment after 1962, is a plan described in section 403(a) of the Internal Revenue Code of 1954, or (4) under or to a bond purchase plan which, at the time of any such payment after 1962, is a qualified bond purchase plan described in section 405(a) of the Internal Revenue Code of 1954;

(f) The payment by an employer (without deduction from the remuneration of the employee) (1) of the tax imposed upon an employee under section 1400 of Title 26, or (2) of any payment required from an employee under a State unemployment compensation law;

(g) (1) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(2) Cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50. As used in this paragraph, the term "domestic service in a private home of the employer" does not include service described in section 410 (f) (5) of this title;

(3) Cash remuneration paid by an employer in any calendar quarter to an employee for service not in the course of the employer's trade or business, if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50. As used in this paragraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in section 410 (f) (5) of this title;

(h) (1) Remuneration paid in any medium other than cash for agricultural labor;

(2) Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless (A) the cash remuneration paid in such year by the employer to the employee for such labor

is \$150 or more, or (B) the employee performs agricultural labor for the employer on twenty days or more during such year for cash remuneration computed on a time basis;

(i) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains age 62 (if a woman) or age 65 (if a man), if he did not work for the employer in the period for which such payment is made. As used in this subsection, the term "sick pay" includes remuneration for service in the employ of a State, a political subdivision (as defined in section 418 (b) (2) of this title) of a State, or an instrumentality of two or more States, paid to an employee thereof for a period during which he was absent from work because of sickness;

(j) Remuneration paid by an employer in any quarter to an employee for service described in section 410 (j) (3) (C) of this title (relating to home workers), if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50, or

(k) Remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 of title 26.

For purposes of this subchapter, in the case of domestic service described in subsection (g) (2) of this section, any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this title, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to \$1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (g) (2) of this section.

For purposes of this subchapter, in the case of an individual performing service, as a member of a uniformed service, to which the provisions of section 410 (l) (1) of this title are applicable, the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service only his basic pay as described in section 1101 (10) of Title 38.

For purposes of this subchapter, in the case of an individual performing service, as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 410 (o) of this title are applicable, (1) the term "wages" shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service only amounts certified as payable pursuant to section 2504(c) or 2505(1) of Title 22, and (2) any such amount shall be deemed to have been paid to such individual at the time the service, with respect to which it is paid, is performed. (Aug. 14, 1935, ch. 531, title II, § 209, 49 Stat. 625; Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362; Mar. 24, 1943, ch. 26, § 1(b) (2), 57 Stat. 47; Apr. 4,

1944, ch. 161, § 2, 58 Stat. 188; Oct. 23, 1945, ch. 433, § 7 (b), 59 Stat. 548; Dec. 29, 1945, ch. 652, title I, § 5 (a), 59 Stat. 671; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, §§ 407(a), 408(a), 409(a), 410, 411, 414, 60 Stat. 988, 989, 990; Apr. 20, 1948, ch. 222, § 1(a), 62 Stat. 195; Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492; Sept. 1, 1954, ch. 1206, title I, §§ 101 (a) (1)—(3), 104(a), 68 Stat. 1052, 1078; Aug. 1, 1956, ch. 836, title I, § 105(a), 70 Stat. 828; Aug. 1, 1956, ch. 837, title IV, § 401, 70 Stat. 869; Aug. 27, 1958, Pub. L. 85-786, § 1, 72 Stat. 938; Aug. 28, 1958, Pub. L. 85-840, title I, § 102 (a), 72 Stat. 1019; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(j) (2) (C), (F), 74 Stat. 937; June 30, 1961, Pub. L. 87-64, title I, § 102(c) (3) (A), 75 Stat. 134; Sept. 22, 1961, Pub. L. 87-293, title II, § 202(b) (2), 75 Stat. 626; Feb. 26, 1964, Pub. L. 88-272, title II, § 220(c) (3), 78 Stat. 63; Oct. 13, 1964, Pub. L. 88-650, § 4(a), 78 Stat. 1077.)

REFERENCES IN TEXT

Sections 165 (a) and 165 (a) (3)—(6), referred to in subsec. (e), which are references to sections 165 (a) and 165 (a) (3)—(6) of the Internal Revenue Code, 1939, were repealed by section 7851 of Title 26, I. R. C. 1954, and are now covered by sections 401 and 501 (a), respectively, of said Title 26.

Section 1400 of Title 26, referred to in subsec. (f), is a reference to section 1400 of the Internal Revenue Code, 1939, was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by section 3101 of said Title 26.

For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

Section 1101(10) of Title 38, referred to in the next to last paragraph of this section, was repealed in the general revision of Title 38 by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1106, and is now covered by sections 401 and 403 of Title 38, Veterans' Benefits.

The Peace Corps Act, referred to in the concluding paragraph, is classified to chapter 34 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1964—Subsec. (e). Pub. L. 88-272 included as "wages" payments after 1954 under or to trust exempt under sections 401 and 501(a), I.R.C. 1954, under annuity plans after 1954 and prior to 1963, under section 401(a) (3), (4), (5), and (6), I.R.C. 1954, under or to annuity plans which at time of payment after 1962, are described in section 403(a), I.R.C. 1954, and under or to a bond purchase plan which at time of any payment after 1962, is a qualified bond purchase plan described in section 405(a), I.R.C. 1954.

Subsec. (k). Pub. L. 88-650 added subsec. (k).

1961—Subsec. (i). Pub. L. 87-64 substituted "attains age 62 (if a woman) or age 65 (if a man)" for "attains retirement age (as defined in section 416(a) of this title)."

Pub. L. 87-293 added last paragraph providing for computation of wages for Peace Corps volunteer service.

1960—Subsec. (j). Pub. L. 86-778, § 103(j) (2) (F), substituted "section 410(j) (3) (C)" for "section 410 (k) (3) (C)."

Pub. L. 86-778, § 103(j) (2) (C), substituted "section 410(l) (1) of this title" for "section 410(m) (1) of this title" in the next to last paragraph.

1958—Subsec. (a). Pub. L. 85-840 inserted "and prior to 1959" following "any calendar year after 1954" incl. (2), and added cl. (3).

Subsec. (i). Pub. L. 85-786 inserted sentence to include remuneration for service in State employment paid to employee for period he was absent for illness in the term "sick pay".

1956—Subsec. (h) (2). Act Aug. 1, 1956, ch. 836, included within the definition of wages cash remuneration

of \$150 or more, and cash remuneration computed on a time basis where the employee performs agricultural labor for the employer on 20 days or more during the calendar year.

Act Aug. 1, 1956, ch. 837, added next to last par. to define "wages" in the case of an individual performing service, as a member of a uniformed service, to which the provisions of section 410 (m) (1) of this title are applicable.

1954—Subsec. (a). Act Sept. 1, 1954, § 104 (a), provided that for years after 1954 the term "wages" would exclude any remuneration in excess of \$4,200 paid to an individual with respect to employment during a calendar year.

Subsec. (g) (2). Act Sept. 1, 1954, § 101 (a) (1), made coverage of domestic service depend solely on receipt by the employee, in a quarter, of \$50 in cash remuneration from one employer for such service.

Subsec. (g) (3). Act Sept. 1, 1954, § 101 (a) (2), added subsec. (g) (3).

Subsec. (h). Act Sept. 1, 1954, § 101 (a) (3), redesignated subsection as cl. (1) and added cl. (2).

1950—Act Aug. 28, 1950, substituted new section 409 for former section 409.

1948—Subsec. (b) (15). Act Apr. 20, 1948, inserted subpar. (B).

1946—Subsec. (a). Act Aug. 10, 1946, § 414, in amending former subsec. (a), made pars. (1) and (2) applicable only to payments before Jan. 1, 1947, added a new par. (3), applicable to payments after that date, and renumbered former pars. (3)—(6) to be pars. (4)—(7), respectively.

Subsec. (h). Act Aug. 10, 1946, § 407(a), in amending former subsec. (h), required a currently insured individual to have not less than six quarters of coverage during the period consisting of the quarter in which he died and the twelve preceding quarters.

Subsec. (i). Act Aug. 10, 1946, § 408(a), in amending former subsec. (i), required only that a wife be married to the insured individual for 36 months instead of requiring that they be married before Jan. 1, 1939, or before he became 60 years of age, as was formerly the case.

Subsec. (k). Act Aug. 10, 1946, § 409(a), in amending former subsec. (k), changed requirement that a stepchild or adopted child must have been such before the individual reached age 60 to require, in the case of a living individual, that the child must have been a stepchild or adopted child for 36 months.

Subsec. (q). Act Aug. 10, 1946, § 410, added former subsec. (q).

Subsec. (r). Act Aug. 10, 1946, § 411, added former subsec. (r).

1945—Subsec. (b) (16). Act. Dec. 29, 1945, added former subsec. (b) (16).

Subsec. (p). Act Oct. 23, 1945, added former subsec. (p).

1944—Subsec. (o) (1). Act Apr. 4, 1944, § 2, in amending subsec. (o) (1), inserted ", but shall not * * * War Shipping Administration" at end of subd. (1).

1943—Subsec. (o). Act Mar. 24, 1943, added former subsec. (o).

1939—Act Aug. 10, 1939, amended section generally.

EFFECTIVE DATE OF 1964 AMENDMENTS

Amendment of subsec. (e) by Pub. L. 88-272 applicable to taxable years ending after Dec. 31, 1962, see section 220(d) of Pub. L. 88-272, set out as a note under section 406 of Title 26, Internal Revenue Code.

Subsec. (k) of this section applicable with respect to remuneration paid on or after the first day of the first calendar month which begins more than ten days after Oct. 13, 1964, see section 4(c) of Pub. L. 88-650, set out as a note under section 3121 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1961 AMENDMENTS

Amendment of subsec. (i) of this section by Pub. L. 87-64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961, based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

Amendment of this section by Pub. L. 87-293 applicable with respect to service performed after Sept. 22, 1961,

but in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 202(c) of Pub. L. 87-293, set out as a note under section 3121 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (j) and the last paragraph of this section by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85-786 provided that: "The amendment made by section 1 [amending subsec. (1) of this section] shall be applicable to remuneration paid after the enactment of this Act [August 27, 1958], except that, in the case of any coverage group which is included under the agreement of a State under section 218 of the Social Security Act [section 418 of this title], the amendment made by section 1 [amending subsec. (1) of this section] shall also be applicable to remuneration for any member of such coverage group with respect to services performed after the effective date, specified in such agreement, for such coverage group, if such State has paid or agrees, prior to January 1, 1959, to pay, prior to such date, the amounts which under section 218 (e) [section 418 (e) of this title] would have been payable with respect to remuneration of all members of such coverage group had the amendment made by section 1 [amending subsec. (1) of this section] been in effect on and after January 1, 1951. Failure by a State to make such payments prior to January 1, 1959, shall be treated the same as failure to make payments when due under section 218 (e) [section 418 (e) of this title]."

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of section by act Aug. 1, 1956, ch. 837, effective Jan. 1, 1957.

Section 105 (d) of act Aug. 1, 1956, provided that: "The amendment made by subsection (a) of this section [to subsec. (h) (2) of this section] shall apply with respect to remuneration paid after 1956, and the amendment made by subsection (b) of this section [to section 410 (o) of this title] shall apply with respect to service performed after 1956."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 101 (n) of act Sept. 1, 1954, provided in part that the amendments to subsecs. (g) (2), (3), and (h) (1), (2) by section 101 (a) (1), (2), (3), of act Sept. 1, 1954 shall be applicable only with respect to remuneration paid after 1954.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 104 (b) of act Aug. 28, 1950, provided that: "The amendment made by subsection (a) shall take effect January 1, 1951, except that sections 214, 215, and 216 of the Social Security Act [sections 414-416 of this title] shall be applicable (1) in the case of monthly benefits for months after August 1950, and (2) in the case of lump-sum death payments with respect to deaths after August 1950."

EFFECTIVE DATE OF 1948 AMENDMENT

Section 1 (b) of act Apr. 20, 1948, provided in part that: "The amendment made by subsection (a) to section 209 (b) (15) of the Social Security Act [former subsection (b) (15) of this section] shall be applicable with respect to services performed after the date of the enactment of this Act [Apr. 20, 1948]."

EFFECTIVE DATE OF 1946 AMENDMENT

Amendments to former subsecs. (h), (i) and (k) of this section by sections 407 (a), 408 (a) and 409 (a) of act Aug. 10, 1946, were made applicable only in cases of applications for benefits under sections 401-410 of this title filed after December 31, 1946, by sections 407 (b), 408 (b) and 409 (b) of act Aug. 10, 1946.

EFFECTIVE DATE OF 1945 AMENDMENT

Amendment of former subsec. (b) of this section by act Dec. 29, 1945, § 5 (a), was made effective Jan. 1, 1946, by section 5 (a) thereof.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of former subsecs. (a)-(n) of this section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 201 of such act.

TRANSFER OF FUNCTIONS

"Administrator" was substituted for "Board" and "Federal Security Administrator" for "Social Security Board" and for "Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

SERVICES FOR COOPERATIVES PRIOR TO 1951

Section 110 of act Aug. 28, 1950, provided that:

"In any case in which—

"(1) an individual has been employed at any time prior to 1951 by organizations enumerated in the first sentence of section 101 (12) of the Internal Revenue Code [1939].

"(2) the service performed by such individual during the time he was so employed constituted agricultural labor as defined in section 209 (1) of the Social Security Act [former subsec. (1) of this section] and section 1426 (h) of the Internal Revenue Code [1939], as in effect prior to the enactment of this act [Aug. 28, 1950], and such service would, but for the provisions of such sections, have constituted employment for the purposes of title II of the Social Security Act [this subchapter] and subchapter A of chapter 9 of such Code [1939].

"(3) the taxes imposed by sections 1400 and 1410 of the Internal Revenue Code [1939] have been paid with respect to any part of the remuneration paid to such individual by such organization for such service and the payment of such taxes by such organization has been made in good faith upon the assumption that such service did not constitute agricultural labor as so defined, and

"(4) no refund of such taxes has been obtained, the amount of such remuneration with respect to which such taxes have been paid shall be deemed to constitute remuneration for employment as defined in section 209 (b) of the Social Security Act [former subsec. (b) of this section] as in effect prior to the enactment of this Act [Aug. 28, 1950] (but it shall not constitute wages for purposes of deductions under section 203 of such Act [section 403 of this title] for months for which benefits under title II of such Act [this subchapter] have been certified and paid prior to the enactment of this act [Aug. 28, 1950])."

REFUNDS OR CREDITS FOR OVERPAYMENTS

Section 3 of act Apr. 20, 1948, provided that: "If any amount paid prior to the date of the enactment of this Act [Apr. 20, 1948] constitutes an overpayment of tax solely by reason of an amendment made by this Act [to this section], no refund or credit shall be made or allowed with respect to the amount of such overpayment."

CROSS REFERENCES

Correlation of payments under Railroad Retirement Act and crediting railroad industry service under this subchapter in certain cases, see section 228e of Title 45, Railroads.

Definitions under Internal Revenue Code, see section 7701 of Title 26, Internal Revenue Code, 1954.

Taxes on services rendered by employees of international organizations prior to Jan. 1, 1945, see note set out under section 401 of this title.

§ 410. Definitions relating to employment.

For the purposes of this subchapter—

(a) Employment.

The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this subchapter under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an

American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee (i) of an American employer (as defined in subsection (e) of this section), or (ii) of a foreign subsidiary (as defined in section 3121(l) of Title 26, Internal Revenue Code of 1954) of a domestic corporation (as determined in accordance with section 7701 of Title 26, Internal Revenue Code of 1954) during any period for which there is in effect an agreement, entered into pursuant to section 3121(l) of Title 26, Internal Revenue Code of 1954, with respect to such subsidiary; except that, in the case of service performed after 1950, such term shall not include—

(1) Service performed by foreign agricultural workers (A) under contracts entered into in accordance with sections 1461—1468 of Title 7, or (B) lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3) (A) Service performed by an individual in the employ of his spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his son or daughter;

(4) Service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if (A) the individual is employed on and in connection with such vessel or aircraft when outside the United States and (B) (i) such individual is not a citizen of the United States or (ii) the employer is not an American employer;

(5) Service performed in the employ of any instrumentality of the United States, if such instrumentality is exempt from the tax imposed by section 1410 of Title 26 by virtue of any provision of law which specifically refers to such section in granting such exemption;

(6) (A) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is covered by a retirement system established by a law of the United States;

(B) Service performed by an individual in the employ of an instrumentality of the United States if such an instrumentality was exempt from the tax imposed by section 1410 of Title 26 on December 31, 1950, and if such service is covered by a

retirement system established by such instrumentality; except that the provisions of this subparagraph shall not be applicable to—

(i) service performed in the employ of a corporation which is wholly owned by the United States;

(ii) service performed in the employ of a Federal land bank, a Federal intermediate credit bank, a bank for cooperatives, a Federal land bank association, a production credit association, a Federal Reserve Bank, a Federal Home Loan Bank, or a Federal Credit Union;

(iii) service performed in the employ of a State, county, or community committee under the Production and Marketing Administration;

(iv) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; or

(v) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of the Treasury, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard;

(C) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is performed—

(i) as the President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner of or to the Congress;

(ii) in the legislative branch;

(iii) in a penal institution of the United States by an inmate thereof;

(iv) by any individual as an employee included under section 1052 of Title 5;

(v) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency; or

(vi) by any individual to whom the Civil Service Retirement Act does not apply because such individual is subject to another retirement system (other than the retirement system of the Tennessee Valley Authority);

(7) Service performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, except that this paragraph shall not apply in the case of—

(A) service included under an agreement under section 418 of this title,

(B) service which, under subsection (k) of this section, constitutes covered transportation service, or

(C) service in the employ of the Government of Guam or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, performed by an officer or employee thereof (including a member of the legislature of any such Government or political subdivision), and, for purposes of this subchapter—

(i) any person whose service as such an officer or employee is not covered by a retirement system established by a law of the United States shall not, with respect to such service, be regarded as an officer or employee of the United States or any agency or instrumentality thereof, and

(ii) the remuneration for service described in clause (i) (including fees paid to a public official) shall be deemed to have been paid by the Government of Guam or the Government of American Samoa or by a political subdivision thereof or an instrumentality of any one or more of the foregoing which is wholly owned thereby, whichever is appropriate;

(8) (A) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(B) Service performed in the employ of a religious, charitable, educational, or other organization described in section 501 (c) (3) of Title 26, Internal Revenue Code of 1954, which is exempt from income tax under section 501 (a) of such Code, but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to section 3121 (k) of Title 26, Internal Revenue Code of 1954, is in effect if such service is performed by an employee—

(i) whose signature appears on the list filed by such organization under such section 3121 (k),

(ii) who became an employee of such organization after the calendar quarter in which the certificate (other than a certificate referred to in clause (iii)) was filed, or

(iii) who, after the calendar quarter in which the certificate was filed with respect to a group described in paragraph (1) (E) of such section 3121 (k), became a member of such group, except that this subparagraph shall apply with respect to service performed by an employee as a member of a group described in such paragraph (1) (E) with respect to which no certificate is in effect;

(9) Service performed by an individual as an employee or employee representative as defined in section 1532 of Title 26;

(10) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 101 of Title

26, if the remuneration for such service is less than \$50;

(B) Service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;

(11) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(12) Service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(13) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an interne in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to State law;

(14) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(15) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act;

(16) Service performed by an individual under an arrangement with the owner or tenant of land pursuant to which—

(A) such individual undertakes to produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land,

(B) the agricultural or horticultural commodities produced by such individual, or the

proceeds therefrom, are to be divided between such individual and such owner or tenant, and

(C) the amount of such individual's share depends on the amount of the agricultural or horticultural commodities produced;

(17) Service in the employ of any organization which is performed (A) in any quarter during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended, as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and (B) after June 30, 1956;

(18) Service performed in Guam by a resident of the Republic of the Philippines while in Guam on a temporary basis as a nonimmigrant alien admitted to Guam pursuant to section 1101(a) (15) (H) (ii) of Title 8; or

(19) Service which is performed by a non-resident alien individual for the period he is temporarily present in the United States as a non-immigrant under subparagraph (F) or (J) of section 1101(a) (15) of Title 8, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be.

(b) Included and excluded service.

If the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by paragraph (9) of subsection (a) of this section.

(c) American vessel.

The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

(d) American aircraft.

The term "American aircraft" means an aircraft registered under the laws of the United States.

(e) American employer.

The term "American employer" means an employer which is (1) the United States or any instrumentality thereof, (2) a State or any political subdivision thereof, or any instrumentality of any

one or more of the foregoing, (3) an individual who is a resident of the United States, (4) a partnership, if two-thirds or more of the partners are residents of the United States, (5) a trust, if all of the trustees are residents of the United States, or (6) a corporation organized under the laws of the United States or of any State.

(f) Agricultural labor.

The term "agricultural labor" includes all service performed—

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 1141j (g) of Title 12, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(4) (A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed.

(B) In the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A) of this paragraph, but only if such operators produced all of the commodity with respect to which such service is performed. For the purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than twenty at any time during the calendar quarter in which such service is performed.

(5) On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

The provisions of subparagraphs (A) and (B) of paragraph (4) of this subsection shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(g) Farm.

The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(h) State.

The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(i) United States.

The term "United States" when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(j) Employee.

The term "employee" means—

- (1) any officer of a corporation; or
- (2) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or
- (3) any individual (other than an individual who is an employee under paragraph (1) or (2) of this subsection) who performs services for remuneration for any person—

(A) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his principal;

(B) as a full-time life insurance salesman;

(C) as a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him; or

(D) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations;

if the contract of service contemplates that substantially all of such services are to be performed personally by such individual; except that an individual shall not be included in the term "employee" under the provisions of this paragraph if such individual has a substantial investment in facilities used in connection with the performance of such services (other than in facilities for transportation), or if the services are in the nature of a single transaction not part of a continuing relationship with the person for whom the services are performed.

(k) Covered transportation service.

- (1) Except as provided in paragraph (2) of this subsection, all service performed in the employ of a

State or political subdivision in connection with its operation of a public transportation system shall constitute covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and prior to 1951.

(2) Service performed in the employ of a State or political subdivision in connection with the operation of its public transportation system shall not constitute covered transportation service if—

(A) any part of the transportation system was acquired from private ownership after 1936 and prior to 1951, and substantially all service in connection with the operation of the transportation system is, on December 31, 1950, covered under a general retirement system providing benefits which, by reason of a provision of the State constitution dealing specifically with retirement systems of the State or political subdivisions thereof, cannot be diminished or impaired; or

(B) no part of the transportation system operated by the State or political subdivision on December 31, 1950, was acquired from private ownership after 1936 and prior to 1951; except that if such State or political subdivision makes an acquisition after 1950 from private ownership of any part of its transportation system, then, in the case of any employee who—

(C) became an employee of such State or political subdivision in connection with and at the time of its acquisition after 1950 of such part, and

(D) prior to such acquisition rendered service in employment in connection with the operation of such part of the transportation system acquired by the State or political subdivision, the service of such employee in connection with the operation of the transportation system shall constitute covered transportation service, commencing with the first day of the third calendar quarter following the calendar quarter in which the acquisition of such part took place, unless on such first day such service of such employee is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees described in subparagraph (C) of this paragraph.

(3) All service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system shall constitute covered transportation service if the transportation system was not operated by the State or political subdivision prior to 1951 and, at the time of its first acquisition (after 1950) from private ownership of any part of its transportation system, the State or political subdivision did not have a general retirement system covering substantially all service performed in connection with the operation of the transportation system.

(4) For the purposes of this subsection—

(A) The term "general retirement system" means any pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof for employees of the State, political subdivision, or both; but such term shall not include such a fund or system which covers only service performed in positions connected with the operation of its public transportation system.

(B) A transportation system or a part thereof shall be considered to have been acquired by a State or political subdivision from private ownership if prior to the acquisition service performed by employees in connection with the operation of the system or part thereof acquired constituted employment under this subchapter, and some of such employees became employees of the State or political subdivision in connection with and at the time of such acquisition.

(C) The term "political subdivision" includes an instrumentality of (i) a State, (ii) one or more political subdivisions of a State, or (iii) a State and one or more of its political subdivisions.

(I) Service in the uniformed services.

(1) Except as provided in paragraph (4) of this subsection, the term "employment" shall, notwithstanding the provisions of subsection (a) of this section, include service performed after December 1956 by an individual as a member of a uniformed service on active duty; but such term shall not include any such service which is performed while on leave without pay.

(2) The term "active duty" means "active duty" as described in section 1101 of Title 38, except that it shall also include "active duty for training" as described in such section.

(3) The term "inactive duty training" means "inactive duty training" as described in such section 1101 of Title 38.

(4) (A) Paragraph (1) of this subsection shall not apply in the case of any service, performed by an individual as a member of a uniformed service, which is creditable under section 228c-1 of Title 45. The Railroad Retirement Board shall notify the Secretary of Health, Education, and Welfare, as provided in section 228c-1 (p) (2) of Title 45, with respect to all such service which is so creditable.

(B) In any case where benefits under this subchapter are already payable on the basis of such individual's wages and self-employment income at the time such notification (with respect to such individual) is received by the Secretary, the Secretary shall certify no further benefits for payment under this subchapter on the basis of such individual's wages and self-employment income, or shall recompute the amount of any further benefits payable on the basis of such wages and self-employment income, as may be required as a consequence of subparagraph (A) of this paragraph. No payment of a benefit to any person on the basis of such individual's wages and self-employment income, certified by the Secretary prior to the end of the month in which he receives such notification from the Railroad Retirement Board, shall be deemed by reason of this subparagraph to have been an erroneous payment or a payment to which such person was not entitled. The Secretary shall, as soon as possible after the receipt of such notification from the Railroad Retirement Board, advise such Board whether or not any such benefit will be reduced or terminated by reason of subparagraph (A) of this paragraph, and if any such benefit will be so reduced or terminated, specify the first month with respect to which such reduction or termination will be effective.

(m) Member of a uniformed service.

The term "member of a uniformed service" means any person appointed, enlisted, or inducted in a component of the Army, Navy, Air Force, Marine Corps, or Coast Guard (including a reserve component of a uniformed service as defined in section 1101 (3) of Title 38), or in one of those services without specification of component, or as a commissioned officer of the Coast and Geodetic Survey or the Regular or Reserve Corps of the Public Health Service, and any person serving in the Army or Air Force under call or conscription. The term includes—

(1) a retired member of any of those services;

(2) a member of the Fleet Reserve or Fleet Marine Corps Reserve;

(3) a cadet at the United States Military Academy, a midshipman at the United States Naval Academy, and a cadet at the United States Coast Guard Academy or United States Air Force Academy;

(4) a member of the Reserve Officers' Training Corps, the Naval Reserve Officers' Training Corps, or the Air Force Reserve Officers' Training Corps, when ordered to annual training duty for fourteen days or more, and while performing authorized travel to and from that duty; and

(5) any person while enroute to or from, or at, a place for final acceptance or for entry upon active duty in the military or naval service—

(A) who has been provisionally accepted for such duty; or

(B) who, under the Universal Military Training and Service Act, has been selected for active military or naval service;

and has been ordered or directed to proceed to such place.

The term does not include a temporary member of the Coast Guard Reserve.

(n) Crew leader.

The term "crew leader" means an individual who furnishes individuals to perform agricultural labor for another person, if such individual pays (either on his own behalf or on behalf of such person) the individuals so furnished by him for the agricultural labor performed by them and if such individual has not entered into a written agreement with such person whereby such individual has been designated as an employee of such person; and such individuals furnished by the crew leader to perform agricultural labor for another person shall be deemed to be the employees of such crew leader. A crew leader shall, with respect to services performed in furnishing individuals to perform agricultural labor for another person and service performed as a member of the crew, be deemed not to be an employee of such other person.

(o) Peace Corps volunteer service.

The term "employment" shall, notwithstanding the provisions of subsection (a) of this section, include service performed by an individual as a volunteer or volunteer leader within the meaning of the Peace Corps Act. (Aug. 14, 1935, ch. 531, title II, § 210, as added Aug. 10, 1946, ch. 951, title II, § 201, 60 Stat. 979, and amended, Aug. 28, 1950, ch. 809, title I, § 104 (a), 64 Stat. 492; Oct. 31, 1949, ch. 792, title V, § 506(a), formerly § 505(a), as added

July 12, 1951, ch. 223, 65 Stat. 120, and renumbered Oct. 3, 1961, Pub. L. 87-345, § 3, 75 Stat. 761; Sept. 1, 1954, ch. 1206, title I, § 101(a) (4), (5), (b), (c) (1), (2), (e), (f), (m), 68 Stat. 1052, 1061; Aug. 1, 1956, ch. 836, title I, §§ 104(a), (b), (c) (1), 105 (b), 121 (c), 70 Stat. 824, 828, 839; Aug. 1, 1956, ch. 837, title IV, § 402 (a), 70 Stat. 870; Aug. 28, 1958, Pub. L. 85-840, title III, § 311(a), 312(a), 72 Stat. 1035; June 25, 1959, Pub. L. 86-70, § 32(c) (2), 73 Stat. 149; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), title II, § 202(a), 73 Stat. 387, 389; July 12, 1960, Pub. L. 86-624, § 30(c) (2), 74 Stat. 420; Sept. 13, 1960, Pub. L. 86-778, title I, §§ 103 (c)—(f) (j) (2) (A), (B), 104(a), 74 Stat. 936, 937, 942; Sept. 21, 1961, Pub. L. 87-256, § 110(e) (2), 75 Stat. 537; Sept. 22, 1961, Pub. L. 87-293, title II, § 202(b) (1), 75 Stat. 626.)

REFERENCES IN TEXT

Section 1410 of Title 26, referred to in subsecs. (a) (5) and (a) (6) (B), which is a reference to section 1410 of the Internal Revenue Code, 1939, was repealed by section 7851 of Title 26, I.R.C. 1954, and is now covered by section 3111 of said Title 26. For provision deeming a reference in other laws to a provision of I.R.C. 1939, also as a reference to corresponding provision of I.R.C. 1954, see section 7852(b) of said Title 26.

The Civil Service Retirement Act, referred to in subsec. (a) (6) (C) (vi), is classified to chapter 30 of Title 5, Executive Departments and Government Officers and Employees.

Section 1532 of Title 26, referred to in subsec. (a) (9), which is a reference to section 1532 of the Internal Revenue Code, 1939, was repealed by section 7851 of Title 26, I.R.C. 1954, and is now covered by sections 3231 and 7701(a) (1)—(9) of said Title 26.

Section 101 of Title 26, referred to in subsec. (a) (10) (A), which is a reference to section 101 of the Internal Revenue Code, 1939, was repealed by section 7351 of Title 26, I.R.C. 1954, and is now covered by sections 501, 502, 521 and 522 of said Title 26.

For provision deeming a reference in other laws to a provision of I.R.C. 1939, also as a reference to corresponding provision of I.R.C. 1954, see section 7852(b) of said Title 26.

The International Organizations Immunities Act, referred to in subsection (a) (15), is classified to sections 288—288f of Title 22, Foreign Relations and Intercourse.

The Internal Security Act of 1950, as amended, referred to in subsec. (a) (17), is classified to chapter 23 of Title 50, War and National Defense.

Section 1101 of Title 38, referred to in subsecs. (l) (2) and (l) (3), was repealed in the general revision of Title 38 by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1106, and is now covered by sections 101, 106 (b), (c), 401, 402, 403, 404 and 421 of Title 38, Veterans' Benefits.

Section 1101(3) of Title 38, referred to in subsec. (m), was repealed in the general revision of Title 38 by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1106, and is now covered by section 101(27) of Title 38, Veterans' Benefits.

The Universal Military Training and Service Act, referred to in subsec. (m) (5) (B), is classified to sections 451, 453, 454, 455, 456 and 458—471 of Appendix to Title 50, War and National Defense.

The Peace Corps Act, referred to in subsec. (o), is classified to chapter 34 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1961—Subsec. (a) (19). Pub. L. 87-256 added subsec. (a) (19).

Subsec. (o). Pub. L. 87-293 added subsec. (o).

1960—Subsec. (a) (3). Pub. L. 86-778, § 104(a), designated existing provisions as cl. (A) and eliminated therein provisions which related to service performed by an individual in the employ of his son or daughter, and added cl. (B).

Subsec. (a) (7). Pub. L. 86-778, § 103(c), excluded service in the employ of the Government of Guam or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more

of the foregoing which is wholly owned thereby, performed by an officer or employee thereof.

Subsec. (a) (18). Pub. L. 86-778, § 103(d), added subsec. (a) (18).

Subsec. (h). Pub. L. 86-778, § 103(e), included Guam and American Samoa.

Pub. L. 86-624 substituted "includes the District of Columbia and" for "includes Hawaii, the District of Columbia, and".

Subsec. (i). Pub. L. 86-778, § 103(f), included Guam and American Samoa.

Pub. L. 86-624 eliminated "Hawaii," preceding "the District of Columbia."

Subsec. (j). Pub. L. 86-778, § 103(j) (2) (A), (B), redesignated former subsec. (k) as (j) and repealed former subsec. (j) which related to citizens of Puerto Rico.

Subsecs. (k)—(n). Pub. L. 86-778, § 103(j) (2) (B), redesignated former subsecs. (l)—(o) as (k)—(n).

1959—Subsec. (a) (6) (B) (ii). Pub. L. 86-168 substituted "Federal land bank association" for "national farm loan association", and included service in the employ of Federal land banks, Federal intermediate credit banks and banks for cooperatives.

Subsec. (h). Pub. L. 86-70 eliminated "Alaska," preceding "Hawaii."

Subsec. (i). Pub. L. 86-70 eliminated "Alaska," preceding "Hawaii."

1958—Subsec. (a) (1). Pub. L. 85-840, § 311(a), eliminated provisions which excluded from coverage service performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 1141j (g) of Title 12.

Subsec. (a) (8) (B). Pub. L. 85-840, § 312 (a), substituted references to the Internal Revenue Code of 1954 for references to the Internal Revenue Code of 1939, and inserted provisions making subparagraph inapplicable to service performed during the period for which a certificate is in effect if such service is performed by an employee who, after the calendar quarter in which the certificate was filed with respect to a group described in section 3121 (k) (1) (E) of Title 26, became a member of such group, and making subparagraph applicable with respect to service performed by an employee as a member of a group described in section 3121 (k) (1) (E) of Title 26 with respect to which no certificate is in effect.

1956—Subsec. (a) (1) (B). Act Aug. 1, 1956, ch. 836, § 104(a), excluded from coverage service performed by foreign agricultural workers lawfully admitted on a temporary basis from any foreign country or possession thereof.

Subsec. (a) (6) (B) (ii). Act Aug. 1, 1956, ch. 836, § 104 (b) (1), included service performed in the employ of a Federal Home Loan Bank.

Subsec. (a) (6) (C) (vi). Act Aug. 1, 1956, ch. 836, § 104 (b) (2), substituted "Civil Service Retirement Act" for "Civil Service Retirement Act of 1930", and inserted "(other than the retirement system of the Tennessee Valley Authority)" following "retirement system".

Subsecs. (a) (16), (17). Act Aug. 1, 1956, ch. 836, §§ 104(c) (1), 121(c), added subsecs. (a) (16), (17).

Subsecs. (m), (n). Act Aug. 1, 1956, ch. 837, added subsecs. (m) and (n).

Subsec. (o). Act Aug. 1, 1956, ch. 836, § 105 (b), added subsec. (o).

1954—Subsec. (a) (B). Act Sept. 1, 1954, § 101(m), included within the definition of "employment" service performed outside the United States by citizens of the United States as employees for foreign subsidiaries of domestic corporations under certain conditions.

Subsec. (a) (1). Act Sept. 1, 1954, § 101(a) (4), removed the specific exception from employment of services performed in connection with the ginning of cotton, and added an exception for services performed by West Indian agricultural workers lawfully admitted to the United States on a temporary basis.

Subsec. (a) (3). Act Sept. 1, 1954, § 101(a) (5), redesignated former par. (4) as (3), and deleted former par. (3).

Subsec. (a) (4). Act Sept. 1, 1954, § 101(b), redesignated former par. (5) as (4), and made the exclusion with respect to services on non-American vessels or aircraft applicable only if the individual is not a United States citizen or the employer is not an American employer. Former par. (4) redesignated (3).

Subsec. (a) (5). Act Sept. 1, 1954, § 101(a) (5), redesignated former par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (a) (6) (B). Act Sept. 1, 1954, § 101(a) (5), redesignated former par. (7) as (6). Act Sept. 1, 1954, § 101(c) (1) (A), inserted "by an individual" after "Service performed" and "and if such service is covered by a retirement system established by such instrumentality;" after "December 31, 1950."

Subsec. (a) (6) (B) (v). Act Sept. 1, 1954, § 101(a) (5), redesignated former par. (7) as (6). Act Sept. 1, 1954, § 101(C) (1) (B), added cl. (v).

Subsec. (a) (6) (C). Act Sept. 1, 1954, § 101(a) (5), redesignated former par. (7) as (6). Act Sept. 1, 1954, § 101(C) (2), deleted the exception from coverage for services in the following categories; temporary employees in the Post Office Department field service; temporary census-taking employees of the Bureau of the Census; Federal employees paid on a contract or fee basis; Federal employees receiving compensation of \$12 a year or less; certain consular agents; individuals employed under Federal unemployment relief programs; and members of State, county, or community committees under the Production and Marketing Administration and similar bodies, unless such bodies are composed exclusively of full-time Federal employee and limited the exclusion of inmates or patients of United States institutions to inmates of penal institutions.

Subsec. (a) (7) —(13). Act Sept. 1, 1954, § 101(a) (5), redesignated former pars. (8) —(14) as (7) —(13), respectively.

Subsec. (a) (15). Act Sept. 1, 1954, § 101(e), redesignated former par. (17) as (15), and deleted former par. (15).

Subsec. (k) (3) (C). Act Sept. 1, 1954, § 101(f), eliminated the requirement that the services of homeworkers be subject to State licensing laws in order to constitute covered employment.

1951—Subsec. (a) (1). Act Oct. 31, 1949, § 505(a), as added by act July 12, 1951, added subparagraph "(C)".

1950—Act Aug. 28, 1950, substituted a new section 410 for former section 410.

Subsec. (a) (14). Act Sept. 1, 1954, § 101(e), redesignated former par. (16) as (14). Former par. (14) redesignated (13).

EFFECTIVE DATE OF 1961 AMENDMENTS

Amendment of this section by Pub. L. 87-293 applicable with respect to service performed after Sept. 22, 1961, but in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 202(c) of Pub. L. 87-293, set out as a note under section 3121 of Title 26, Internal Revenue Code.

Amendment of section by Pub. L. 87-256 applicable with respect to service performed after Dec. 31, 1961, see section 110(h) (3) of Pub. L. 87-256, set out as a note under section 3121 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1960 AMENDMENTS

Section 104(c) of Pub. L. 86-778 provided that: "The amendments made by subsections (a) and (b) [to subsec. (a) (3) of this section and section 3121(b) (3) of Title 26] shall apply only with respect to services performed after 1960."

Amendment of subsec. (a) (7) of this section by Pub. L. 86-778 applicable only with respect to (1) service in the employ of the Government of Guam or any political subdivision thereof, or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of Guam that legislation has been enacted by the Government of Guam expressing its desire to have the insurance system established by Title II of the Social Security Act, this subchapter, extended to the officers and employees of such Government and such political subdivisions and instrumentalities, and (2) service in the employ of the Government of American Samoa or any political subdivision thereof or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar

quarter in which the Secretary of the Treasury receives a certification by the Governor of American Samoa that the Government of American Samoa desires to have the insurance system established by this subchapter extended to the officers and employees of such Government and such political subdivisions and instrumentalities, see section 103(v) (1), (2) of Pub. L. 86-778, set out as a note under section 402 of this title.

Subsec. (a) (18) of this section applicable only with respect to service performed after 1960, see section 103(v) (1) of Pub. L. 86-778, set out as a note under section 402 of this title.

Amendment of subsections (h) and (i) of this section by Pub. L. 86-778 applicable only with respect to service performed after 1960, except that insofar as the carrying on of a trade or business (other than performance of service as an employee) is concerned, the amendment shall be applicable only in the case of taxable years beginning after 1960, see section 103(v) (1), (3) of Pub. L. 86-778, set out as a note under section 402 of this title.

Amendment of subsections (h) and (i) of this section by Pub. L. 86-624 effective on Aug. 21, 1959, see section 47(f) of Pub. L. 86-624, set out as a note under section 645 of Title 20, Education.

Repeal of former subsec. (j) of this section and redesignation of subsections (k) —(o) of this section as subsections. (j) —(n) by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v) (1), (3) of Pub. L. 86-778, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1959 AMENDMENTS

Amendment of section by Pub. L. 86-168 effective Jan. 1, 1960, see section 203(c) of Pub. L. 86-168, set out as a note under section 6401 of Title 12, Banks and Banking.

Amendment of section by Pub. L. 86-70 effective on Jan. 3, 1959, see section 47(d) of Pub. L. 86-70, set out as a note under section 151 of Title 20, Education.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 311 (b) of Pub. L. 85-840 provided that: "The amendment made by subsection (a) [to subsec. (a) (1) of this section] shall apply with respect to service performed after 1958."

Section 312 (b) of Pub. L. 85-840 provided that: "The amendment made by subsection (a) [to subsec. (a) (8) (B) of this section] shall apply with respect to certificates filed under section 3121 (k) (1) of the Internal Revenue Code of 1954 [section 3121 (k) (1) of Title 26] after the date of enactment of this Act [August 28, 1958]."

EFFECTIVE DATE OF 1956 AMENDMENTS

Section 104 (i) of act Aug. 1, 1956, ch. 836, provided that:

"(1) The amendment made by subsection (a) [to subsec. (a) (1) (B) of this section] shall apply with respect to service performed after 1956. The amendments made by paragraph (1) of subsection (c) [to subsec. (a) (16) of this section] shall apply with respect to service performed after 1954. The amendment made by paragraph (2) of subsection (c) [to section 411 (a) (1) of this title] shall apply with respect to taxable years ending after 1955. The amendment made by paragraph (3) of subsection (c) [to section 411 (c) (2) of this title] shall apply with respect to taxable years ending after 1954. The amendment made by subsection (d) [to section 411 (c) (5) of this title] shall apply with respect to taxable years ending after 1955. The amendment made by subsection (h) [to section 411 (a) (7) (B) of this title] shall apply with respect to the same taxable years with respect to which the amendment made by section 201 (g) of this Act [to section 1402 (a) (8) (B) of Internal Revenue Code of 1954] applies.

"(2) (A) Except as provided in subparagraphs (B) and (C), the amendments made by subsection (b) [to subsections. (a) (B) (ii) and (a) (6) (C) (vi) of this section] shall apply only with respect to service performed after June 30, 1957, and only if—

"(i) in the case of the amendment made by paragraph (1) of such subsection [to subsec. (a) (6) (B) (ii) of this section], the conditions prescribed in subparagraph (B) are met; and

"(II) in the case of the amendment made by paragraph (2) of such subsection [to subsec. (a) (6) (C) (vi) of this section], the conditions prescribed in subparagraph (C) are met.

"(B) The amendment made by paragraph (1) of subsection (b) [to subsec. (a) (6) (B) (II) of this section] shall be effective only if—

"(I) the Federal Home Loan Bank Board submits to the Secretary of Health, Education, and Welfare, and the Secretary approves, before July 1, 1957, a plan, with respect to employees of Federal Home Loan Banks, for the coordination, on an equitable basis, of the benefits provided by the retirement system applicable to such employees with the benefits provided by title II of the Social Security Act [this subchapter]; and

"(II) such plan specifies, as the effective date of the plan, July 1, 1957, or the first day of a prior calendar quarter beginning not earlier than January 1, 1956.

If the plan specifies as the effective date of the plan a day before July 1, 1957, the amendment made by paragraph (1) of subsection (b) [to subsec. (a) (6) (B) (II) of this section] shall apply with respect to service performed on or after such effective date; except that, if such effective date is prior to the day on which the Secretary approves the plan, such amendment shall not apply with respect to service performed, prior to the day on which the Secretary approves the plan, by an individual who is not an employee of a Federal Home Loan Bank on such day.

"(C) The amendment made by paragraph (2) of subsection (b) [to subsec. (a) (6) (C) (vi) of this section] shall be effective only if—

"(I) the Board of Directors of the Tennessee Valley Authority submits to the Secretary of Health, Education, and Welfare, and the Secretary approves, before July 1, 1957, a plan, with respect to employees of the Tennessee Valley Authority, for the coordination, on an equitable basis, of the benefits provided by the retirement system applicable to such employees with the benefits provided by title II of the Social Security Act [this subchapter]; and

"(II) such plan specifies, as the effective date of the plan, July 1, 1957, or the first day of a prior calendar quarter beginning not earlier than January 1, 1956.

If the plan specifies as the effective date of the plan a day before July 1, 1957, the amendment made by paragraph (2) of subsection (b) [to subsec. (a) (6) (C) (vi) of this section] shall apply with respect to service performed on or after such effective date; except that, if such effective date is prior to the day on which the Secretary approves the plan, such amendment shall not apply with respect to service performed, prior to the day on which the Secretary approves the plan, by an individual who is not an employee of the Tennessee Valley Authority on such day.

"(D) The Secretary of Health, Education, and Welfare shall, on or before July 31, 1957, submit a report to the Congress setting forth the details of any plan approved by him under subparagraph (B) or (C)."

Subsecs. (m) and (n) effective Jan. 1, 1957.

Subsec. (o) of this section, added by section 105 (b) of act Aug. 1, 1956, ch. 836, as applicable with respect to service performed after 1956, see section 105 (d) of such act Aug. 1, 1956, set out as a note under section 409 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 101 (n) of act Sept. 1, 1954, provided in part that the amendments to subsec. (a) by section 101 (a) (4), (5), of act Sept. 1, 1954 shall be applicable only with respect to services (whether performed after 1954 or prior to 1955) for which the remuneration is paid after 1954.

Section 101 (n) of act Sept. 1, 1954, provided in part that the amendments to subsecs. (a) (4), (6) (B) and (C), (14) and (15), and (k) (3) (C) made by section 101 (b), (c) (1) and (2), (e) and (f) of act Sept. 1, 1954 shall be applicable only with respect to services performed after 1954.

EFFECTIVE DATE OF 1950 AMENDMENT

Section as added by section 104 (a) to be effective Jan. 1, 1951, see note set out under section 409 of this title.

Former section 410 was stricken out effective Sept. 1, 1950, by section 105 of act Aug. 28, 1950.

COVERED EMPLOYMENT NOT COUNTED UNDER OTHER FEDERAL RETIREMENT SYSTEMS

Section 115 of act Sept. 1, 1954, provided that: "Notwithstanding any other provision of law, in determining eligibility for or the amount of any benefit (other than a benefit under title II of the Social Security Act [this subchapter] or under the Railroad Retirement Act of 1937, as amended [section 228a et seq. of Title 45]) under any retirement system established by the United States or any instrumentality thereof, there shall not be taken into account any service which, by reason of the amendments to section 210 (a) of the Social Security Act [subsec. (a) of this section] made by section 101 (c) of this Act, constitutes employment as defined in such section 210 (a)."

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 410a. Limitation on definition of employment.

CODIFICATION

Section, act Aug. 29, 1935, ch. 812, § 17, as amended June 24, 1937, ch. 382, part I, § 1, 50 Stat. 317, part of Railroad Retirement Act, limited term "employment" as defined in former section 410, which section 410 was omitted by amendment of title II by act Aug. 10, 1939, ch. 666, title II, § 201, 53 Stat. 1362. See note under section 228q of Title 45, Railroads.

§ 411. Definitions relating to self-employment.

For the purposes of this subchapter—

(a) Net earnings from self-employment.

The term "net earnings from self-employment" means the gross income, as computed under chapter 1 of Title 26, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such chapter which are attributable to such trade or business, plus his distributive share (whether or not distributed) of the ordinary net income or loss, as computed under section 183 of Title 26, from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary net income or loss—

(1) There shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares), together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant in the production or the management of the production of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant

with respect to any such agricultural or horticultural commodity;

(2) There shall be excluded dividends on any share of stock, and interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a government or political subdivision thereof), unless such dividends and interest (other than interest described in section 25 (a) of Title 26) are received in the course of a trade or business as a dealer in stocks or securities;

(3) There shall be excluded any gain or loss (A) which is considered under chapter 1 of Title 26 as gain or loss from the sale or exchange of a capital asset, (B) from the cutting of timber, or the disposal of timber, coal, or iron ore, if section 631 of Title 26 applies to such gain or loss, or (C) from the sale, exchange, involuntary conversion, or other disposition of property if such property is neither (i) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor (ii) property held primarily for sale to customers in the ordinary course of the trade or business;

(4) The deduction for net operating losses provided in section 23 (s) of Title 26 shall not be allowed;

(5) (A) If any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife;

(B) If any portion of a partner's distributive share of the ordinary net income or loss from a trade or business carried on by a partnership is community income or loss under the community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner, and no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner;

(6) A resident of the Commonwealth of Puerto Rico shall compute his net earnings from self-employment in the same manner as a citizen of the United States but without regard to the provisions of section 933 of Title 26;

(7) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c) (4) of this section without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) of

Title 26, Internal Revenue Code of 1954 and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 410 (e) of this title) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States) of Title 26, Internal Revenue Code of 1954; and

(8) The term "possession of the United States" as used in sections 931 (relating to income from sources within possessions of the United States) and 932 (relating to citizens of possessions of the United States) of Title 26 shall be deemed not to include the Virgin Islands, Guam, or American Samoa.

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based upon the ordinary net income or loss of the partnership for any taxable year of the partnership (even though beginning prior to 1951) ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 410 (f) of this title—

(i) in the case of an individual, if the gross income derived by him from such trade or business is not more than \$1,800, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income; or

(ii) in the case of an individual, if the gross income derived by him from such trade or business is more than \$1,800 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than \$1,200, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be \$1,200; and

(iii) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of Title 26, Internal Revenue Code of 1954, applies) is not more than \$1,800, his distributive share of income described in section 702 (a) (9) of Title 26, Internal Revenue Code of 1954, derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707 (c) of Title 26, Internal Revenue Code of 1954,

applies) is more than \$1,800 and his distributive share (whether or not distributed) of income described in section 702 (a) (9) of Title 26, Internal Revenue Code of 1954, derived from such trade or business (computed under this subsection without regard to this sentence) is less than \$1,200, his distributive share of income described in such section 702 (a) (9) derived from such trade or business may, at his option, be deemed to be \$1,200. For purposes of the preceding sentence, gross income means—

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of this subsection; and

(vi) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (6) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

(b) Self-employment income.

The term "self-employment income" means the net earnings from self-employment derived by an individual (other than a nonresident alien individual) during any taxable year beginning after 1950; except that such term shall not include—

(1) That part of the net earnings from self-employment which is in excess of—

(A) For any taxable year ending prior to 1955, (i) \$3,600, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(B) For any taxable year ending after 1954 and prior to 1959, (i) \$4,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(C) For any taxable year ending after 1958, (i) \$4,800, minus (ii) the amount of the wages paid to such individual during the taxable year; or

(2) The net earnings from self-employment, if such net earnings for the taxable year are less than \$400.

An individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for the purpose of this subsection, be considered to be a nonresident alien individual.

(c) Trade or business.

The term "trade or business", when used with reference to self-employment income or net earn-

ings from self-employment, shall have the same meaning as when used in section 23 of Title 26, except that such term shall not include—

(1) The performance of the functions of a public office;

(2) The performance of service by an individual as an employee, other than—

(A) service described in section 410(a)(14)

(B) of this title performed by an individual who has attained the age of eighteen,

(B) service described in section 410(a)(16),

(C) service described in section 410 (a) (11), (12), or (15) of this title performed in the United States by a citizen of the United States, and

(D) service described in paragraph (4) of this subsection;

(3) The performance of service by an individual as an employee or employee representative as defined in section 1532 of Title 26;

(4) The performance of service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(5) The performance of service by an individual in the exercise of his profession as a doctor of medicine or Christian Science practitioner; or the performance of such service by a partnership.

The provisions of paragraph (4) shall not apply to service (other than service performed by a member of a religious order who has taken a vow of poverty as a member of such order) performed by an individual during the period for which a certificate filed by such individual under section 1402 (e) of Title 26, Internal Revenue Code of 1954, is in effect. The provisions of paragraph (5) shall not apply to service performed by an individual in the exercise of his profession as a Christian Science practitioner during the period for which a certificate filed by him under section 1402 (e) of Title 26, Internal Revenue Code of 1954, is in effect.

(d) Partnership and partner.

The term "partnership" and the term "partner" shall have the same meaning as when used in supplement F of chapter 1 of Title 26.

(e) Taxable year.

The term "taxable year" shall have the same meaning as when used in chapter 1 of Title 26; and the taxable year of any individual shall be a calendar year unless he has a different taxable year for the purposes of chapter 1 of Title 26, in which case his taxable year for the purposes of this subchapter shall be the same as his taxable year under chapter 1 of Title 26.

(f) Partner's taxable year ending as result of death.

In computing a partner's net earnings from self-employment for his taxable year which ends as a result of his death (but only if such taxable year ends within, and not with, the taxable year of the partnership), there shall be included so much of the deceased partner's distributive share of the partnership's ordinary income or loss for the partnership taxable year as is not attributable to an interest in

the partnership during any period beginning on or after the first day of the first calendar month following the month in which such partner died. For purposes of this subsection—

(1) in determining the portion of the distributive share which is attributable to any period specified in the preceding sentence, the ordinary income or loss of the partnership shall be treated as having been realized or sustained ratably over the partnership taxable year; and

(2) the term "deceased partner's distributive share" includes the share of his estate or of any other person succeeding, by reason of his death, to rights with respect to his partnership interest. (Aug. 14, 1935, ch. 531, title II, § 211, as added Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492, and amended Sept. 23, 1950, ch. 994, title II, § 221(j) (2), 64 Stat. 947; Sept. 1, 1954, ch. 1206, title I, §§ 101(d), (g), 104(b), 68 Stat. 1054, 1078; Aug. 1, 1956, ch. 836, title I, §§ 104(c) (2), (3), (d), (h), 106(a), 70 Stat. 824–826, 828; Aug. 30, 1957, Pub. L. 85–239, § 5(a), 71 Stat. 523; Aug. 28, 1958, Pub. L. 85–840, title I, § 102(b), title III, § 313(a), 72 Stat. 1019, 1036; Sept. 13, 1960, Pub. L. 86–778, title I, §§ 103(g), (h), (j) (3), 106(a), 74 Stat. 937, 938, 945; Feb. 26, 1964, Pub. L. 88–272, title II, § 227(b) (7), 78 Stat. 98.)

REFERENCES IN TEXT

Chapter 1 of Title 26, referred to in subsections (a) and (e), which was a reference to Chapter 1 of the Internal Revenue Code, 1939, was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by Subtitle A of said Title 26.

Section 183 of Title 26, referred to in subsection (a), which was a reference to section 183 of the Internal Revenue Code, 1939, was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by sections 702, 703 of said Title 26.

Section 25 (a) of Title 26, referred to in subsection (a) (2), which was a reference to section 25 (a) of the Internal Revenue Code, 1939, was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by sections 35, 151–153 of said Title 26.

Section 23 (s) of Title 26, referred to in subsection (a) (4), which was a reference to section 23 (s) of the Internal Revenue Code, 1939, was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by section 172 of said Title 26.

Section 23 of Title 26, referred to in subsection (c), which was a reference to section 23 of the Internal Revenue Code, 1939, was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by section 161 et seq. of said Title 26.

Section 1532 of Title 26, referred to in subsection (c) (3), which was a reference to section 1532 of the Internal Revenue Code, 1939, was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by sections 3231, 7701 (a)—(9) of said Title 26.

Supplement F of chapter 1 of Title 26, referred to in subsection (d), which was a reference to Supplement F of chapter 1 of the Internal Revenue Code, 1939, was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by sections 701–704, 706, 6031, 6063, 6065 (a) of said Title 26.

For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

AMENDMENTS

1964—Subsec. (a) (8) (B), Pub. L. 88–272 substituted "coal, or iron ore, if section 631 of Title 26 applies" for "or coal, if section 117(j) of Title 26 is applicable."

1960—Subsec. (a) (6), Pub. L. 86–778, § 103 (j) (3), substituted "section 933 of Title 26" for "section 116(1) of Title 26", and eliminated provisions which defined the term "possession of the United States" in the case of

taxable years beginning before the effective date specified in former section 419 of this title.

Subsec. (a) (8). Pub. L. 86–778, § 103(g), added par. (8), and inserted a reference to paragraph (8) in cls. (v) and (vi) of the last sentence.

Subsec. (b). Pub. L. 86–778, § 103(h), provided that individuals who are not citizens of the United States but who are residents of Guam or American Samoa shall not, for the purposes of this subsection, be considered to be nonresident alien individuals, and eliminated provisions which related to individuals who were citizens of Puerto Rico prior to the effective date specified in section 419 of this title.

Subsec. (c) (2). Pub. L. 86–778, § 106(a), excluded service described in section 410(a) (11), (12), or (15) of this title performed in the United States by a citizen of the United States.

1958—Subsec. (b) (1). Pub. L. 85–840, § 102(b), inserted "and prior to 1959" following "year ending after 1954" in cl. (B), and added cl. (C).

Subsec. (f). Pub. L. 85–840, § 313(a), added subsec. (f). 1957—Subsec. (a) (7). Pub. L. 85–239 permitted computation of net earnings without regard to sections 107 and 119 of Title 26, Internal Revenue Code of 1954.

1956—Subsec. (a). Act Aug. 1, 1956, § 106(a), amended generally the last two sentences to include those businesses in which the income is computed under an accrual method, and partnerships, to change the method of computation of net earnings for individuals by permitting those whose gross income is not more than \$1,800 to deem their net earnings to be 66⅔ percent of such gross income, and those whose gross income is more than \$1,800 and the net earnings are less than \$1,200, to deem the net earnings to be \$1,200, and to provide for the computation of net earnings for members of partnerships.

Subsec. (a) (1). Act Aug. 1, 1956, § 104(c) (2), eliminated from the exclusion, income derived by an owner or tenant of land if such income is derived under an arrangement with another individual for the production by such other individual of agricultural or horticultural commodities if such arrangement provides horticultural commodities if such arrangement provides for material participation by the owner or tenant in the production or the management of the production of such commodities, and there is material participation by the owner or tenant with respect to any such commodity.

Subsec. (a) (7) (B). Act Aug. 1, 1956, § 104(h), included citizens of the United States who are ministers in foreign countries and have congregations composed predominantly of citizens of the United States.

Subsec. (c) (2). Act Aug. 1, 1956, § 104(c) (3), included within the term "trade or business" service described in section 410(a) (16) of this title.

Subsec. (c) (5). Act Aug. 1, 1956, § 104(d), eliminated the exclusion from coverage in the case of lawyers, dentists, osteopaths, veterinarians, chiropractors, naturopaths, and optometrists.

1954—Subsec. (a) (1). Act Sept. 1, 1954, § 101(g) (2), made it clear that rentals paid in crop shares would be excluded as being rentals from real estate.

Subsec. (a) (2). Act Sept. 1, 1954, § 101(g) (1), redesignated former par. (3) as (2), and deleted former par. (2).

Subsec. (a) (3). Act Sept. 1, 1954, § 101(g) (3), redesignated former par. (4) as (3), and excluded from "net earnings from self-employment" the gain or loss derived from coal royalties under certain conditions.

Subsec. (a) (4)—(6). Act Sept. 1, 1954, § 101(g) (1), redesignated former pars. (5)—(7) as (4)—(6), respectively.

Subsec. (a) (7). Act Sept. 1, 1954, § 101(d) (3), added par. (7).

Subsec. (a). Act Sept. 1, 1954, § 101(g) (1), added two new sentences at the end of the subsection.

Subsec. (b) (1). Act Sept. 1, 1954, § 104(b), excluded from self-employment income, for taxable years after 1954 any amount in excess of \$4,200 minus the amount of the wages paid to an individual during the taxable year.

Subsec. (c). Act Sept. 1, 1954, § 101(d) (2), added two new sentences at the end thereof making the provisions of par. (4) inapplicable to service performed during the

period for which a certificate filed under section 1402(e) of Title 26, Internal Revenue Code of 1954, is in effect.

Subsec. (c) (2). Act Sept. 1, 1954, 101(d) (1), inserted after the word "eighteen", the words "and other than service described in paragraph (4) of this subsection."

Subsec. (c) (5). Act Sept. 1, 1954, § 101(g) (4), eliminated the exclusion from coverage in the case of architects, certified public accountants, accountants registered or licensed as accountants under State or municipal law, full-time practicing public accountants, funeral directors, or professional engineers.

1950—Subsec. (a) (7). Act Sept. 23, 1950, made provisions applicable to Puerto Rico, and provided the basis for computation of net earnings.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment of section by Pub. L. 88-272 applicable with respect to amounts received or accrued in taxable years beginning after Dec. 31, 1963, attributable to iron ore mined in such years, see section 227(c) of Pub. L. 88-272, set out as a note under section 272 of this title.

EFFECTIVE DATE OF AMENDMENT

Amendment of subsec. (a) (6) of this section by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v) (1), (3) of Pub. L. 86-778, set out as a note under section 402 of this title.

Enactment of subsec. (a) (8) of this section applicable only in the case of taxable years beginning after 1960, except that, insofar as such enactment involves the non-application of section 932 of Title 26 to the Virgin Islands for purposes of chapter 2 of Title 26 and this section, such enactment shall be effective in the case of all taxable years with respect to which such chapter 2 (and corresponding provisions of prior law) and this section are applicable, see section 103(v) (1) of Pub. L. 86-778, set out as a note under section 402 of this title.

Amendment of subsec. (b) of this section by Pub. L. 86-778 applicable only in the case of taxable years beginning after 1960, see section 103(v) (1), (3) of Pub. L. 86-778, set out as a note under section 402 of this title.

Section 106(c) of Pub. L. 86-778 provided that: "The amendments made by this section [to subsec. (c) (2) of this section and section 1402(c) (2) of Title 26] shall apply only with respect to taxable years ending on or after December 31, 1960; except that for purposes of section 203 of the Social Security Act [section 403 of this title], the amendment made by subsection (a) [to subsec. (c) (2) of this section] shall apply only with respect to taxable years (of the individual performing the service involved) beginning after the date of the enactment of this Act [Sept. 13, 1960]."

EFFECTIVE DATE OF 1958 AMENDMENT

Section 313 (b) of Pub. L. 85-840 provided that:

"The amendment made by subsection (a) [adding subsec. (f) of this section] shall apply—

"(1) with respect to individuals who die after the date of the enactment of this Act [Aug. 28, 1958], and

"(2) with respect to any individual who died after 1955 and on or before the date of the enactment of this Act [Aug. 28, 1958], but only if the requirements of section 403 (b) (2) of this Act [section 603 (b) (2) of this title] are met."

EFFECTIVE DATE OF 1957 AMENDMENT

Amendment of subsec. (a) (7) by Pub. L. 85-239 applicable, except for purposes of section 403 of this title, only with respect to taxable years ending on or after December 31, 1957, see section 5 (c) of Pub. L. 85-239, set out as a note under section 1402 of Title 26, Internal Revenue Code of 1954.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of subsecs. (a) (1) and (c) (5) of this section by section 104(c) (2), (d) of act Aug. 1, 1956, applicable with respect to taxable years ending after 1955, see section 104 (1) of such act Aug. 1, 1956, set out as a note under section 410 of this title.

Amendment of subsec. (a) (7) (B) by section 104 (h) of act Aug. 1, 1956, applicable with respect to the same taxable years with respect to which the amendment to

section 3121 (k) (1) of Title 26, Internal Revenue Code of 1954 applies, see section 104 (1) of act Aug. 1, 1956, set out as a note under section 410 of this title, and section 201 (m) (2) of such act Aug. 1, 1956, set out as a note under section 3121 of Title 26, Internal Revenue Code of 1954.

Amendment of subsec. (c) (2) of this section by section 104(c) (3) of act Aug. 1, 1956, applicable with respect to taxable years ending after 1954, see section 104 (1) of act Aug. 1, 1956, set out as a note under section 410 of this title.

Section 106 (b) of act Aug. 1, 1956, provided that: "The amendment made by subsection (a) [to the last two sentences of subsec. (a) of this section] shall be effective with respect to taxable years ending on or after December 31, 1956."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 101 (n) of act Sept. 1, 1954, provided in part that the amendment to subsec. (a) (3) by section 101 (g) (3) of act Sept. 1, 1954 shall be applicable only with respect to taxable years beginning after 1950 and that the amendments to subsecs. (a) and (c) by section 101 (d), (g) (1), (2), (4), of act Sept. 1, 1954 should be applicable only with respect to taxable years ending after 1954.

Section 101 (n) of act Sept. 1, 1954, also provided in part that: "For purposes of section 203 of the Social Security Act, the amendments [to subsecs. (a) and (c) of this section] made by paragraphs (1), (2), and (4) of subsection (g) and by subsection (d) [of said section 101] shall be effective with respect to net earnings from self-employment derived after 1954. The amount of net earnings from self-employment derived during any taxable year ending in, and not with the close of, 1955 shall be credited equally to the calendar quarter in which such taxable year ends and to each of the three or fewer preceding quarters any part of which is in such taxable year; and, for purposes of the preceding sentence of this subsection, net earnings from self-employment so credited to calendar quarters in 1955 shall be deemed to have been derived after 1954."

EFFECTIVE DATE OF 1950 AMENDMENT

Amendment of section by act Sept. 23, 1950, was applicable with respect to taxable years beginning after Dec. 31, 1950.

EFFECTIVE DATE

Section effective Jan. 1, 1951, see note set out under section 409 of this title.

TREATY OBLIGATIONS

Section 214 of act Sept. 23, 1950, provided that: "No amendment made by this Act [act Sept. 23, 1950] shall apply in any case where its application would be contrary to any treaty obligation of the United States."

§ 412. Self-employment income credited to calendar quarters.

For the purposes of determining average monthly wage and quarters of coverage the amount of self-employment income derived during any taxable year shall be credited to calendar quarters as follows:

(a) In the case of a taxable year which is a calendar year the self-employment income of such taxable year shall be credited equally to each quarter of such calendar year.

(b) In the case of any other taxable year the self-employment income shall be credited equally to the calendar quarter in which such taxable year ends and to each of the next three or fewer preceding quarters any part of which is in such taxable year. (Aug. 14, 1935, ch. 531, title II, § 212, as added Aug. 28, 1950, ch. 809, title I, § 104 (a), 64 Stat. 492.)

EFFECTIVE DATE

Section effective Jan. 1, 1951, see note set out under section 409 of this title.

§ 413. Quarter and quarter of coverage.

(a) Definitions.

For the purposes of this subchapter—

(1) The term "quarter", and the term "calendar quarter", means a period of three calendar months ending on March 31, June 30, September 30, or December 31.

(2) The term "quarter of coverage" means a quarter in which the individual has been paid \$50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 412 of this title) with \$100 or more of self-employment income, except that—

(i) no quarter after the quarter in which such individual died shall be a quarter of coverage, and no quarter any part of which was included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;

(ii) if the wages paid to any individual in any calendar year equal \$3,000 in the case of a calendar year before 1951, or \$3,600 in the case of a calendar year after 1950 and before 1955, or \$4,200 in the case of a calendar year after 1954 and before 1959, or \$4,800 in the case of a calendar year after 1958, each quarter of such year shall (subject to clause (i)) be a quarter of coverage;

(iii) if an individual has self-employment income for a taxable year, and if the sum of such income and the wages paid to him during such year equals \$3,600 in the case of a taxable year beginning after 1950 and ending before 1955, or \$4,200 in the case of a taxable year ending after 1954 and before 1959, or \$4,800 in the case of a taxable year ending after 1958, each quarter any part of which falls in such year shall (subject to clause (i)) be a quarter of coverage;

(iv) if an individual is paid wages for agricultural labor in a calendar year after 1954, then, subject to clause (i), (a) the last quarter of such year which can be but is not otherwise a quarter of coverage shall be a quarter of coverage if such wages equal or exceed \$100 but are less than \$200; (b) the last two quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed \$200 but are less than \$300; (c) the last three quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed \$300 but are less than \$400; and (d) each quarter of such year which is not otherwise a quarter of coverage shall be a quarter of coverage if such wages are \$400 or more; and

(v) no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter.

If, in the case of any individual who has attained age 62 or died or is under a disability and who has been paid wages for agricultural labor in a calendar year after 1954, the requirements for insured status in subsection (a) or (b) of section 414 of this title, the requirements for entitlement

to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 416(i) of this title are not met after assignment of quarters of coverage to quarters in such year as provided in clause (iv) of the preceding sentence, but would be met if such quarters of coverage were assigned to different quarters in such year, then such quarters of coverage shall instead be assigned, for purposes only of determining compliance with such requirements, to such different quarters. If, in the case of an individual who did not die prior to January 1, 1955, and who attained age 62 (if a woman) or age 65 (if a man) or died before July 1, 1957, the requirements for insured status in section 414(a) (3) of this title are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned.

(b) Crediting of wages paid in 1937.

With respect to wages paid to an individual in the six-month periods commencing either January 1, 1937, or July 1, 1937; (A) if wages of not less than \$100 were paid in any such period, one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period; and (B) if wages of less than \$100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period, the individual attained age sixty-five, all of the wages paid in such period shall be deemed to have been paid before such age was attained. (Aug. 14, 1935, ch. 531, title II, § 213, as added Aug. 28, 1950, ch. 809, title I, 104 (a), 64 Stat. 492, and amended July 18, 1952, ch. 945, §§ 3 (a), 66 Stat. 770; Sept. 1, 1954, ch. 1206, title I, §§ 104 (c), 106 (a), 108 (b), 68 Stat. 1078, 1084; Aug. 1, 1956, ch. 836, title I, § 105 (c), 70 Stat. 828; Aug. 28, 1958, Pub. L. 85-840, title I, § 102(c), 72 Stat. 1019; Apr. 22, 1960, Pub. L. 86-442, § 3, 74 Stat. 82; Sept. 13, 1960, Pub. L. 86-778, title II, § 206(a), 74 Stat. 949; June 30, 1961, Pub. L. 87-64, title I, § 102(c) (2) (A), (3) (B), 75 Stat. 134, 135.)

AMENDMENTS

1961—Subsec. (a). Pub. L. 87-64 substituted "has attained age 62" for "has attained retirement age", and "who attained age 62 (if a woman) or age 65 (if a man)" for "who attained retirement age."

1960—Subsec. (a) (2). Pub. L. 86-778 required each quarter of a calendar year before 1951 to be counted as a quarter of coverage if the individual received wages equal to \$3,000 in the calendar year.

Pub. L. 86-442 added sentence in cl. (B) to permit the quarters of coverage in a calendar year to be determined on the basis of the periods during which wages were

earned in the case of individuals who did not die prior to Jan. 1, 1955, and who attained retirement age or died before July 1, 1957, who did not meet the requirements for insured status because of having too few quarters of coverage but who would meet the requirements if the quarters of coverage in the first calendar year in which they had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid.

1958—Subsec. (a)(2)(B). Pub. L. 85-840 inserted "and before 1959, or \$4,800 in the case of a calendar year after 1958" following "after 1954" in cl. (ii), and "and before 1959, or \$4,800 in the case of a taxable year ending after 1958" following "after 1954" in cl. (iii).

1956—Subsec. (a)(2)(B)(iv). Act Aug. 1, 1956, substituted "If such wages equal or exceed \$100 but are less than \$200" for "If such wages are less than \$200".

1954—Subsec. (a)(2)(A). Act Sept. 1, 1954, § 106(a)(1), redefined "quarter of coverage," in the case of quarters occurring before 1951, to exclude any quarter any part of which was included in a period of disability, other than the initial quarter of such period, and which provided that any quarter any part of which was included in a period of disability, other than the first quarter of such period, could not be counted as a quarter of coverage in a calendar year in which wages of \$3,000 or more were paid.

Subsec. (a)(2)(B). Act Sept. 1, 1954, § 104(c), provided that for calendar years after 1954 an individual shall be credited with a quarter of coverage for each quarter of the year if his wages for the year equal \$4,200 and he shall be credited with a quarter of coverage for each quarter of a taxable year ending after 1954 in which the sum of his wages and self-employment income equal \$4,200.

Subsec. (a)(2)(B). Act Sept. 1, 1954, § 108(b), provided for crediting quarters of coverage on the basis of annual amounts of wages received for agricultural labor.

Subsec. (a)(2)(B)(i). Act Sept. 1, 1954, § 106(a)(2), redefined "quarter of coverage", for quarters occurring after 1950, to exclude any quarter any part of which was included in a period of disability, other than the first and last quarters of such period.

1952—Subsec. (a)(2)(A). Act July 18, 1952, § 3(a)(1), redefined the term "quarter of coverage".

Subsec. (a)(2)(B)(i). Act July 18, 1952, § 3(a)(2), added "and no quarter * * * quarter of coverage".

Subsec. (a)(2)(B)(iii). Act July 18, 1952, § 3(a)(3), substituted "shall (subject to clause (i) of this subparagraph) be a quarter of coverage" for "shall be a quarter of coverage".

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of subsec. (a) of this section by Pub. L. 87-64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961 based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

EFFECTIVE DATE OF 1960 AMENDMENTS

Section 206(b) of Pub. L. 86-778 provided that:

"(1) Except as provided in paragraph (2), the amendment made by subsection (a) [to subsec. (a)(2) of this section] shall apply only in the case of monthly benefits under title II of the Social Security Act [this subchapter], and the lump-sum death payment under section 202 of such Act [section 402 of this title], based on the wages and self-employment income of an individual—

"(A) who becomes entitled to benefits under section 202(a) or 223 of such Act [section 402(a) or 423 of this title] on the basis of an application filed in or after the month in which this Act is enacted [Sept. 1960]; or

"(B) who is (or would, but for the provisions of section 215(f)(6) of the Social Security Act [section 415(b)(6) of this section], be) entitled to a recomputation of his primary insurance amount under section 215(f)(2)(A) of such Act [section 415(f)(2)(A) of this title] on the basis of an application filed in or

after the month in which this Act is enacted [Sept. 1960]; or

"(C) who dies without becoming entitled to benefits under section 202(a) or 223 of the Social Security Act [section 402(a) or 423 of this title], and (unless he dies a currently insured individual but not a fully insured individual (as those terms are defined in section 214 of such Act) [section 414 of this title] without leaving any individual entitled (on the basis of his wages and self-employment income) to survivor's benefits or a lump-sum death payment under section 202 of such Act on the basis of an application filed prior to the month in which this Act is enacted [Sept. 1960]; or

"(D) who dies in or after the month in which this Act is enacted [Sept. 1960] and whose survivors are (or would, but for the provisions of section 215(f)(6) of the Social Security Act [section 415(f)(6) of this title], be) entitled to a recomputation of his primary insurance amount under section 215(f)(4)(A) of such Act [section 415(f)(4)(A) of this title]; or

"(E) who dies prior to the month in which this Act is enacted [Sept. 1960] and (i) whose survivors are (or would, but for the provisions of section 215(f)(6) of the Social Security Act [section 415(f)(6) of this title], be) entitled to a recomputation of his primary insurance amount under section 215(f)(4)(A) of such Act [section 415(f)(4)(A) of this title], and (ii) on the basis of whose wages and self-employment income no individual was entitled to survivor's benefits or a lump-sum death payment under section 202 of such Act [section 402 of this title] on the basis of an application filed prior to the month in which this Act is enacted [Sept. 1960] (and no individual was entitled to such a benefit, without the filing of an application, for any month prior to the month in which this Act is enacted [Sept. 1960]); or

"(F) who files an application for a recomputation under section 102(f)(2)(B) of the Social Security Amendments of 1954 [set out as a note under section 415 of this title] in or after the month in which this Act is enacted [Sept. 1960] and is (or would, but for the fact that such recomputation would not result in a higher primary insurance amount, be) entitled to have his primary insurance amount recomputed under such subparagraph; or

"(G) who dies and whose survivors are (or would, but for the fact that such recomputation would not result in a higher primary insurance amount for such individual, be) entitled, on the basis of an application filed in or after the month in which this Act [Sept. 1960] is enacted, to have his primary insurance amount recomputed under section 102(f)(2)(B) of the Social Security Amendments of 1954 [set out as a note under section 415 of this title].

"(2) The amendment made by subsection (a) [to subsec. (a)(2) of this section] shall also be applicable in the case of applications for disability determination under section 216(l) of the Social Security Act [section 416(l) of this title] filed in or after the month in which this Act is enacted [Sept. 1960].

"(3) Notwithstanding any other provision of this subsection, in the case of any individual who would not be a fully insured individual under section 214(a) of the Social Security Act [section 414(a) of this title] except for the enactment of this section, no benefits shall be payable on the basis of his wages and self-employment income for any month prior to the month in which this Act is enacted [Sept. 1960]."

Section 3 of Pub. L. 86-442 provided in part that: "This amendment [to subsec. (a)(2)(B)] shall be applicable in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months after June 1957, and in the case of the lump-sum death payments under such title, with respect to deaths occurring after such month; the requirements for filing applications for such benefits and payments within certain time limits, as prescribed in sections 202(i) and 202(j) of such title [sections 402(i) and 402(j) of this title], shall not apply if an application is filed within the one-year period beginning with the first day of the

month after the month in which this Act is enacted [April 1960]."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 106 (h) of act Sept. 1, 1954, provided in part that notwithstanding the provisions of section 415 (f) of this title, the amendments to subsec. (a) made by section 106(a) of act Sept. 1, 1954, shall apply with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 415 (f) of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Section 3 (f) of act July 18, 1952, provided that: "Notwithstanding the provisions of section 215 (f) (1) of the Social Security Act [section 415 (f) (1) of this title], the amendments made by subsections (a), (b), (c), and (d) of this section [to sections 413—416, 420, and 421 of this title] shall apply to monthly benefits under title II of the Social Security Act [subchapter II of this chapter] for months after June 1953, and to lump-sum death payments under such title in the case of deaths occurring after June 1953; but no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 215 (f) of the Social Security Act [section 415 (f) of this title]."

TERMINATION DATE OF 1952 AMENDMENTS

Section 3 (g) of act July 18, 1952, provided that: "Notwithstanding the preceding provisions of this section and the amendments made thereby [to sections 413—416, 420, and 421 of this title], such provisions and amendments shall cease to be in effect at the close of June 30, 1953, and after such amendments cease to be in effect any provision of law amended thereby shall be in full force and effect as though this Act [act July 18, 1952] had not been enacted."

EFFECTIVE DATE

Section effective Jan. 1, 1951, see note set out under section 409 of this title.

§ 414. Insured status for purposes of old-age and survivors insurance benefits.

For the purposes of this subchapter—

(a) Fully insured individual.

The term "fully insured individual" means any individual who had not less than—

(1) one quarter of coverage (whenever acquired) for each calendar year elapsing after 1950 (or, if later, the year in which he attained age 21) and before—

(A) in the case of a woman, the year in which she died or (if earlier) the year in which she attained age 62,

(B) in the case of a man who has died, the year in which he died or (if earlier) the year in which he attained age 65, or

(C) in the case of a man who has not died, the year in which he attained (or would attain) age 65,

except that in no case shall an individual be a fully insured individual unless he has at least 6 quarters of coverage; or

(2) 40 quarters of coverage; or

(3) in the case of an individual who died before 1951, 6 quarters of coverage;

not counting as an elapsed year for purposes of paragraph (1) any year any part of which was included in a period of disability (as defined in section 416(i) of this title).

(b) Currently insured individual.

The term "currently insured individual" means any individual who had not less than six quarters of coverage during the thirteen-quarter period ending with (1) the quarter in which he died, (2) the quarter in which he became entitled to old-age insurance benefits, (3) the quarter in which he became entitled to primary insurance benefits under this subchapter as in effect prior to August 28, 1950, or (4) in the case of any individual entitled to disability insurance benefits, the quarter in which he most recently became entitled to disability insurance benefits, not counting as part of such thirteen-quarter period any quarter any part of which was included in a period of disability unless such quarter was a quarter of coverage. (Aug. 14, 1935, ch. 531, title II, § 214, as added Aug. 28, 1950, ch. 809, title I, § 104 (a), 64 Stat. 492, and amended July 18, 1952, ch. 945, § 3 (b), 66 Stat. 770; Sept. 1, 1954, ch. 1206, title I, §§ 106 (b), 108 (a), 68 Stat. 1079, 1083; Aug. 1, 1956, ch. 836, title I, § 108, 70 Stat. 830; Aug. 28, 1958, Pub. L. 85-840, title II, § 205 (1), 72 Stat. 1025; Sept. 13, 1960, Pub. L. 86-778, title II, § 204(a), 74 Stat. 948; June 30, 1961, Pub. L. 87-64, title I, § 103(a), 75 Stat. 137.)

AMENDMENTS

1961—Subsec. (a). Pub. L. 87-64 required one quarter of coverage for each calendar year elapsing after 1950 (or after the year in which the individual attained age 21, if that was later than 1950) instead of one quarter of coverage for each three of the quarters elapsing after 1950, and eliminated words "unless such quarter was a quarter of coverage" which followed "a period of disability (as defined in section 411(1) of this title)."

1960—Subsec. (a). Pub. L. 86-778 changed the provisions which required an individual to have one quarter of coverage for each two quarters to provide that an individual is fully insured if he has not less than one quarter of coverage for each three quarters elapsing after Dec. 31, 1950, or, if later, December 31 of the year in which he attained the age of 21 years, and inserted provisions defining fully insured in the case of an individual who died prior to 1951 as one who had six quarters of coverage.

1958—Subsec. (b). Pub. L. 85-840 included within the definition of "currently insured individual" an individual entitled to disability insurance benefits who has not less than six quarters of coverage during the thirteen-quarter period ending with the quarter in which he most recently became entitled to disability insurance benefits.

1956—Subsec. (a) (3). Act Aug. 1, 1956, provided that an individual who had at least six quarters of coverage after 1954 would be fully insured if all but four of the quarters elapsing after 1954 and prior to July 1, 1957, or if later, the quarter in which he attained retirement age or died, whichever first occurred, are quarters of coverage.

1954—Subsec. (a) (2) (B). Act Sept. 1, 1954, § 106(b) (1), excluded from the elapsed period under subsec. (a) (2) (A) any quarter any part of which was included in a period of disability, unless such quarter was a quarter of coverage.

Subsec. (a) (3), (4). Act Sept. 1, 1954, § 108(a), redesignated par. (3) as par. (4) and added a new par. (3).

Subsec. (b). Act Sept. 1, 1954, § 106(b) (2), added at the end the words ", not counting as part of such thirteen-quarter period any quarter any part of which was included in a period of disability unless such quarter was a quarter of coverage."

1952—Subsec. (a) (2) (B). Act July 18, 1952, § 3(b) (1), added "not counting as * * * quarter of coverage".

Subsec. (b). Act July 18, 1952, § 3(b) (2), added "not counting as * * * quarter of coverage" following "August 28, 1950".

EFFECTIVE DATE OF 1961 AMENDMENT

Section 103(b) of Pub. L. 87-84 provided that:

"The amendment made by subsection (a) [to subsec. (a) of this section] shall apply—

"(1) in the case of monthly benefits under title II of the Social Security Act [this subchapter] for months beginning on or after the effective date of this title [see note under section 402 of this title], based on applications filed in or after March 1961,

"(2) in the case of lump-sum death payments under such title [this subchapter] with respect to deaths on or after the effective date of this title [see note under section 402 of this title], and

"(3) in the case of an application for a disability determination (with respect to a period of disability, as defined in section 216(i) of such Act [section 416(i) of this title]) filed in or after March 1961."

EFFECTIVE DATE OF 1960 AMENDMENT

Section 204(d) (1) of Pub. L. 86-778 provided that: "The amendments made by subsections (a) and (b) of this section [to subsec. (a) of this section and to section 109(b) of Act Sept. 1, 1954, set out as a note under this section] shall be applicable (A) in the case of monthly benefits under title II of the Social Security Act [this subchapter], for months after the month in which this Act is enacted [Sept. 1960], on the basis of applications filed in or after such month, (B) in the case of lump-sum death payments under such title with respect to deaths occurring after such month, and (C) in the case of an application for a disability determination with respect to a period of disability (as defined in section 216(i) of the Social Security Act [section 416(i) of this title]) filed after such month."

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsec. (b) of this section by section 205 of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after August 1958, but only if an application for such benefits is filed on or after Aug. 28, 1958, see section 207(a) of Pub. L. 85-840, set out as a note under section 416 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 106 (h) of act Sept. 1, 1954, provided in part that notwithstanding the provisions of section 415 (f) of this title, the amendments to subsecs. (a) (2) (B) and (b) made by section 106 (b) of act Sept. 1, 1954 shall apply with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 415 (f) of this title.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT

For effective and termination date, see note set out under section 413 of this title.

EFFECTIVE DATE

Section applicable (1) in case of monthly benefits for months after August 1950, and (2) in the case of lump-sum death payments with respect to deaths after August 1950, see note set out under section 409 of this title.

DETERMINATION OF ENTITLEMENT TO MONTHLY BENEFITS FOR SEPT. 1960 AND PRIOR MONTHS AND INDIVIDUAL'S CLOSING DATE PRIOR TO 1960

Section 204(d) (2) of Pub. L. 86-778 provided that: "For the purposes of determining (A) entitlement to monthly benefits under title II of the Social Security Act [this subchapter] for the month in which this Act is enacted [Sept. 1960] and prior months with respect to the wages and self-employment income of an individual and (B) an individual's closing date prior to 1960 under section 215(b) (3) (B) of the Social Security Act [section 415(b) (3) (B) of this title], the provisions of section 214(a) of the Social Security Act [subsec. (a) of this section] in effect prior to the date of the enactment of this Act [Sept. 13, 1960] and the provisions of section 109 of the Social Security Amendments of 1954 [set out as a note under section 415 of this title] in effect prior to such date shall apply."

§ 415. Computation of primary insurance amount.

For the purposes of this subchapter—

(a) Primary insurance amount.

Subject to the conditions specified in subsections (b), (c), and (d) of this section, the primary insurance amount of an insured individual shall be whichever of the following is the largest:

(1) The amount in column IV on the line on which in column III of the following table¹ appears his average monthly wage (as determined under subsection (b) of this section);

(2) The amount in column IV on the line on which in column II of the following table appears his primary insurance amount (as determined under subsection (c) of this section);

(3) The amount in column IV on the line on which in column I of the following table appears his primary insurance benefit (as determined under subsection (d) of this section); or

(4) In the case of—

(A) a woman who was entitled to a disability insurance benefit for the month before the month in which she died or became entitled to old-age insurance benefits, or

(B) a man who was entitled to a disability insurance benefit for the month before the month in which he died or attained age 65, the amount in column IV which is equal to such disability insurance benefit.

(b) Average monthly wage.

(1) For the purposes of column III of the table appearing in subsection (a)¹ of this section, an individual's "average monthly wage" shall be the quotient obtained by dividing—

(A) the total of his wages paid in and self-employment income credited to his "benefit computation years" (determined under paragraph (2)), by

(B) the number of months in such years.

(2) (A) The number of an individual's "benefit computation years" shall be equal to the number of elapsed years (determined under paragraph (3) of this subsection), reduced by five; except that the number of an individual's benefit computation years shall in no case be less than two.

(B) An individual's "benefit computation years" shall be those computation base years, equal in number to the number determined under subparagraph (A), for which the total of his wages and self-employment income is the largest.

(C) For the purposes of subparagraph (B), "computation base years" include only calendar years occurring—

(i) after December 31, 1950, and

(ii) prior to the year in which the individual became entitled to old-age insurance benefits or died, whichever first occurred; except that the year in which the individual became entitled to old-age insurance benefits or died, as the case may be, shall be included as a computation base year if the Secretary determines, on the basis of evidence available to him at the time of the computation of the primary insurance amount for such individual, that the inclusion of

¹ See table on p. 7730.

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

I		II		III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount under 1954 Act)		(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d) of this section) is—		Or his primary insurance amount (as determined under subsec. (c) of this section) is—		Or his average monthly wage (as determined under subsec. (b) of this section) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 403 (a) of this title) on the basis of his wages and self-employment income shall be—
At least—	But not more than—	At least—	But not more than—	At least—	But not more than—		
	\$13.48		\$37.00		\$67	\$40	\$60.00
\$13.49	14.00	\$37.10	38.00	\$68	69	41	61.50
14.01	14.48	38.10	39.00	70	70	42	63.00
14.49	15.00	39.10	40.00	71	72	43	64.50
15.01	15.60	40.10	41.00	73	74	44	66.00
15.61	16.20	41.10	42.00	75	76	45	67.50
16.21	16.84	42.10	43.00	77	78	46	69.00
16.85	17.60	43.10	44.00	79	80	47	70.50
17.61	18.40	44.10	45.00	81	81	48	72.00
18.41	19.24	45.10	46.00	82	83	49	73.50
19.25	20.00	46.10	47.00	84	85	50	75.00
20.01	20.64	47.10	48.00	86	87	51	76.50
20.65	21.28	48.10	49.00	88	89	52	78.00
21.29	21.88	49.10	50.00	90	90	53	79.50
21.89	22.28	50.10	50.90	91	92	54	81.00
22.29	22.68	51.00	51.80	93	94	55	82.50
22.69	23.08	51.90	52.80	95	96	56	84.00
23.09	23.44	52.00	53.70	97	97	57	85.50
23.45	23.76	53.80	54.60	98	99	58	87.00
23.77	24.20	54.70	55.60	100	101	59	88.50
24.21	24.00	55.70	56.50	102	102	60	90.00
24.61	25.00	56.60	57.40	103	104	61	91.50
25.01	25.48	57.50	58.40	105	106	62	93.00
25.49	25.92	58.50	59.30	107	107	63	94.50
25.93	26.40	59.40	60.20	108	100	64	96.00
26.41	26.94	60.30	61.20	110	113	65	97.50
26.95	27.46	61.30	62.10	114	118	66	99.00
27.47	28.00	62.20	63.00	119	122	67	100.50
28.01	28.68	63.10	64.00	123	127	68	102.00
28.69	29.25	64.10	64.90	128	132	69	103.50
29.26	29.68	65.00	65.80	133	136	70	105.00
29.69	30.36	65.90	66.80	137	141	71	106.50
30.37	30.92	66.00	67.70	142	146	72	108.00
30.93	31.36	67.80	68.60	147	150	73	109.50
31.37	32.00	68.70	69.60	151	155	74	111.00
32.01	32.66	69.70	70.50	156	160	75	112.50
32.61	33.20	70.60	71.40	161	164	76	114.00
33.21	33.88	71.50	72.40	165	169	77	115.50
33.89	34.50	72.50	73.30	170	174	78	117.00
34.51	35.00	73.40	74.20	175	178	79	118.50
35.01	35.80	74.30	75.20	179	183	80	120.00
35.81	36.40	75.30	76.10	184	188	81	121.50
36.41	37.08	76.20	77.10	189	193	82	123.00
37.00	37.60	77.20	78.00	194	197	83	124.50
37.61	38.20	78.10	78.90	198	202	84	126.00
38.21	39.12	79.00	79.90	203	207	85	127.50
39.13	39.68	80.00	80.80	208	211	86	129.00
39.69	40.33	80.90	81.70	212	216	87	130.50
40.34	41.12	81.80	82.70	217	221	88	132.00
41.13	41.76	82.80	83.60	222	225	89	133.50
41.77	42.44	83.70	84.50	226	230	90	135.00
42.45	43.20	84.60	85.50	231	235	91	136.50
43.21	43.76	85.60	86.40	236	239	92	138.00
43.77	44.44	86.50	87.30	240	244	93	139.50
44.45	44.88	87.40	88.30	245	249	94	141.00
44.89	45.60	88.40	89.20	250	253	95	142.50
		89.30	90.10	254	258	96	144.00
		90.20	91.10	259	263	97	145.50
		91.20	92.00	264	267	98	147.00
		92.10	92.90	268	272	99	148.50
		93.00	93.90	273	277	100	150.00
		94.00	94.80	278	281	101	151.50
		94.00	95.80	282	286	102	153.00
		95.90	96.70	287	291	103	154.50
		96.80	97.00	292	295	104	156.00
		97.70	98.60	296	300	105	157.50
		98.70	99.50	301	305	106	159.00
		99.60	100.40	306	309	107	160.50
		100.50	101.40	310	314	108	162.00
		101.50	102.30	315	319	109	163.50
		102.40	103.20	320	323	110	165.00
		103.30	104.20	324	328	111	166.50
		104.30	105.10	329	333	112	168.00
		105.20	106.00	334	337	113	169.50
		106.10	107.00	338	342	114	171.00
		107.10	107.90	343	347	115	172.50
		108.00	108.50	348	351	116	174.00
				352	356	117	175.50
				357	361	118	177.00
				362	365	119	178.50
				366	370	120	180.00
				371	375	121	181.50
				376	379	122	183.00
				380	384	123	184.50
				385	389	124	186.00
				390	393	125	187.50
				394	398	126	189.00
				399	400	127	190.50

such year would result in a higher primary insurance amount. Any calendar year all of which is included in a period of disability shall not be included as a computation base year.

(3) For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 (or, if later, the year in which he attained age 21) and before—

(A) in the case of a woman, the year in which she died or (if earlier) the first year after 1960 in which she both was fully insured and had attained age 62.

(B) in the case of a man who has died, the year in which he died or (if earlier) the first year after 1960 in which he both was fully insured and had attained age 65, or

(C) in the case of a man who has not died, the first year after 1960 in which he attained (or would attain) age 65 or (if later) the first year in which he was fully insured.

For purposes of the preceding sentence, any calendar year any part of which was included in a period of disability shall not be included in such number of calendar years.

(4) The provisions of this subsection shall be applicable only in the case of an individual with respect to whom not less than six of the quarters elapsing after 1950 are quarters of coverage, and—

(A) who becomes entitled to benefits after December 1960 under section [section 402(a) or section 423 of this title]; or

(B) who dies after December 1960 without being entitled to benefits under section [section 402(a) or section 423 of this title]; or

(C) who files an application for a recomputation under subsection (f) (2) (A) of this section after December 1960 and is (or would, but for the provisions of subsection (f) (6) of this section, be) entitled to have his primary insurance amount recomputed under subsection (f) (2) (A) of this section; or

(D) who dies after December 1960 and whose survivors are (or would, but for the provisions of subsection (f) (6) of this section, be) entitled to a recomputation of his primary insurance amount under subsection (f) (4) of this section.

(5) In the case of any individual—

(A) to whom the provisions of this subsection are not made applicable by paragraph (4), but

(B) (i) prior to 1961, met the requirements of this paragraph (including subparagraph (E) thereof) as in effect prior to the enactment of the Social Security Amendments of 1960, or (ii) after 1960, meets the conditions of subparagraph (E) of this paragraph as in effect prior to such enactment.

then the provisions of this subsection as in effect prior to such enactment shall apply to such individual for the purposes of column III of the table appearing in subsection (a) of this section.

(c) Primary insurance amount under 1954 Act.

(1) For the purposes of column II of the table appearing in subsection (a) of this section, an individual's primary insurance amount shall be computed as provided in, and subject to the limitations specified in, (A) this section as in effect prior to

August 28, 1958, and (B) the applicable provisions of the Social Security Amendments of 1954.

(2) The provisions of this subsection shall be applicable only in the case of an individual—

(A) who became entitled to benefits under section 402 (a) or 423 of this title or died prior to January 1959, and

(B) to whom the provisions of neither paragraph (4) nor paragraph (5) of subsection (b) of this section are applicable.

(d) Primary insurance benefit under 1939 Act.

(1) For the purposes of column I of the table appearing in subsection (a) of this section, an individual's primary insurance benefit shall be computed as provided in this subchapter as in effect prior to August 28, 1950, except that—

(A) In the computation of such benefit, such individual's average monthly wage shall (in lieu of being determined under section 409(f) of this title as in effect prior to August 28, 1950) be determined as provided in subsection (b) of this section (but without regard to paragraphs (4) and (5) thereof), except that for the purposes of paragraphs (2) (C) (i) and (3) (A) (i) of subsection (b) of this section, December 31, 1936, shall be used instead of December 31, 1950.

(B) For purposes of such computation, the date he became entitled to old-age insurance benefits shall be deemed to be the date he became entitled to primary insurance benefits.

(C) The 1 per centum addition provided for in section 409 (e) (2) of this title as in effect prior to August 28, 1950 shall be applicable only with respect to calendar years prior to 1951, except that any wages paid in any year prior to such year all of which was included in a period of disability shall not be counted.

(D) The provisions of subsection (e) of this section shall be applicable to such computation.

(2) The provisions of this subsection shall be applicable only in the case of an individual—

(A) with respect to whom at least one of the quarters elapsing prior to 1951 is a quarter of coverage;

(B) who meets the requirements of any of the subparagraphs of paragraph (4) of subsection (b) of this section; and

(C) who attained age 22 after 1950 and with respect to whom less than six of the quarters elapsing after 1950 are quarters of coverage, or who attained such age before 1951.

(3) The provisions of this subsection as in effect prior to September 13, 1960 shall be applicable in the case of an individual who meets the requirements of subsection (b) (5) of this section (as in effect after September 13, 1960) but without regard to whether such individual has six quarters of coverage after 1950.

(e) Certain wages and self-employment income not to be counted.

For the purposes of subsections (b) and (d) of this section—

(1) in computing an individual's average monthly wage there shall not be counted the excess over \$3,600 in the case of any calendar year after 1950 and before 1955, the excess over \$4,200

in the case of any calendar year after 1954 and before 1959, and the excess over \$4,800 in the case of any calendar year after 1958, of (A) the wages paid to him in such year, plus (B) the self-employment income credited to such year (as determined under section 412 of this title);

(2) if an individual's average monthly wage computed under subsection (b) of this section or for the purposes of subsection (d) of this section is not a multiple of \$1, it shall be reduced to the next lower multiple of \$1; and

(3) if an individual has self-employment income in a taxable year which begins prior to the calendar year in which he becomes entitled to old-age insurance benefits and ends after the last day of the month preceding the month in which he becomes so entitled, his self-employment income in such taxable year shall not be counted in determining his benefit computation years, except as provided in subsection (f) (3) (C) of this section.

(f) Recomputation of benefits.

(1) After an individual's primary insurance amount has been determined under this section, there shall be no recomputation of such individual's primary insurance amount except as provided in this subsection or, in the case of a World War II veteran who died prior to July 27, 1954, as provided in section 417 (b) of this title.

(2) (A) Upon application filed after 1960 by an individual entitled to old-age insurance benefits, the Secretary shall recompute his primary insurance amount if—

(i) he has not less than six quarters of coverage in the period after 1950 and prior to the quarter in which such application is filed,

(ii) he has wages and self-employment income of more than \$1,200 in a calendar year which occurs after 1953 (not taking into account any year prior to the calendar year in which the last previous recomputation, if any, of his primary insurance amount was effective) and after the year in which he became (without the application of section 402 (j) (1) of this title) entitled to old-age insurance benefits or filed an application for recomputation (to which he is entitled) under section 102 (e) (5) (B) or 102 (f) (2) (B) of the Social Security Amendments of 1954, whichever of such events is the latest, and

(iii) he filed such application after such calendar year referred to in clause (ii) of this subparagraph in which he had such wages and self-employment income.

Such recomputation shall be effective for and after the twelfth month before the month in which he filed such application for recomputation but in no event earlier than the month following such calendar year referred to in clause (ii) of this subparagraph. For the purposes of this subparagraph an individual's self-employment income shall be allocated to calendar quarters in accordance with section 412 of this title.

(B) A recomputation pursuant to subparagraph (A) shall be made—

(i) only as provided in subsection (a) (1) of this section, if the provisions of subsection (b) of this section, as amended by the Social Security

Amendments of 1960, were applicable to the last previous computation of the individual's primary insurance amount, or

(ii) as provided in subsection (a) (1) and (3) of this section, in all other cases.

Such recomputation shall be made as though the individual became entitled to old-age insurance benefits in the month in which he filed the application for such recomputation, except that if clause (i) of this subparagraph is applicable to such recomputation, the computation base years referred to in subsection (b) (2) of this section shall include only calendar years occurring prior to the year in which he filed his application for such recomputation.

(3) (A) Upon application by an individual—

(i) who became entitled to old-age insurance benefits under section 402(a) of this title after December 1960, or

(ii) whose primary insurance amount was recomputed as provided in paragraph (2) (B) (ii) of this subsection on the basis of an application filed after December 1960,

the Secretary shall recompute his primary insurance amount if such application is filed after the calendar year in which he became entitled to old-age insurance benefits or in which he filed application for the recomputation of his primary insurance amount under clause (ii) of this sentence, whichever is the later. Such recomputation under this subparagraph shall be made as provided in subsection (a) (1) and (3) of this section, except that such individual's computation base years referred to in subsection (b) (2) of this section shall include the calendar year referred to in the preceding sentence. Such recomputation under this subparagraph shall be effective for and after the first month for which his last previous computation of his primary insurance amount was effective, but in no event for any month prior to the twenty-fourth month before the month in which the application for such recomputation is filed.

(B) In the case of an individual who dies after December 1960 and—

(i) who, at the time of death was not entitled to old-age insurance benefits under section 402(a) of this title, or

(ii) who became entitled to such old-age insurance benefits after December 1960, or

(iii) whose primary insurance amount was recomputed under paragraph (2) of this subsection on the basis of an application filed after December 1960, or

(iv) whose primary insurance amount was recomputed under paragraph (4) of this subsection, the Secretary shall recompute his primary insurance amount upon the filing of an application by a person entitled to monthly benefits or a lump-sum death payment on the basis of such individual's wages and self-employment income. Such recomputation shall be made as provided in subsection (a) (1) and (3) of this section except that such individual's computation base years referred to in subsection (b) (2) of this section shall include the calendar year in which he died in the case of an individual who was not entitled to old-age insur-

ance benefits at the time of death or whose primary insurance amount was recomputed under paragraph (4) of this subsection, or in all other cases, the calendar year in which he filed his application for the last previous computation of his primary insurance amount. In the case of monthly benefits, such recomputation shall be effective for and after the month in which the person entitled to such monthly benefits became so entitled, but in no event for any month prior to the twenty-fourth month before the month in which the application for such recomputation is filed.

(C) In the case of an individual who becomes entitled to old-age insurance benefits in a calendar year after 1960, if such individual has self-employment income in a taxable year which begins prior to such calendar year and ends after the last day of the month preceding the month in which he became so entitled, the Secretary shall recompute such individual's primary insurance amount after the close of such taxable year and shall take into account in determining the individual's benefit computation years only such self-employment income in such taxable year as is credited, pursuant to section 412 of this title, to the year preceding the year in which he became so entitled. Such recomputation shall be effective for and after the first month in which he became entitled to old-age insurance benefits.

(4) Upon the death after 1960 of an individual entitled to old-age insurance benefits, if any person is entitled to monthly benefits, or to a lump-sum death payment, on the basis of the wages and self-employment income of such individual, the Secretary shall recompute the decedent's primary insurance amount, but only if—

(A) the decedent would have been entitled to a recomputation under paragraph (2) (A) if he had filed application therefor in the month in which he died; or

(B) the decedent during his lifetime was paid compensation which was treated under section 405 (o) of this title as remuneration for employment.

If the recomputation is permitted by subparagraph (A), the recomputation shall be made (if at all) as though he had filed application for a recomputation under paragraph (2) (A) in the month in which he died. If the recomputation is permitted by subparagraph (B), the recomputation shall take into account only the wages and self-employment income which were considered in the last previous computation of his primary insurance amount and the compensation (described in section 405(o) of this title) paid to him in the years in which such wages were paid or to which such self-employment income was credited. If both of the preceding sentences are applicable to an individual, only the recomputation which results in the larger primary insurance amount shall be made.

(5) In the case of any individual who became entitled to old-age insurance benefits in 1952 or in a taxable year which began in 1952 (and without the application of section 402 (j) (1) of this title), or who died in 1952 or in a taxable year which began in 1952 but did not become entitled to such benefits

prior to 1952, and who had self-employment income for a taxable year which ended within or with 1952 or which began in 1952, then upon application filed by such individual after the close of such taxable year and prior to January 1961 or (if he died without filing such application and such death occurred prior to January 1961) by a person entitled to monthly benefits on the basis of such individual's wages and self-employment income, the Secretary shall recompute such individual's primary insurance amount. Such recomputation shall be made in the manner provided in the preceding subsections of this section (other than subsection (b) (4) (A) of this section) for computation of such amount, except that (A) the self-employment income closing date shall be the day following the quarter with or within which such taxable year ended, and (B) the self-employment income for any subsequent taxable year shall not be taken into account. Such recomputation shall be effective (A) in the case of an application filed by such individual, for and after the first month in which he became entitled to old-age insurance benefits, and (B) in the case of an application filed by any other person, for and after the month in which such person who filed such application for recomputation became entitled to such monthly benefits. No recomputation under this paragraph pursuant to an application filed after such individual's death shall affect the amount of the lump-sum death payment under subsection (i) of section 402 of this title, and no such recomputation shall render erroneous any such payment certified by the Secretary prior to the effective date of the recomputation.

(6) Any recomputation under this subsection shall be effective only if such recomputation results in a higher primary insurance amount.

(7) (A) In the case of a man who attains age 65 and who became entitled to old-age insurance benefits before the month in which he attains such age, his primary insurance amount shall be recomputed as provided in subsection (a) of this section as though he became entitled to old-age insurance benefits in the month in which he attained age 65, except that his computation base years referred to in subsection (b) (2) of this section shall include the year in which he attained age 65. Such recomputation shall be effective for and after the month in which he attained age 65.

(B) In the case of a man who became entitled to old-age insurance benefits and died before the month in which he attained age 65, the Secretary shall, if any person is entitled to monthly insurance benefits or a lump-sum death payment on the basis of the wages and self-employment income of the decedent, recompute his primary insurance amount as provided in subsection (a) of this section as though he became entitled to old-age insurance benefits in the month in which he died; except that (i) his computation base years referred to in subsection (b) (2) of this section shall include the year in which he died, and (ii) his elapsed years referred to in subsection (b) (3) of this section shall not include the year in which he died or any year thereafter. In the case of monthly insurance benefits,

such recomputation of a man's primary insurance amount shall be effective for and after the month in which he died.

(g) Rounding of benefits.

The amount of any primary insurance amount and the amount of any monthly benefit computed under section 402 or 423 of this title which (after reduction under section 403(a) of this title and deductions under section 403(b) of this title) is not a multiple of \$0.10 shall be raised to the next higher multiple of \$0.10.

(h) Election of benefits by Public Health Service Reserve Officers.

(1) Notwithstanding the provisions of the Civil Service Retirement Act, remuneration paid for service to which the provisions of section 410(l)(1) of this title are applicable and which is performed by an individual as a commissioned officer of the Reserve Corps of the Public Health Service prior to July 1, 1960, shall not be included in computing entitlement to or the amount of any monthly benefit under this subchapter, on the basis of his wages and self-employment income, for any month after June 1960 and prior to the first month with respect to which the Civil Service Commission certifies to the Secretary that, by reason of a waiver filed as provided in paragraph (2), no further annuity will be paid to him, his wife, and his children, or, if he has died, to his widow and children, under the Civil Service Retirement Act on the basis of such service.

(2) In the case of a monthly benefit for a month prior to that in which the individual, on whose wages and self-employment income such benefit is based, dies, the waiver must be filed by such individual; and such waiver shall be irrevocable and shall constitute a waiver on behalf of himself, his wife, and his children. If such individual did not file such a waiver before he died, then in the case of a benefit for the month in which he died or any month thereafter, such waiver must be filed by his widow, if any, and by or on behalf of all his children, if any; and such waivers shall be irrevocable. Such a waiver by a child shall be filed by his legal guardian or guardians, or, in the absence thereof, by the person (or persons) who has the child in his care. (Aug. 14, 1935, ch. 531, title II, § 215, as added Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492, and amended July 18, 1952, ch. 945, §§ 2(a), (b)(1), 3(c), 6(a), (b), 66 Stat. 767, 768, 770, 771, 776; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title I, §§ 102(a)—(d), (e)(1)—(4), 104(d), 106(c), 68 Stat. 1062, 1078, 1079; Aug. 1, 1956, ch. 836, title I, §§ 103(c)(4), (5), 109(a), 115(a)—(c), 70 Stat. 818, 830, 832; Aug. 28, 1958, Pub. L. 85-840, title I, §§ 101(a)—(d), 102(d), title II, § 205(m), 72 Stat. 1013, 1020, 1025; Apr. 8, 1960, Pub. L. 86-415, § 7, 74 Stat. 35; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(j)(2)(C), title II, § 211(n), title III, §§ 303(a)—(e), 304(a), 74 Stat. 937, 958, 960, 966; June 30, 1961, Pub. L. 87-64, title I, §§ 101(a), 102(d), 75 Stat. 131, 135.)

REFERENCES IN TEXT

As in effect prior to the enactment of the Social Security Amendments of 1960, referred to in subsec. (b)(5),

means as in effect prior to the enactment of Pub. L. 86-778, which was approved on Sept. 13, 1960.

The Social Security Amendments of 1954, referred to in subsec. (c)(1), means the amendments made by Act Sept. 1, 1954, ch. 1206, 68 Stat. 1052. For distribution of Act Sept. 1, 1954, in the Code, see Tables.

Section 102(e)(5)(B) or 102(f)(2)(B) of the Social Security Amendments of 1954 [act Sept. 1, 1954], referred to in subsec. (f)(2)(A)(ii), are set out as notes under this section.

As amended by the Social Security Amendments of 1960, referred to in subsec. (f)(2)(B)(i) means as amended by Pub. L. 86-778.

The Civil Service Retirement Act, referred to in subsec. (h)(1), is classified to chapter 30 of Title 5, Executive Departments and Government Officers and Employees.

AMENDMENTS

1961—Subsec. (a). Pub. L. 87-64, §§ 101(a), 102(d)(1), increased the minimum primary insurance amount from \$33 to \$40, and the minimum family benefit from \$53 to \$60, and in the case of a man, limited the provisions which permit the primary insurance amount to be equal to the disability insurance benefit for the month before the month in which the man became entitled to old-age insurance benefits only if the man first became entitled to old-age insurance benefits at age 65.

Subsec. (b)(3). Pub. L. 87-64, § 102(d)(2), substituted "For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 (or, if later, the year in which he attained age 21) and before—

"(A) in the case of a woman, the year in which she died or (if earlier) the first year after 1960 in which she both was fully insured and had attained age 62,

"(B) in the case of a man who has died, the year in which he died or (if earlier) the first year after 1960 in which he both was fully insured and had attained age 65, or

"(C) in the case of a man who has not died, the first year after 1960 in which he attained (or would attain) age 65 or (if later) the first year in which he was fully insured"

for the following provisions: "For the purposes of paragraph (2), an individual's 'elapsed years' shall be the number of calendar years—

"(A) after (1) December 31, 1950, or (ii) if later, December 31 of the year in which he attained the age of twenty-one, and

"(B) prior to (i) the year in which he died, or (ii) if earlier, the first year after December 31, 1960, in which he both was fully insured and had attained retirement age."

Subsec. (f)(7). Pub. L. 87-64, § 102(d)(3), added subsec. (f)(7).

1960—Subsec. (b)(1). Pub. L. 86-778, § 303(a), substituted provisions defining the term "average monthly wage" as the quotient obtained by dividing (A) the total of an individual's wages paid in and self-employment income credited to his benefit computation years, by (B) the number of months in such years, for provisions which defined the term as the quotient obtained by dividing the total of his wages and self-employment income after his starting date and prior to his closing date by the number of months elapsing after such starting date and prior to such closing date, excluding the months in any year prior to the year in which the individual attained the age of 22 if less than two quarters of such prior years were quarters of coverage and the months in any year any part of which was included in a period of disability except the months in the year in which such period of disability began if their inclusion will result in a higher primary insurance amount.

Subsec. (b)(2). Pub. L. 86-778, § 303(a), substituted provisions relating to benefit computation years and to computation base years for provisions which defined an individual's starting date as December 31, 1950, or if later, the last day of the year in which he attains the age of 21, whichever results in the higher primary insurance amount.

Subsec. (b)(3). Pub. L. 86-778, § 303(a), substituted provisions defining an individual's elapsed years for pro-

visions which defined an individual's closing date as the first day of the year in which he died or became entitled to old-age insurance benefits, whichever first occurred, or the first day of the first year in which he both was fully insured and had attained retirement age, whichever results in the higher primary insurance amount.

Subsec. (b)(4). Pub. L. 86-778, § 303(a), substituted provisions prescribing the applicability of subsec. (f) for provisions which required the Secretary to determine the five or fewer calendar years after an individual's starting date and prior to his closing date which, if the months of such years and his wages and self-employment income for such years were excluded in computing his average monthly wage, would produce the highest primary insurance amount, and which required exclusion of such months and such wages and self-employment income for purposes of computing an individual's average monthly wage.

Subsec. (b)(5). Pub. L. 86-778, § 303(a), substituted provisions making subsec. (f) applicable in the case of an individual to whom the provisions of subsec. (f) are not made applicable by par. (4) but prior to 1961, met the requirements of this paragraph as in effect prior to Sept. 13, 1960, or, after 1960, meets the conditions of subpar. (E) of this paragraph as in effect prior to Sept. 13, 1960, for provisions which prescribed the applicability of subsec. (f) of this section. Former provisions of subsec. (b)(5) are now covered by subsec. (b)(4) of this section.

Subsec. (c)(2)(B). Pub. L. 86-778, § 303(b), substituted "to whom the provisions of neither paragraph (4) nor paragraph (5) of subsection (b) of this section are applicable" for "to whom the provisions of paragraph (5) of subsection (b) of this section are not applicable."

Subsec. (d)(1)(A). Pub. L. 86-778, § 303(c)(1), substituted "be determined as provided in subsection (b) of this section (but without regard to paragraphs (4) and (5) thereof), except that for the purposes of paragraphs (2)(C)(i) and (3)(A)(i) of subsection (b) of this section, December 31, 1936, shall be used instead of December 31, 1950" for "be determined as provided in subsection (b) of this section (but without regard to paragraph (5) thereof), except that his starting date shall be December 31, 1936."

Subsec. (d)(1)(C). Pub. L. 86-778, § 303(c)(2), substituted "all of which was included" for "any part of which was included", and eliminated provisions which required the wages paid in the year in which the period of disability began to be counted if the counting of such wages would result in a higher primary insurance amount.

Subsec. (d)(2)(B). Pub. L. 86-778, § 303(c)(3), substituted "paragraph (4) of subsection (b) of this section" for paragraph (5) of subsection (b) of this section."

Subsec. (d)(3). Pub. L. 86-778, § 303(c)(4), added subsec. (d)(3).

Subsec. (e)(3). Pub. L. 86-778, § 303(d)(1), substituted "if an individual has self-employment income in a taxable year which begins prior to the calendar year in which he becomes entitled to old-age insurance benefits and ends after the last day of the month preceding the month in which he becomes so entitled, his self-employment income in such taxable year shall not be counted in determining his benefit computation years" for "if an individual's closing date is determined under paragraph (3)(A) of subsection (b) of this section and he has self-employment income in a taxable year which begins prior to such closing date and ends after the last day of the month preceding the month in which he becomes entitled to old-age insurance benefits, there shall not be counted, in determining his average monthly wage, his self-employment income in such taxable year."

Subsec. (e)(4). Pub. L. 86-778, § 303(d)(2), eliminated former subsec. (e)(4), which prohibited, in computing an individual's average monthly wage, the counting of any wages paid such individual in any year any part of which was included in a period of disability, or any self-employment income of such individual credited pursuant to section 412 of this title to any year any part of which was included in a period of disability, unless the months of such year are included as elapsed months pursuant to subsec. (b)(1)(B) of this section.

Subsec. (f)(2)(A). Pub. L. 86-778, § 303(e)(1), substituted "1960" for "1954" in the opening provisions, and "filed such application after such calendar year" for "filed such application no earlier than six months after such calendar year" in cl. (iii).

Subsec. (f)(2)(B). Pub. L. 86-778, § 303(e)(2), substituted provisions requiring a recomputation pursuant to subpar. (A) to be made only as provided in subsec. (a)(1) of this section, if the provisions of subsec. (b) of this section, as amended by Pub. L. 86-778, were applicable to the last previous computation of the individual's primary insurance amount, or as provided in subsec. (a)(1) and (3) of this section in all other cases for provisions which required a recomputation to be made only as provided in subsec. (a) of this section, inserted provisions requiring the computation base years, if cl. (i) of this subparagraph is applicable to such recomputation, to include only calendar years occurring prior to the year in which he filed his application for such recomputation, and eliminated provisions which prescribed the method of making the recomputation if subsec. (b)(4) of this section were applicable to the previous computation.

Subsec. (f)(3)(A). Pub. L. 86-778, § 303(e)(3), substituted "December 1960" for "August 1954" in two instances, eliminated provisions which related to applications by individuals whose primary insurance amount was recomputed under section 102(e)(5) or 102(f)(2)(B) of the Social Security Amendments of 1954, and substituted "except that such individual's computation base years referred to in subsection (b)(2) of this section shall include the calendar year referred to in the preceding sentence" for "except that his closing date for purposes of subsection (b) of this section shall be the first day of the year following the year in which he became entitled to old-age insurance benefits or in which he filed his application for the last recomputation (to which he was entitled) of his primary insurance amount under any provision of law referred to in clause (ii) or (iii) of the preceding sentence, whichever is later."

Subsec. (f)(3)(B). Pub. L. 86-778, § 303(e)(3), substituted "December 1960" for "August 1954" in three instances, eliminated provisions which related to individuals whose primary insurance amount was recomputed under section 102(e)(5) or section 102(f)(2) of the Social Security Amendments of 1954, and individuals with respect to whom the last previous computation or recomputation of their primary insurance amount was based upon a closing date determined under subpar. (A) or (B) of subsec. (b)(3) of this section, and substituted "except that such individual's computation base years referred to in subsection (b)(2) of this section shall include the calendar year in which he died in the case of an individual who was not entitled to old-age insurance benefits at the time of death or whose primary insurance amount was recomputed under paragraph (4) of this subsection, or in all other cases, the calendar year in which he filed his application for the last previous computation of his primary insurance amount" for "except that his closing date for purposes of subsection (b) of this section shall be the day following the year of death in case he died without becoming entitled to old-age insurance benefits, or in case he was entitled to old-age insurance benefits, the day following the year in which was filed the application for the last previous computation of his primary insurance amount or in which the individual died, whichever first occurred."

Subsec. (f)(3)(C). Pub. L. 86-778, § 303(e)(3), substituted "In the case of an individual who becomes entitled to old-age insurance benefits in a calendar year after 1960, if such individual has self-employment income in a taxable year which begins prior to such calendar year and ends after the last day of the month preceding the month in which he became so entitled, the Secretary shall recompute such individual's primary insurance amount after the close of such taxable year and shall take into account in determining the individual's benefit computation years only such self-employment income in such taxable year as is credited, pursuant to section 412 of this title, to the year preceding the year in

which he became so entitled" for "If an individual's closing date is determined under paragraph (3) (A) of subsection (b) of this section and he has self-employment income in a taxable year which begins prior to such closing date and ends after the last day of the month preceding the month in which he became entitled to old-age insurance benefits, the Secretary shall recompute his primary insurance amount after the close of such taxable year, taking into account only such self-employment income in such taxable year as is, pursuant to section 412 of this title, allocated to calendar quarters prior to such closing date."

Subsec. (f) (4). Pub. L. 86-778, § 303(e) (4), eliminated words "(without the application of clause (iii) thereof)" following "paragraph (2) (A)" in cl. (A), eliminated provisions from the second sentence which required, if the recomputation is permitted by subpar. (A), to include in such recomputation any compensation (described in section 405(o) of this title) paid to him prior to the closing date which would have been applicable under such paragraph, and substituted "which were considered in the last previous computation of his primary insurance amount and the compensation (described in section 405(o) of this title) paid to him in the years in which such wages were paid or to which such self-employment income was credited" for "which were taken into account in the last previous computation of his primary insurance amount and the compensation (described in section 405(o) of this title) paid to him prior to the closing date applicable to such computation" in the third sentence.

Subsec. (f) (5). Pub. L. 86-778, § 304(a), substituted "then upon application filed by such individual after the close of such taxable year and prior to January 1961 or (if he died without filing such application and such death occurred prior to January 1961)" for "then upon application filed after the close of such taxable year by such individual (or if he died without filing such application)."

Subsec. (g). Pub. L. 86-778, § 211(n), substituted "section 403(a) of this title and deductions under section 403(b) of this title."

Subsec. (h). Pub. L. 86-778, § 103(j) (2) (C), substituted "section 410(l) (1) of this title" for "section 410(m) (1) of this title", in par. (1).

Pub. L. 86-415 added subsec. (h).

1958—Subsec. (a). Pub. L. 85-840, § 101(a), amended subsec. (a) generally, and, among other changes, substituted a new method for computing the primary insurance amount of an individual for provisions which established the primary insurance amount as either 55% of the first \$110 of an individual's average monthly wage, plus 20% of the next \$240, or the amount determined by use of the conversion table under former subsec. (c) of this section, whichever was larger.

Subsec. (b) (1). Pub. L. 85-840, § 101(b) (1), substituted "for the purposes of column III of the table appearing in subsection (a) of this section, an" for "An".

Subsec. (b) (5). Public L. 85-840, § 101(b) (2), added par. (5).

Subsec. (c). Pub. L. 85-840, § 101(c), amended subsec. (c) generally, and, among other changes, substituted provisions for computation of the primary insurance amount of an individual under the 1954 Act for provisions which related to determinations made by use of the conversion table.

Subsec. (d). Pub. L. 85-840, § 101(d), substituted provisions for computation of the primary insurance benefit under the 1939 Act for provisions which related to determination of the primary insurance benefit and primary insurance amount for purposes of the conversion table in former subsec. (c) of this section.

Subsec. (e). Pub. L. 85-840, § 102(d), substituted "(d) of this section" for "(d) (4) of this section" in the opening provisions and in cl. (2), and inserted "and before 1959, and the excess over \$4,800 in the case of any calendar year after 1958" following "after 1954", in cl. (1).

Subsec. (g). Pub. L. 85-840, § 205(m), eliminated provisions which related to reduction under section 424 of this title.

1956—Subsec. (a) (3). Act Aug. 1, 1956, § 103(c) (4), added par. (3).

Subsec. (b) (1). Act Aug. 1, 1956, § 115(a), excluded from the computation of an individual's average wage

the months in any year any part of which was included in a period of disability, except the months in any year in which a period of disability began if their inclusion would result in a higher primary insurance amount.

Subsec. (b) (4). Act Aug. 1, 1956, § 109(a), substituted "five" for "four", and eliminated provisions which required the maximum number of calendar years determined under this clause to be five in the case of any individual who has not less than 20 quarters of coverage.

Subsec. (d) (5). Act Aug. 1, 1956, § 115(b), excluded from the computation all quarters in any year prior to 1951 any part of which was included in a period of disability, except the quarters in the year in which a period of disability began if the inclusion of such quarters would result in a higher primary insurance amount.

Subsec. (e) (4). Act Aug. 1, 1956, § 115(c), excluded any wages paid to an individual in any year any part of which was included in a period of disability, and any self-employment income credited to such year unless the months of such year are included as elapsed months.

Subsec. (g). Act Aug. 1, 1956, § 103(c) (5), inserted references to sections 423 and 424 of this title.

1954—Subsec. (a). Act Sept. 1, 1954, § 102(a), provided a new benefit formula, for computing primary insurance amount for certain individuals, of 55 percent of the first \$110 of average monthly wage plus 20 percent of the next \$240 and provided that other individuals have their primary insurance amount computed under subsection (c) of this section.

Subsec. (b). Act Sept. 1, 1954, § 102(b), provided standard end-of-the-year starting and beginning-of-the-year closing dates, applicable to both wage earners and self-employed individuals, for computation of the average monthly wage, and provided for the exclusion of up to 5 years in which earnings were lowest (or non-existent) from the average monthly wage computation.

Subsec. (b) (1). Act Sept. 1, 1954, § 106(c) (1), inserted after "quarters of coverage" the words "and any month in any quarter any part of which was included in a period of disability (as defined in section 416(l) of this title) unless such quarter was a quarter of coverage."

Subsec. (c). Act Sept. 1, 1954, § 102(c), provided a new conversion table with increased benefits for individuals already on the rolls and computed the primary insurance amount of certain individuals who come on the rolls after the enactment of the act.

Subsec. (d). Act Sept. 1, 1954, § 102(d), added provisions for computation of a primary insurance amount for purposes of the conversion table.

Subsec. (d) (5). Act Sept. 1, 1954, § 106(c) (2), added subsec. (d) (5). Former subsec. (d) (5), which was added by act July 18, 1952, § 3(c) (3), ceased to be in effect at the close of June 30, 1953. See termination date note set out under section 413 of this title.

Subsec. (d) (6). Act Sept. 1, 1954, § 102(d) (4), added subsec. (d) (6).

Subsec. (e). Act Sept. 1, 1954, § 104 (d), provided that earnings up to \$4,200, in any calendar year after 1954, shall be used in the computation of an individual's average monthly wage.

Subsec. (e) (3). Act Sept. 1, 1954, § 102 (e) (1), added subsec. (e) (3).

Subsec. (e) (4). Act Sept. 1, 1954, § 106 (c) (3), added subsec. (e) (4).

Subsec. (f) (2). Act Sept. 1, 1954, § 102(e) (2), substituted a new test for determining eligibility for a recomputation to take into account additional earnings after entitlement.

Subsec. (f) (3) (A), (B). Act Sept. 1, 1954, § 102(e) (3) (A), amended provisions generally.

Subsec. (f) (3) (C). Act Sept. 1, 1954, § 102(e) (3) (B), added subsec. (f) (3) (C).

Subsec. (f) (4). Act Sept. 1, 1954, § 102(e) (4), provided for the recomputation of the primary insurance on the death after 1954 of an old-age insurance beneficiary, if any person is entitled to monthly survivors benefits or to a lump-sum death payment on the basis of his wages and self-employment income.

1952—Subsec. (a) (1). Act July 18, 1952, § 2(b) (1), provided a new benefit formula for the computation of benefits based entirely on wages paid and self-employment income derived after 1950 of 55 percent of the first

\$100 of average monthly wage and 15 percent of next \$200 and increased the primary insurance amount.

Subsec. (b) (1). Act July 18, 1952, § 3(c) (1), added "and any month * * * quarter of coverage" following "not a quarter of coverage."

Subsec. (b) (4). Act July 18, 1952, § 3(c) (2), added provisions of subparagraphs (B) and (C).

Subsec. (c) (1). Act July 18, 1952, § 2(a) (1), inserted a new conversion table and increased amounts.

Subsec. (c) (2). Act July 18, 1952, § 2(a) (2), provided that individuals, whose primary insurance amounts are governed by regulations, shall have the same increase as is provided for individuals governed by the new conversion table.

Subsec. (c) (4). Act July 18, 1952, § 2(a) (3), added subsec. (c) (4).

Subsec. (d) (5). Act July 18, 1952, § 3(c) (3), added subsec. (d) (5).

Subsec. (f) (2). Act July 18, 1952, § 6(a), provided that upon application an individual will have his benefit recomputed by the new formula prescribed in subsec. (a) (1) of this section under certain conditions.

Subsec. (f) (5). Act July 18, 1952, § 6(b), added subsec. (f) (5). Former subsec. (f) (5) redesignated (f) (6).

Subsec. (f) (6). Act July 18, 1952, § 6(b), redesignated former par. (5) as (6).

EFFECTIVE DATE OF 1961 AMENDMENT

Section 101(b) of Pub. L. 87-64 provided that: "The amendment made by subsection (a) [amending subsec. (a) of this section to increase the minimum primary insurance amount and the minimum family benefit] shall apply only in the case of monthly insurance benefits under title II of the Social Security Act [this subchapter] for months beginning on or after the effective date of this title [see note under section 402 of this title], and in the case of lump-sum death payments under such title [this subchapter] with respect to deaths on or after such effective date."

Amendment of subssecs. (a) (4) and (b) (3) of this section by Pub. L. 87-64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961 based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

EFFECTIVE DATE OF 1960 AMENDMENTS

Section 303(d) (1) of Pub. L. 86-778 provided in part that the amendment of subsec. (e) (3) of this section by Pub. L. 86-778 shall be effective with respect to individuals who become entitled to benefits under section 402(a) of this title after 1960.

Section 303(d) (2) of Pub. L. 86-778 provided in part that the elimination of par. (4) of subsec. (e) of this section shall be effective with respect to individuals who meet any of the subparagraphs of paragraph (4) of subsec. (b) of this section, as amended by Pub. L. 86-778.

Section 303(e) (1) of Pub. L. 86-778 provided in part that the amendment of subsec. (f) (2) (A) of this section by Pub. L. 86-778, which substituted "1960" for "1954" in the opening provisions, and "filed such application after such calendar year" for "filed such application no earlier than six months after such calendar year" in cl. (iii), shall be effective with respect to applications for recomputation under subsec. (f) (2) of this section filed after 1960.

Section 303(e) (4) (B) of Pub. L. 86-778 provided in part that the amendment of subsec. (f) (4) of this section by Pub. L. 86-778, which eliminated words "(without the application of clause (iii) thereof)" following "paragraph (2) (A)" in cl. (A), shall be effective in the case of deaths occurring on or after Sept. 13, 1960.

Amendment of subsec. (g) of this section by Pub. L. 86-778 effective in the manner provided in section 211 (p) and (q) of Pub. L. 86-778, see note under section 403 of this title.

Amendment of subsec. (h) (1) of this section by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v) (1) of Pub. L. 86-778, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 101 (g) of Pub. L. 85-840 provided that: "The amendments made by this section [to subssecs. (a), (b) (1), (b) (5), (c) and (d) of this section, and sections 402 (m) and 403 (a) of this title] shall be applicable in the case of monthly benefits under title II of the Social Security Act [this subchapter], for months after December 1958, and in the case of the lump-sum death payments under such title, with respect to deaths occurring after such month."

Amendment of subsec. (g) of this section by section 205(m) of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for August 1958 and succeeding months, see section 207 (a) of Pub. L. 85-840, set out as a note under section 416 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 115 (d) of act Aug. 1, 1956, provided that: "The amendments made by this section [to subssecs. (b) (1), (d) (5), and (e) (4) of this section] shall apply in the case of an individual (1) who becomes entitled (without the application of section 202(j) (1) of the Social Security Act [section 402(j) (1) of this title]) to benefits under section 202 (a) of such Act [section 402 (a) of this title] after the date of enactment of this Act [August 1, 1956], or (2) who dies without becoming entitled to benefits under such section 202 (a) [section 402 (a) of this title] and on the basis of whose wages and self-employment income an application for benefits or a lump-sum death payment under section 202 of such Act [section 402 of this title] is filed after the date of enactment of this Act [August 1, 1956], or (3) who becomes entitled to benefits under section 223 of such Act [section 423 of this title], or (4) who files, after the date of enactment of this Act [August 1, 1956], an application for a disability determination which is accepted as an application for purposes of section 216 (1) of such Act [section 416 (1) of this title]."

Section 109 (b) of act Aug. 1, 1956, provided that: "The amendment made by subsection (a) [to subsec. (b) (4) of this section] shall apply in the case of monthly benefits under section 202 of the Social Security Act [section 402 of this title], and the lump-sum death payment under such section, based on the wages and self-employment income of an individual—

"(1) who becomes entitled to benefits under subsection (a) of such section on the basis of an application filed on or after the date of enactment of this Act [August 1, 1956]; or

"(2) who is (but for the provisions of subsection (f) (6) of section 215 of the Social Security Act [section 415 (f) (6) of this title]) entitled to a recomputation of his primary insurance amount under subsection (f) (2) (A) of such section 215 [section 415 (f) (2) (A) of this title] based on an application filed on or after the date of enactment of this Act [August 1, 1956]; or

"(3) who dies without becoming entitled to benefits under subsection (a) of such section 202 [section 402 (a) of this title] and no individual was entitled to survivor's benefits and no lump-sum death payment was payable under such section 202 [section 402 of this title] on the basis of an application filed prior to such date of enactment [August 1, 1956]; or

"(4) who dies on or after such date of enactment [August 1, 1956] and whose survivors are (but for the provisions of subsection (f) (6) of such section 215 [section 415 (f) (6) of this title]) entitled to a recomputation of his primary insurance amount under subsection (f) (4) (A) of such section 215 [section 415 (f) (4) (A) of this title]; or

"(5) who dies prior to such date of enactment [August 1, 1956] and (A) whose survivors are (but for the provisions of subsection (f) (6) of such section 215 [section 415 (f) (6) of this title]) entitled to a recomputation of his primary insurance amount under subsection (f) (4) (A) of such section 215 [section 415 (f) (4) (A) of this title], and (B) on the basis of whose wages and self-employment income no individual was entitled to survivor's benefits under such section 202 [section 402 of this title], and no lump-sum death payment was payable under such section, on the basis of an application filed prior to such date of enactment and no individual was entitled to such a benefit, without the filing of an

application for the month in which this Act is enacted [August, 1956] or any month prior thereto."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 102 (f) of act Sept. 1, 1954, as amended by Pub. L. 86-778, title II, § 303(k), Sept. 13, 1960, 74 Stat. 966, provided that:

"(1) The amendments [to subsecs. (a), (c), and (d) and to section 403 (a) of this title] made by the preceding subsections, other than subsection (b) and paragraphs (1), (2), (3), and (4) of subsection (e), shall (subject to the provisions of paragraph (2) and notwithstanding the provisions of section 215 (f) (1) of the Social Security Act [subsec. (f) (1) of this section]) apply in the case of lump-sum death payments under section 202 of such Act [section 402 of this title] with respect to deaths occurring after, and in the case of monthly benefits under such section for months after, August 1954.

"(2) (A) The amendment [to subsec. (b) (4)] made by subsection (b) (2) shall be applicable only in the case of monthly benefits for months after August 1954, and the lump-sum death payment in the case of death after August 1954, based on the wages and self-employment income of an individual (i) who does not become eligible for benefits under section 202 (a) of the Social Security Act [section 402 (a) of this title] until after August 1954, or (ii) who dies after August 1954, and without becoming eligible for benefits under such section 202 (a) [section 402 (a) of this title], or (iii) who is or has been entitled to have his primary insurance amount recomputed under section 215 (f) (2) of the Social Security Act, as amended by subsection (e) (2) of this section [subsec. (f) (2) of this section], or under subsection (e) (5) (B) of this section [set out as a note under this section], or (iv) with respect to whom not less than six of the quarters elapsing after June 1953 are quarters of coverage (as defined in such Act), or (v) who files an application for a disability determination which is accepted as an application for purposes of section 216 (1) of such Act [section 416 (1) of this title], or (vi) who dies after August 1954, and whose survivors are (or would, but for the provisions of section 215 (f) (6) of such Act [subsec. (f) (6) of this section], be) entitled to a recomputation of his primary insurance amount under section 215 (f) (4) (A) of such Act, as amended by this Act [subsec. (f) (4) (A) of this section]. For purposes of the preceding sentence an individual shall be deemed eligible for benefits under section 202 (a) of the Social Security Act [section 402 (a) of this title] for any month if he was, or would upon filing application therefor in such month have been, entitled to such benefits for such month.

"(B) In the case of any individual entitled to old-age insurance benefits under section 202 (a) of the Social Security Act [section 402 (a) of this title] who was or, upon filing application therefor, would have been entitled to such benefits for August 1954, to whom subparagraph (A) is inapplicable, and with respect to whom not less than six of the quarters elapsing after June 30, 1953, are quarters of coverage, the Secretary of Health, Education, and Welfare shall, notwithstanding the provisions of section 215 (f) (1) of the Social Security Act [subsec. (f) (1) of this section], recompute the primary insurance amount of such individual but only upon the filing of an application, after August 1954, by him or, if he dies without filing such an application, by any person entitled to monthly survivors benefits under section 202 of such Act [section 402 of this title] on the basis of such individual's wages and self-employment income. Such recomputation shall be made in the manner provided in section 215 of the Social Security Act [this section] as in effect prior to the enactment of the Social Security Amendments of 1960 [Sept. 13, 1960] for computation of such individual's primary insurance amount, except that the provisions of subsection (f) of such section (other than paragraph (3) (C) thereof) shall not be applicable for purposes of such computation, and except that his closing date, for purposes of subsection (b) of such section, shall be determined as though he became entitled to old-age insurance benefits in the month in which he filed such application for recomputation or, if he died without filing such application, the month in which he died. Such recomputation shall be effective (i) if the ap-

plication is filed by such individual, for and after the twelfth month before the month in which the application therefor was filed by such individual but in no case before the first month of the quarter which is such individual's sixth quarter of coverage acquired after June 30, 1953, or (ii) if such application was filed by a person entitled to monthly survivors benefits under section 202 of the Social Security Act [section 402 of this title] on the basis of such individual's wages and self-employment income, for and after the first month for which such person was entitled to such survivors benefits. No such recomputation of an individual's primary insurance amount shall be effective unless it results in a higher primary insurance amount for him; nor shall any such recomputation of an individual's primary insurance amount be effective if such amount has previously been recomputed under this subsection.

"(3) The amendments [to subsecs. (b) (1)—(3), (e), (f) (3) (B)] made by subsections (b) (1), (e) (1), and (e) (3) (B) shall be applicable only in the case of monthly benefits based on the wages and self-employment income of an individual who does not become entitled to old-age insurance benefits under section 202 (a) of the Social Security Act [section 402 (a) of this title] until after August 1954, or who dies after August 1954 without becoming entitled to such benefits, or who files an application after August 1954 and is entitled to a recomputation under paragraph (2) or (4) of section 215 (f) of the Social Security Act, as amended by this Act [subsec. (f) (2) or (4) of this section], or who is entitled to a recomputation under paragraph (2) (B) of this subsection, or who is entitled to a recomputation under paragraph (5) of subsection (e) [set out as a note under this section].

"(4) The amendments [to subsec. (f) (2)] made by subsection (e) (2) shall be applicable only in the case of applications for recomputation filed after 1954. The amendment to subsec. (f) (4) made by subsection (e) (4) shall be applicable only in the case of deaths after 1954.

"(5) The amendments [to subsec. (f) (3) (A), (B)] made by subparagraph (A) of subsection (e) (3) shall be applicable only in the case of applications for recomputation filed, or deaths occurring, after August 1954.

"(6) No increase in any benefit by reason of the amendments made by this section (other than subsection (e)) or by reason of subparagraph (B) of paragraph (2) of this subsection shall be regarded as a recomputation for purposes of section 215 (f) of the Social Security Act [subsec. (f) of this section]."

Section 106 (h) of act Sept. 1, 1954 provided in part that notwithstanding the provisions of subsec. (f) of this section, the amendments to subsec. (b) (1), (d) (5) and (e) (4) made by section 106 (c) of said act shall apply with respect to monthly benefits under this subchapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments should be regarded as a recomputation for purposes of subsec. (f) of this section.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENTS OF SUBSECS. (b) AND (d)

For effective and termination date of amendment of these subsections, see note set out under section 413 of this title.

EFFECTIVE DATE FOR INCREASE IN BENEFITS DERIVED FROM CONVERSION TABLE

Subsec. (c) (1) of section 2 of act July 18, 1952, provided that: "The amendments made by subsection (a) [to subsec. (c) (1), (2), (4) of this section] shall, subject to the provisions of paragraph (2) of this subsection and notwithstanding the provisions of section 215 (f) (1) of the Social Security Act [subsec. (f) (1) of this section], apply in the case of lump-sum death payments under section 202 of such Act [section 402 of this title] with respect to deaths occurring after, and in the case of monthly benefits under such section for any month after, August 1952."

EFFECTIVE DATE FOR REVISED BENEFIT FORMULA AND FOR NEW MINIMUM AND MAXIMUM BENEFITS

Subsec. (c) (3) of section 2 of act July 18, 1952, provided that: "The amendments made by subsection (b) [to sections 403 (a) and 415 (a) (1) of this title] shall (notwithstanding the provisions of section 215 (f) (1) of the Social Security Act [subsec. (f) (1) of this section]) apply in the case of lump-sum death payments under section 202 of such Act [section 402 of this title] with respect to deaths occurring after August 1952, and in the case of monthly benefits under such section for months after August 1952."

EFFECTIVE DATE

Section applicable (1) in case of monthly benefits for months after August 1950, and (2) in the case of lump-sum death payments with respect to deaths after August 1950, see note set out under section 409 of this title.

SHORT TITLE OF 1952 AMENDMENTS

Section 1 of act July 18, 1952, provided that: "This Act [which enacted section 1309 of this title, amended sections 303, 403, 405, 413—417, 603, 1203, 1353 of this title, and section 228a and 228e of Title 45, Railroads] may be cited as 'Social Security Act Amendments of 1952'."

SAVINGS PROVISIONS OF PUB. L. 86-778 FOR RECOMPUTATIONS UNDER SUBSECS. (f) (2) AND (f) (4)

Section 303(1) of Pub. L. 86-778 provided that:

"(1) In the case of an application for recomputation under section 215(f)(2) of the Social Security Act [subsec. (f)(2) of this section] filed after 1954 and prior to 1961, the provisions of section 215(f)(2) of such Act [subsec. (f)(2) of this section] in effect prior to the enactment of this Act shall apply.

"(2) In the case of an individual who died after 1954 and prior to 1961 and who was entitled to an old-age insurance benefit under section 202(a) [section 402(a) of this title] at the time of his death, the provisions of section 215(f)(4) of the Social Security Act [subsec. (f)(4) of this section] in effect prior to the enactment of this Act shall apply."

SAVINGS PROVISIONS OF PUB. L. 85-840

Section 101 (i) of Pub. L. 85-840 provided that: "In the case of any individual to whom the provisions of subsection (b) (5) of section 215 of the Social Security Act [subsec. (b) (5) of this section], as amended by this Act, are applicable and on the basis of whose wages and self-employment income benefits are payable for months prior to January 1959, his primary insurance amount for purposes of benefits for such prior months shall, if based on an application for such benefits or for a recomputation of such amount, as the case may be, filed after December 1958, be determined under such section 215 [this section], as in effect prior to the enactment of this Act [August 28, 1958], and, if such individual's primary insurance amount as so determined is larger than the primary insurance amount determined for him under section 215 [this section] as amended by this Act, such larger primary insurance amount (increased to the next higher dollar if it is not a multiple of a dollar) shall, for months after December 1958, be his primary insurance amount for purposes of such section 215 (and of the other provisions) of the Social Security Act [this section] as amended by this Act in lieu of the amount determined without regard to this subsection."

SAVINGS PROVISIONS OF ACT JULY 18, 1952

Subsec. (d) of section 2 of act July 18, 1952, provided that:

"(1) Where—

"(A) an individual was entitled (without the application of section 202 (j) (1) of the Social Security Act [section 402 (j) (1) of this title]) to an old-age insurance benefit under title II of such Act [this subchapter] for August 1952;

"(B) two or more other persons were entitled (without the application of such section 202 (j) (1) [section 402 (j) (1) of this title]) to monthly benefits under such title for such month on the basis of the wages and self-employment income of such individual; and

"(C) the total of the benefits to which all persons are entitled under such title [this subchapter] on the basis of such individual's wages and self-employment income for any subsequent month for which he is entitled to an old-age insurance benefit under such title [this subchapter], would (but for the provisions of this paragraph) be reduced by reason of the application of section 203(a) of the Social Security Act, as amended by this Act [section 403(a) of this title],

then the total of benefits, referred to in clause (C), for such subsequent month shall be reduced to whichever of the following is the larger:

"(D) the amount determined pursuant to section 203 (a) of the Social Security Act, as amended by this Act [section 403 (a) of this title]; or

"(E) the amount determined pursuant to such section, as in effect prior to the enactment of this Act [July 18, 1952], for August 1952 plus the excess of (i) the amount of his old-age insurance benefit for August 1952 computed as if the amendments made by the preceding subsections of this section had been applicable in the case of such benefit for August 1952, over (ii) the amount of his old-age insurance benefit for August 1952.

"(2) No increase in any benefit by reason of the amendments made by this section or by reason of paragraph (2) of subsection (c) of this section shall be regarded as a recomputation for purposes of section 215 (f) of the Social Security Act [subsec. (f) of this section]."

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

COMPUTATION OF PRIMARY INSURANCE AMOUNT FOR CERTAIN INDIVIDUALS WHO WERE FULLY INSURED AND HAD ATTAINED RETIREMENT AGE PRIOR TO 1961

Section 303(g)(1) of Pub. L. 86-778, as amended by Pub. L. 87-64, title I, § 103(d), June 30, 1961, 75 Stat. 138, provided that: "In the case of any individual who both was fully insured and had attained retirement age prior to 1961 and (A) who becomes entitled to old-age insurance benefits after 1960, or (B) who dies after 1960 without being entitled to such benefits, then, notwithstanding the amendments made by the preceding subsections of this section [to subsecs. (b), (c)(2), (d)(1), (3), (e)(2—4) and (f)(2—4) of this section and section 423 (a)(2) of this title], the Secretary shall also compute such individual's primary insurance amount on the basis of such individual's average monthly wage determined under the provisions of section 215 of the Social Security Act [this section] in effect prior to the enactment of this Act with a closing date determined under section 215(b)(3)(B) of such Act [subsec. (b)(3)(B) of this section] as then in effect, but only if such closing date would have been applicable to such computation had this section not been enacted. If the primary insurance amount resulting from the use of such an average monthly wage is higher than the primary insurance amount resulting from the use of an average monthly wage determined pursuant to the provisions of section 215 of the Social Security Act [this section], as amended by the Social Security Amendments of 1960 [Pub. L. 86-778], such higher primary insurance amount shall be the individual's primary insurance amount for purposes of such section 215 [this section]. The terms used in this subsection shall have the meaning assigned to them by title II of the Social Security Act [this subchapter]; except that the terms 'fully insured' and 'retirement age' shall have the meaning assigned to them by such title II [this subchapter] as in effect on September 13, 1960."

Section 103(d) of Pub. L. 87-64 provided in part that the amendment of section 303(g)(1) of Pub. L. 86-778 shall be effective September 13, 1960.

COMPUTATION OF AVERAGE MONTHLY WAGE FOR CERTAIN INDIVIDUALS ENTITLED TO DISABILITY INSURANCE BENEFITS

Section 303(g)(2) of Pub. L. 86-778 provided that: "Notwithstanding the amendments made by the preceding subsections of this section [to subsecs. (b), (c) (2), (d) (1), (3), (e) (2-4) and (f) (2-4) of this section and section 423(a)(2) of this title], in the case of any individual who was entitled (without regard to the provisions of section 223(b) of the Social Security Act [section 423(b) of this title]) to a disability insurance benefit under such section 223 [section 423 of this title] for the month before the month in which he became entitled to an old-age insurance benefit under section 202(a) of such Act [section 402(a) of this title], or in which he died, and such disability insurance benefit was based upon a primary insurance amount determined under the provisions of section 215 of the Social Security Act [this section] in effect prior to the enactment of this Act, the Secretary shall, in applying the provisions of such section 215(a) [subsec. (a) of this section] (except paragraph (4) thereof), for purposes of determining benefits payable under section 202 of such Act [section 402 of this title] on the basis of such individual's wages and self-employment income, determine such individual's average monthly wage under the provisions of section 215 of the Social Security Act [this section] in effect prior to the enactment of this Act. The provisions of this paragraph shall not apply with respect to any such individual, entitled to such old-age insurance benefits, (i) who applies, after 1960, for a recomputation (to which he is entitled) of his primary insurance amount under section 215(f)(2) of such Act [subsec. (f)(2) of this section], or (ii) who dies after 1960 and meets the conditions for a recomputation of his primary insurance amount under section 215(f)(4) of such Act [subsec. (f)(4) of this section]."

AVERAGE MONTHLY WAGE FOR CERTAIN INDIVIDUALS ENTITLED TO MONTHLY BENEFITS OR TO RECOMPUTATION OF PRIMARY INSURANCE AMOUNT FOR MONTHS PRIOR TO JANUARY 1961

Section 303(j) of Pub. L. 86-778 provided that:

"In the case of an individual whose average monthly wage is computed under the provisions of section 215(b) of the Social Security Act [subsec. (b) of this section], as amended by this Act, and—

"(1) who is entitled, by reason of the provisions of section 202(j)(1) or section 223(b) of the Social Security Act [section 402(j)(1) or 423(b) of this title], to a monthly benefit for any month prior to January 1961, or

"(2) who is (or would, but for the fact that such recomputation would not result in a higher primary insurance amount for such individual, be) entitled, by reason of section 215(f) of the Social Security Act [subsec. (f) of this section], to have his primary insurance amount recomputed effective for a month prior to January 1961,

his average monthly wage as determined under the provisions of such section 215(b) [subsec. (b) of this section] shall be his average monthly wage for the purposes of determining his primary insurance amount for such prior month."

LAG RECOMPUTATION PRESERVED FOR CERTAIN CASES

Section 102(e)(8) of act Sept. 1, 1954, as amended by Pub. L. 86-773, title III, § 304(c), Sept. 13, 1960, 74 Stat. 966, provided that:

"In the case of an individual who became (without the application of section 202(j)(1) [section 402(j)(1) of this title]) entitled to old-age insurance benefits or died prior to September 1954, the provisions of section 215(f)(3) [subsec. (f)(3) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] shall be applicable as though this Act had not been enacted but only if such individual files the application referred to in subparagraph (A) of such section prior to January 1961 or (if he dies without filing such application) his death occurred prior to January 1961."

"(D) Notwithstanding the provisions of subparagraphs (A), (B), and (C), the primary insurance amount of an individual shall not be recomputed under such provisions unless such individual files the application referred to in subparagraph (A) or (B) prior to January 1961 or, if he dies without filing such application, his death occurred prior to January 1961."

RIGHT TO RECOMPUTATION UNDER LAW PRIOR TO ENACTMENT OF ACT SEPT. 1, 1954

Section 102(e)(5) of act Sept. 1, 1954, as amended by Pub. L. 86-778, title III, § 304(b), Sept. 13, 1960, 74 Stat. 966, provided that:

"(A) In the case of any individual who, upon filing application therefor before September 1954, would (but for the provisions of section 215 (f) (6) of the Social Security Act [subsec. (f) (6) of this section]) have been entitled to a recomputation under subparagraph (A) or (B) of section 215 (f) (2) of such Act [subsec. (f) (2) (A) or (B) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954], the Secretary shall recompute such individual's primary insurance amount, but only if he files an application therefor or, in case he died before filing such application, an application for monthly benefits or a lump-sum death payment on the basis of his wages and self-employment income is filed. Such recomputation shall be made only as provided in subsection (a) (2) of section 215 of the Social Security Act, as amended by this Act [subsec. (a) (2) of this section], through the use of a primary insurance amount determined under subsection (d) (6) of such section in the same manner as for an individual to whom subsection (a) (1) of such section, as in effect prior to the enactment of this Act [Sept. 1, 1954], is applicable; and such recomputation shall take into account only such wages and self-employment income as would be taken into account under section 215 (b) of the Social Security Act [section 415 (b) of this title] if the month in which the application for recomputation is filed, or if the individual died without filing the application for recomputation, the month in which he died, were deemed to be the month in which he became entitled to old-age insurance benefits. In the case of monthly benefits, such recomputation shall be effective for and after the month in which such application for recomputation is filed or, if the individual has died without filing the application, for and after the month in which the person filing the application for monthly survivor benefits becomes entitled to such benefits.

"(B) In the case of—

"(i) any individual who is entitled to a recomputation under subparagraph (A) of section 215 (f) (2) of the Social Security Act [subsec. (f) (2) (A) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of an application filed after August 1954, or who died after such month leaving any survivors entitled to a recomputation under section 215 (f) (4) of the Social Security Act [subsec. (f) (4) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of his wages and self-employment income, and whose sixth quarter of coverage after 1950 was acquired after August 1954 or with respect to whom the twelfth month referred to in such subparagraph (A) occurred after such month, and

"(ii) any individual who is entitled to a recomputation under section 215 (f) (2) (B) of the Social Security Act [subsec. (f) (2) (B) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of an application filed after August 1954, or who died after August 1954 leaving any survivors entitled to a recomputation under section 215 (f) (4) of the Social Security Act [subsec. (f) (4) of this section] as in effect prior to the enactment of this Act [Sept. 1, 1954] on the basis of his wages and self-employment income, and whose sixth quarter of coverage after 1950 was acquired after August 1954 or who did not attain the age of seventy-five prior to September 1954, the recomputation of his primary insurance amount shall be made in the manner provided in section 215 of the Social Security Act, as amended by this Act [this section], for computation of such amount, except that his closing date, for purposes of subsection (b) of such section 215, shall be determined as though he became entitled to old-age insurance benefits in the month in which he filed such application for or, if he has died, in the month in which he died. In the case of monthly benefits, such recomputation shall be effective for and after the month in which such application for recomputation is filed or, if the individual has died without filing the application, for and after the month in which

the person filing the application for monthly survivors benefits becomes entitled to such benefits.

"(C) An individual or, in case of his death, his survivors entitled to a lump-sum death payment or to monthly benefits under section 202 of the Social Security Act on the basis of his wages and self-employment income shall be entitled to a recomputation of his primary insurance amount under section 215 (f) (2) or section 215 (f) (4) of the Social Security Act [subsec. (f) (2), (4), of this section] as in effect prior to the date of enactment of this Act [Sept. 1, 1954] only if (i) he had not less than six quarters of coverage in the period after 1950 and prior to January 1, 1955, and (ii) either the twelfth month referred to in subparagraph (A) of such section 215 (f) (2) occurred prior to January 1, 1955, or he attained the age of 75 prior to 1955, and (iii) he meets the other conditions of entitlement to such a recomputation. No individual shall be entitled to a computation under subparagraph (A) or (B) of this paragraph if his primary insurance amount has previously been recomputed under either of such subparagraphs.

RECOMPUTATION OF PRIMARY INSURANCE AMOUNT IN CERTAIN CASES WHERE APPLICATION FOR RECOMPUTATION IS FILED ON OR AFTER SEPT. 13, 1960

Section 303(h) of Pub. L. 86-778 provided that:

"In any case where application for recomputation under section 215(f)(3) of the Social Security Act [subsec. (f) (3) of this section] is filed on or after the date of the enactment of this Act [Sept. 13, 1960] with respect to an individual for whom the last previous computation of the primary insurance amount was based on an application filed prior to 1961, or who died before 1961, the provisions of section 215 of such Act [this section] as in effect prior to the enactment of this Act shall apply except that—

"(1) such recomputation shall be made as provided in section 215(a) of the Social Security Act [subsec. (a) of this section] (as in effect prior to the enactment of this Act) and as though such individual first became entitled to old-age insurance benefits in the month in which he filed his application for such recomputation or died without filing such an application, and his closing date for such purposes shall be as specified in such section 215(f) (3) [subsec. (f) (3) of this section]; and

"(2) the provisions of section 215(b) (4) of the Social Security Act [subsec. (b) (4) of this section] (as in effect prior to the enactment of this Act) shall apply only if they were applicable to the last previous computation of such individual's primary insurance amount, or would have been applicable to such computation if there had been taken into account—

"(A) his wages and self-employment income in the year in which he became entitled to old-age insurance benefits or filed application for the last previous recomputation of his primary insurance amount, where he is living at the time of the application for recomputation under this subsection, or

"(B) his wages and self-employment income in the year in which he died without becoming entitled to old-age insurance benefits, or (if he was entitled to such benefits) the year in which application was filed for the last previous computation of his primary insurance amount or in which he died, whichever first occurred, where he has died at the time of the application for such recomputation.

If the primary insurance amount of an individual was recomputed under section 215(f) (3) of the Social Security Act [subsec. (f) (3) of this section] as in effect prior to the enactment of this Act, and such amount would have been larger if the recomputation had been made under such section as modified by this subsection, then the Secretary shall recompute such primary insurance amount under such section as so modified, but only if an application for such recomputation is filed on or after the date of the enactment of this Act [Sept. 13, 1960]. A recomputation under the preceding sentence shall be effective for and after the first month for which the last previous recomputation of such individual's primary insurance amount under such section 215 [this section] was effective, but in no event for any month prior to the

twenty-fourth month before the month in which the application for a recomputation is filed under the preceding sentence."

PRIMARY INSURANCE AMOUNT FOR CERTAIN DISABILITY INSURANCE BENEFICIARIES

Section 101 (h) of Pub. L. 85-840 provided that: "If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act [section 423 of this title] for December 1958, and became entitled to old-age insurance benefits under section 202 (a) of such Act [section 402 (a) of this title], or died, in January 1959, then, for purposes of paragraph (4) of section 215 (a) of the Social Security Act [subsec. (a) (4) of this section], as amended by this Act, the amount in column IV of the table appearing in such section 215 (a) [subsec. (a) of this section] for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under subsection (c) of such section 215 [subsec. (c) of this section]) instead of the amount in column IV equal to his disability insurance benefit."

SPECIAL STARTING AND CLOSING DATES FOR CERTAIN INDIVIDUALS FOR COMPUTATION OF 1957 BENEFIT AMOUNTS

Section 110 of act Aug. 1, 1956, provided that: "In the case of an individual who died or became (without the application of section 202 (j) (1) of the Social Security Act [section 402 (j) (1) of this title]) entitled to old-age insurance benefits in 1957 and with respect to whom not less than six of the quarters elapsing after 1955 and prior to the quarter following the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred, are quarters of coverage, his primary insurance amount shall be computed under section 215 (a) (1) (A) of such Act [subsec. (a) (1) (A) of this section], with a starting date of December 31, 1955, and a closing date of July 1, 1957, but only if it would result in a higher primary insurance amount. For the purposes of section 215 (f) (3) (C) of such Act [subsec. (f) (3) (C) of this section], the determination of an individual's closing date under the preceding sentence shall be considered as a determination of the individual's closing date under section 215 (b) (3) (A) of such Act [subsec. (b) (3) (A) of this section] and the recomputation provided for by such section 215 (f) (3) (C) [subsec. (f) (3) (C) of this section] shall be made using July 1, 1957, as the closing date, but only if it would result in a higher primary insurance amount. In any such computation on the basis of a July 1, 1957, closing date, the total of his wages and self-employment income after December 31, 1956, shall, if it is in excess of \$2,100, be reduced to such amount."

SPECIAL JULY 1, 1956, CLOSING DATE

Section 102 (e) (6) of act Sept. 1, 1954, provided that: "In the case of an individual who died or became (without the application of section 202 (j) (1) of the Social Security Act [section 402 (j) (1) of this title]) entitled to old-age insurance benefits in 1956 and with respect to whom not less than six of the quarters elapsing after 1954 and prior to the quarter following the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred, are quarters of coverage, his primary insurance amount shall be computed under section 215 (a) (1) (A) of such Act, as amended by this Act [subsec. (a) (1) (A) of this section], with a starting date of December 31, 1954, and a closing date of July 1, 1956, but only if it would result in a higher primary insurance amount. For the purposes of section 215 (f) (3) (C) of such Act [subsec. (f) (3) (C) of this section], the determination of an individual's closing date under the preceding sentence shall be considered as a determination of the individual's closing date under section 215 (b) (3) (A) of such Act [subsec. (b) (3) (A) of this section], and the recomputation provided for by such section 215 (f) (3) (C) [subsec. (f) (3) (C) of this section] shall be made using July 1, 1956, as the closing date, but only if it would result in a higher primary insurance amount. In any such computation on the basis of a July 1, 1956 closing date, the total of his wages and self-employment income after December 31, 1955, shall, if it is in excess of \$2,100, be reduced to such amount."

STUDY OF FEASIBILITY OF INCREASING BENEFITS

Section 404 of act Sept. 1, 1954, provided that:

"(a) The Secretary of Health, Education, and Welfare shall conduct a full and complete study with a view to determining the feasibility of increasing the minimum old-age insurance benefit under title II of the Social Security Act [this subchapter] to (1) \$55 per month, (2) \$60 per month, and (3) \$75 per month.

"(b) Such study shall include (1) a detailed analysis of the estimated increase in cost, if any, involved in increasing such minimum benefit to each of the above referred to amounts, (2) estimates of the financial impact such increase would have upon the Old Age and Survivors Insurance Trust Fund, and (3) an estimate of the amount, if any, by which Federal grants to the States for public assistance would be reduced by reason of such increase in minimum old-age insurance benefits.

"(c) The Secretary shall report to the Congress at the earliest practicable date the results of the study provided for by this section."

CHANGE OF WAGE CLOSING DATE IN CERTAIN CASES TO THE FIRST DAY OF THE QUARTER OF DEATH OR ENTITLEMENT

Subsec. (c) of section 6 of act July 18, 1952, provided that: "In the case of an individual who died or became (without the application of section 202 (j) (1) of the Social Security Act [section 402 (j) (1) of this title]) entitled to old-age insurance benefits in 1952 and with respect to whom not less than six of the quarters elapsing after 1950 and prior to the quarter following the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred, are quarters of coverage, his wage closing date shall be the first day of such quarter of death or entitlement instead of the day specified in section 215 (b) (3) of such Act [subsec. (b) (3) of this section], but only if it would result in a higher primary insurance amount for such individual. The terms used in this paragraph shall have the same meaning as when used in title II of the Social Security Act [this subchapter]."

COMPUTATION OF INCREASED BENEFITS TO INDIVIDUALS ENTITLED THERETO FOR AUGUST 1952

Section 6 (e) of act July 18, 1952, provided that: "In case the benefit of any individual for any month after August 1952 is computed under section 2 (c) (2) (A) of this Act [set out as a note under this section] through use of a benefit (after the application of sections 203 and 215 (g) of the Social Security Act [sections 403 and 415 (g) of this title] as in effect prior to the enactment of this Act [July 18, 1952]) for August 1952 which could have been derived from either of two (and not more than two) primary insurance amounts, and such primary insurance amounts differ from each other by not more than \$0.10, then the benefit of such individual for such month of August 1952 shall, for the purposes of the last sentence of such section 2 (c) (2) (A) [set out as a note under this section], be deemed to have been derived from the larger of such two primary insurance amounts."

COMPUTATION OF INCREASED BENEFITS FOR DEPENDENTS AND SURVIVORS ON BENEFIT ROLLS FOR AUGUST 1952

Subsec. (c) (2) of section 2 of act July 18, 1952, as amended by act Sept. 1, 1954, § 102 (g), eff. Sept. 1, 1954, provided that:

"(A) In the case of any individual who is (without the application of section 202 (j) (1) of the Social Security Act [section 402 (j) (1) of this title]) entitled to a monthly benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of such section 202 [section 402 of this title] for August 1952, whose benefit for such month is computed through use of a primary insurance amount determined under paragraph (1) or (2) of section 215 (c) of such Act [subsec. (c) of this section], and who is entitled to such benefit for any succeeding month on the basis of the same wages and self-employment income, the amendments made by this section shall not (subject to the provisions of subparagraph (B) of this paragraph) apply for purposes of computing the amount of such benefit for such succeeding month. The amount of such benefit for such succeeding month shall instead be equal to the larger of (1) 112½ per centum of the amount of such benefit (after the application of sections 203 (a) and 215 (g) of the Social Security Act [sections

403 (a) and 415 (g) of this title] as in effect prior to the enactment of this Act [July 18, 1952]) for August 1952, increased, if it is not a multiple of \$0.10, to the next higher multiple of \$0.10, or (11) the amount of such benefit (after the application of sections 203 (a) and 215 (g) of the Social Security Act [sections 403 (a) and 415 (g) of this title] as in effect prior to the enactment of this Act [July 18, 1952]) for August 1952, increased by an amount equal to the product obtained by multiplying \$5 by the fraction applied to the primary insurance amount which was used in determining such benefit, and further increased, if such product is not a multiple of \$0.10, to the next higher multiple of \$0.10. The provisions of section 203 (a) of the Social Security Act, as amended by this section [section 403 (a) of this title] (and, for purposes of such section 203 (a) [section 403 (a) of this title], the provisions of section 215 (c) (4) of the Social Security Act, as amended by this section [subsec. (c) (4) of this section]), shall apply to such benefit as computed under the preceding sentence of this subparagraph, and the resulting amount, if not a multiple of \$0.10, shall be increased to the next higher multiple of \$0.10.

"(B) The provisions of subparagraph (A) shall cease to apply to the benefit of any individual under title II of the Social Security Act [this subchapter] for any month after August 1954."

DETERMINATION OF PRIMARY INSURANCE AMOUNT OF INDIVIDUALS WHO DIED AFTER 1939 AND PRIOR TO 1951

Section 204(b) of Pub. L. 86-778 provided that: "The primary insurance amount (for purposes of title II of the Social Security Act [this subchapter]) of any individual who died after 1939 and prior to 1951 shall be determined as provided in section 215(a)(2) of such Act [subsec. (a)(2) of this section]."

BENEFITS IN CERTAIN CASES OF DEATHS BEFORE SEPTEMBER 1950

Section 109 of act Sept. 1, 1954, as amended by Pub. L. 86-778, title II, § 204(c), Sept. 13, 1960, 74 Stat. 948, provided that:

"(a) In the case of any individual—

"(1) who died prior to September 1, 1950, and was not a fully insured individual (under title II of the Social Security Act [this subchapter]), when he died, and

"(2) who had not less than six quarters of coverage (as defined in such title),

such individual shall, except for purposes of determining entitlement of a former wife divorced to benefits under section 202(g) of the Social Security Act [section 402(g) of this title], be deemed to have died a fully insured individual. Such individual's primary insurance amount shall be computed under subsection (a)(2) of section 215 of such Act [subsec. (a)(2) of this section]. For the purpose of such computation, the provisions of section 215(d)(3) of such Act [subsec. (d)(3) of this section] shall apply if such individual died a currently insured individual (under title II of such Act [subchapter II of this chapter]) and any other person was entitled on the basis of his wages to monthly benefits or a lump-sum death payment under section 202 of such Act [section 402 of this title]; in all other cases the provisions of section 215(d)(4) [subsec. (d)(4) of this section] shall be applicable, except that such individual's closing date shall be the first day of the quarter in which he died. In the case of any such individual, the requirement in subsection (h) of section 202 of such Act [section 402(h) of this title] that proof of support be filed within two years of the date of his death shall not apply if such proof is filed before September 1956.

"(b) The provisions of subsection (a) shall be applicable only in the case of monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months after August 1954, on the basis of applications filed after such month and in or prior to the month in which the Social Security Amendments of 1960 are enacted [Sept. 1960]."

COMPUTATION OF PRIMARY INSURANCE AMOUNT OF INDIVIDUALS WHO DIED PRIOR TO 1940

Section 205(c) of Pub. L. 86-778 provided that: "The primary insurance amount (for purposes of title II of the Social Security Act [this subchapter]) of any individual

who died prior to 1940, and who had not less than six quarters of coverage (as defined in section 213 of such Act [section 413 of this title]), shall be computed under section 215(a)(2) of such Act [subsec. (a)(2) of this section]."

Section 205(c) of Pub. L. 86-778 as applicable only in the case of monthly benefits under this subchapter for months after September 1960, on the basis of applications filed in or after such month, see section 205(d) of Pub. L. 86-778, set out as a note under section 402 of this title.

DEFINITION OF "SECRETARY"

"Secretary" as used in this section means the Secretary of Health, Education, and Welfare, see note set out under section 418 of this title.

§ 416. Additional definitions.

For the purposes of this subchapter—

(a) **Repealed.** Pub. L. 87-64, title I, § 102(c)(1), June 30, 1961, 75 Stat. 134.

(b) Wife.

The term "wife" means the wife of an individual, but only if she (1) is the mother of his son or daughter, (2) was married to him for a period of not less than one year immediately preceding the day on which her application is filed; or (3) in the month prior to the month of her marriage to him (A) was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (e) or (h) of section 402 of this title, or (B) had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section.

(c) Widow.

The term "widow" (except when used in section 402 (1) of this title) means the surviving wife of an individual, but only if (1) she is the mother of his son or daughter, (2) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of eighteen, (3) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen, (4) she was married to him at the time both of them legally adopted a child under the age of eighteen, (5) she was married to him for a period of not less than one year immediately prior to the day on which he died, or (6) in the month prior to the month of her marriage to him (A) she was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (e) or (h) of section 402 of this title, or (B) she had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section.

(d) Former wife divorced.

The term "former wife divorced" means a woman divorced from an individual, but only if (1) she is the mother of his son or daughter, (2) she legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of eighteen, (3) he legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen, or (4) she was married to him at the time both of them legally adopted a child under the age of eighteen.

(e) Child.

The term "child" means (1) the child or legally adopted child of an individual, and (2) a stepchild who has been such stepchild for not less than one year immediately preceding the day on which application for child's insurance benefits is filed or (if the insured individual is deceased) the day on which such individual died. For purposes of clause (1), a person shall be deemed, as of the date of death of an individual, to be the legally adopted child of such individual if such person was at the time of such individual's death living in such individual's household and was legally adopted by such individual's surviving spouse after such individual's death but before the end of two years after the day on which such individual died or August 28, 1958; except that this sentence shall not apply if at the time of such individual's death such person was receiving regular contributions toward his support from someone other than such individual or his spouse, or from any public or private welfare organization which furnishes services or assistance for children. For purposes of clause (2), a person who is not the stepchild of an individual shall be deemed the stepchild of such individual if such individual was not the mother or adopting mother or the father or adopting father of such person and such individual and the mother or adopting mother, or the father or adopting father, as the case may be, of such person went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of subsection (h)(1)(B) of this section, would have been a valid marriage.

(f) Husband.

The term "husband" means the husband of an individual, but only if (1) he is the father of her son or daughter, (2) he was married to her for a period of not less than one year immediately preceding the day on which his application is filed, or (3) in the month prior to the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 402 of this title, or (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section.

(g) Widower.

The term "widower" (except when used in section 402 (1) of this title) means the surviving husband of an individual, but only if (1) he is the father of her son or daughter, (2) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of eighteen, (3) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of eighteen, (4) he was married to her at the time both of them legally adopted a child under the age of eighteen, (5) he was married to her for a period of not less than one year immediately prior to the day on which she died, or (6) in the month before the month of his marriage to her (A) he was entitled to, or on application therefor and attainment of age 62 in such prior month would have been entitled to, benefits

under subsection (f) or (h) of section 402 of this title, or (B) he had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of such section.

(h) Determination of family status.

(1) (A) An applicant is the wife, husband, widow or widower of a fully or currently insured individual for purposes of this subchapter if the courts of the State in which such insured individual is domiciled at the time such applicant files an application, or, if such insured individual is dead, the courts of the State in which he was domiciled at the time of death, or, if such insured individual is or was not so domiciled in any State, the courts of the District of Columbia, would find that such applicant and such insured individual were validly married at the time such applicant files such application or, if such insured individual is dead, at the time he died. If such courts would not find that such applicant and such insured individual were validly married at such time, such applicant shall, nevertheless be deemed to be the wife, husband, widow, or widower, as the case may be, of such insured individual if such applicant would, under the laws applied by such courts in determining the devolution of intestate personal property, have the same status with respect to the taking of such property as a wife, husband, widow, or widower of such insured individual.

(B) In any case where under subparagraph (A) an applicant is not (and is not deemed to be) the wife, widow, husband, or widower of a fully or currently insured individual, or where under subsection (b), (c), (f), or (g) of this section such applicant is not the wife, widow, husband, or widower of such individual, but it is established to the satisfaction of the Secretary that such applicant in good faith went through a marriage ceremony with such individual resulting in a purported marriage between them which, but for a legal impediment not known to the applicant at the time of such ceremony, would have been a valid marriage, and such applicant and the insured individual were living in the same household at the time of the death of such insured individual or (if such insured individual is living) at the time such applicant files the application, then, for purposes of subparagraph (A) and subsections (b), (c), (f), and (g) of this section, such purported marriage shall be deemed to be a valid marriage. The provisions of the preceding sentence shall not apply (i) if another person is or has been entitled to a benefit under subsection (b), (c), (e), (f), or (g) of section 402 of this title on the basis of the wages and self-employment income of such insured individual and such other person is (or is deemed to be) a wife, widow, husband, or widower of such insured individual under subparagraph (A) at the time such applicant files the application, or (ii) if the Secretary determines, on the basis of information brought to his attention, that such applicant entered into such purported marriage with such insured individual with knowledge that it would not be a valid marriage. The entitlement to a monthly benefit under subsection (b), (c), (e), (f), or (g) of section 402 of this title, based on the wages and self-employment income of such insured individual,

of a person who would not be deemed to be a wife, widow, husband, or widower of such insured individual but for this subparagraph, shall end with the month before the month (i) in which the Secretary certifies, pursuant to section 405(i) of this title, that another person is entitled to a benefit under subsection (b), (c), (e), (f), or (g) of section 402 of this title on the basis of the wages and self-employment income of such insured individual, if such other person is (or is deemed to be) the wife, widow, husband, or widower of such insured individual under subparagraph (A), or (ii) if the applicant is entitled to a monthly benefit under subsection (b) or (c) of section 402 of this title, in which such applicant entered into a marriage, valid without regard to this subparagraph, with a person other than such insured individual. For purposes of this subparagraph, a legal impediment to the validity of a purported marriage includes only an impediment (i) resulting from the lack of dissolution of a previous marriage or otherwise arising out of such previous marriage or its dissolution, or (ii) resulting from a defect in the procedure followed in connection with such purported marriage.

(2) (A) In determining whether an applicant is the child or parent of a fully or currently insured individual for purposes of this subchapter, the Secretary shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such insured individual is domiciled at the time such applicant files application, or, if such insured individual is dead, by the courts of the State in which he was domiciled at the time of his death, or, if such insured individual is or was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking intestate personal property as a child or parent shall be deemed such.

(B) If an applicant is a son or daughter of a fully or currently insured individual but is not (and is not deemed to be) the child of such insured individual under subparagraph (A), such applicant shall nevertheless be deemed to be the child of such insured individual if such insured individual and the mother or father, as the case may be, of such applicant went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of paragraph (1)(B), would have been a valid marriage.

(i) Disability; period of disability.

(1) Except for purposes of sections 402 (d), 423 and 425 of this title, the term "disability" means (A) inability 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 to be of long-continued and indefinite duration, or (B) blindness; and the term "blindness" means central visual acuity of 5/200 or less in the better eye with the use of a correcting lens. An eye in which the visual field is reduced to five degrees or less concentric contraction shall be considered for the purpose of this paragraph as having a central visual acuity of 5/200 or less. An individual shall not be considered to be under a dis-

ability unless he furnishes such proof of the existence thereof as may be required. Nothing in this subchapter shall be construed as authorizing the Secretary or any other officer or employee of the United States to interfere in any way with the practice of medicine or with relationships between practitioners of medicine and their patients, or to exercise any supervision or control over the administration or operation of any hospital.

(2) The term "period of disability" means a continuous period (beginning and ending as herein-after provided in this subsection) during which an individual was under a disability (as defined in paragraph (1)), but only if such period is of not less than six full calendar months' duration or such individual was entitled to benefits under section 423 of this title for one or more months in such period. No such period shall begin as to any individual unless such individual, while under such disability, files an application for a disability determination with respect to such period; and no such period shall begin as to any individual after such individual attains the age of sixty-five. A period of disability shall (subject to section 426(a)(3) of this title) begin—

(A) on the day the disability began, but only if the individual satisfies the requirements of paragraph (3) on such day; or

(B) if such individual does not satisfy the requirements of paragraph (3) on such day, then on the first day of the first quarter thereafter in which he satisfies such requirements.

A period of disability shall end with the close of the last day of the month preceding whichever of the following months is the earlier: the month in which the individual attains age sixty-five or the third month following the month in which the disability ceases. No application for a disability determination which is filed more than three months before the first day on which a period of disability can begin (as determined under this paragraph), or, in any case in which clause (ii) of section 423(a)(1) of this title is applicable, more than six months before the first month for which such applicant becomes entitled to benefits under section 423 of this title, shall be accepted as an application for purposes of this paragraph, and no such application which is filed prior to January 1, 1955, shall be accepted. Any application for a disability determination which is filed within such three months' period or six months' period shall be deemed to have been filed on such first day or in such first month, as the case may be.

(3) The requirements referred to in clauses (A) and (B) of paragraph (2) of this subsection are satisfied by an individual with respect to any quarter only if—

(A) he would have been a fully insured individual (as defined in section 414 of this title) had he attained age 62 (if a woman) or age 65 (if a man) and filed application for benefits under section 402(a) of this title on the first day of such quarter; and

(B) he had not less than twenty quarters of coverage during the forty-quarter period which ends with such quarter, not counting as part of

such forty-quarter period any quarter any part of which was included in a prior period of disability unless such quarter was a quarter of coverage;

except that the provisions of subparagraph (A) of this paragraph shall not apply in the case of any individual with respect to whom a period of disability would, but for such subparagraph, begin prior to 1951.

(j) Periods of limitation ending on nonwork days.

Where this subchapter, any provision of another law of the United States (other than the Internal Revenue Code of 1954) relating to or changing the effect of this subchapter, or any regulation issued by the Secretary pursuant thereto provides for a period within which an act is required to be done which affects eligibility for or the amount of any benefit or payment under this subchapter or is necessary to establish or protect any rights under this subchapter, and such period ends on a Saturday, Sunday, or legal holiday, or on any other day all or part of which is declared to be a nonwork day for Federal employees by statute or Executive order, then such act shall be considered as done within such period if it is done on the first day thereafter which is not a Saturday, Sunday, or legal holiday or any other day all or part of which is declared to be a nonwork day for Federal employees by statute or Executive order. For purposes of this subsection, the day on which a period ends shall include the day on which an extension of such period, as authorized by law or by the Secretary pursuant to law, ends. The provisions of this subsection shall not extend the period during which benefits under this subchapter may (pursuant to section 402(j)(1) or 423(b) of this title) be paid for months prior to the day application for such benefits is filed, or during which an application for benefits under this subchapter may (pursuant to section 402(j)(2) or 423(b) of this title) be accepted as such. (Aug. 14, 1935, ch. 531, title II, § 216, as added Aug. 28, 1950, ch. 809, title I, § 104(a), 64 Stat. 492, and amended July 18, 1952, ch. 945, § 3(d), 66 Stat. 771; 1953 Reorg. Plan No. 1, § 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title I, § 106(d), 68 Stat. 1080; Aug. 1, 1956, ch. 836, title I, §§ 102(a), (d)(12), 103(c)(6), 70 Stat. 809, 815, 818; July 17, 1957, Pub. L. 85-109, § 1, 71 Stat. 308; Aug. 30, 1957, Pub. L. 85-238, § 3(h), 71 Stat. 519; Aug. 28, 1958, Pub. L. 85-840, title II, §§ 201, 203, 204(a), title III, §§ 301(a)(2), (b)(2), (c)(2), (d), (e), 302(a), 305(b), 72 Stat. 1020, 1021, 1026-1028, 1030; Sept. 13, 1960, Pub. L. 86-788, title II, §§ 207(a)-(c), 208(a)-(c), title IV, §§ 402(e), 403(c), title VII, § 703, 74 Stat. 950-952, 968, 969, 994; June 30, 1961, Pub. L. 87-64, title I, §§ 102(b)(2)(D), (c)(1), (2)(B), (3)(C), 105, 75 Stat. 134, 135, 139; Oct. 13, 1964, Pub. L. 88-650, § 1(a)-(c), 78 Stat. 1075.)

REFERENCES IN TEXT

The Internal Revenue Code of 1954, referred to in subsec. (j), is classified to Title 26, Internal Revenue Code.

AMENDMENTS

1964—Subsec. (1)(2). Pub. L. 88-650, § 1(a), eliminated provisions which directed that a period of disability shall begin if the individual satisfies the requirements of par.

(3) of this subsection on such day, on the first day of the eighteen-month period which ends with the day before the day on which the individual files such application.

Subsec. (1)(3). Pub. L. 88-650, § 1(b), substituted "paragraph (2) of this subsection" for "paragraphs (2) and (4) of this subsection."

Subsec. (1)(4). Pub. L. 88-650, § 1(c), repealed subsec. (1)(4) which related to the beginning of the period of disability for individuals who filed an application for a disability determination after Dec. 1954, and before July 1962, with respect to a disability which began before January 1961.

1961—Subsec. (a). Pub. L. 87-64, § 102(c)(1), repealed subsec. (a) which defined retirement age.

Subsec. (b). Pub. L. 87-64, § 102(c)(2)(B), substituted "attainment of age 62" for "attainment of retirement age."

Subsec. (c). Pub. L. 87-64, § 102(c)(2)(B), substituted "attainment of age 62" for "attainment of retirement age."

Subsec. (f). Pub. L. 87-64, § 102(c)(2)(B), substituted "attainment of age 62" for "attainment of retirement age."

Subsec. (g). Pub. L. 87-64, § 102(c)(2)(B), substituted "attainment of age 62" for "attainment of retirement age."

Subsec. (1)(2). Pub. L. 87-64, § 102(b)(2)(D), substituted "a period of disability shall (subject to section 423(a)(3) of this title) begin" for "a period of disability shall begin" in the third sentence.

Subsec. (1)(3)(A). Pub. L. 87-64, § 102(c)(3)(C), substituted "attainment age 62 (if a woman) or age 65 (if a man)" for "attained retirement age."

Subsec. (1)(4). Pub. L. 87-64, § 105, substituted "July 1962" for "July 1961", and "January 1961" for "July 1960."

1960—Subsec. (b). Pub. L. 86-778, § 207(a), substituted "one year" for "three years."

Subsec. (e). Pub. L. 86-778, §§ 207(b), 208(c), in the first sentence, reduced the period for eligibility of a stepchild of a living individual from three years immediately preceding the day on which application for child's benefits is filed to one year immediately preceding the day on which application for child's benefits is filed, and inserted the last sentence requiring, for purposes of clause (2), that a person who is not the stepchild of an individual shall be deemed the stepchild of such individual if such individual was not the mother or adopting mother or the father or adopting father of such person and such individual and the mother or adopting mother, or the father or adopting father, as the case may be, of such person went through a marriage ceremony resulting in a purported marriage between them which, but for a legal impediment described in the last sentence of subsec. (h)(1)(B) of this section, would have been a valid marriage.

Subsec. (f). Pub. L. 86-778, § 207(c), substituted "one year" for "three years."

Subsec. (h)(1). Pub. L. 86-778, § 208(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (h)(2). Pub. L. 86-778, § 203(b), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (1)(2). Pub. L. 86-778, §§ 402(e), 403(c), redefined the term "period of disability" to include a period of less than six full calendar months' duration if the individual was entitled to benefits under section 423 of this title for one or more months in such period, prohibited acceptance of an application, in any case in which clause (1) of section 423(a) of this title is applicable, filed more than six months before the first month for which the applicant becomes entitled to benefits under section 423 of this title. substituted provisions requiring a period of disability to end with the close of the last day of the month preceding whichever of the following months is the earlier: the month in which the individual attains age 65 or the third month following the month in which the disability ceases, for provisions which required a period of disability to end with the close of the last day of the first month in which either the disability ceases or the individual attains the age

of 65, and inserted sentence providing that any application for a disability determination which is filed within such three months' period or six months' period shall be deemed to have been filed on such first day or in such first month, as the case may be.

Subsec. (j). Pub. L. 86-778, § 703, added subsec. (j). 1958—Subsec. (b). Pub. L. 85-840, § 301(d), included within the definition of "wife" a woman who, in the month prior to the month of her marriage, was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (e) or (h) of section 402 of this title, or had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of section 402 of this title.

Subsec. (c). Pub. L. 85-840, § 301(b)(2) included within the definition of "widow" a woman whose husband had legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen, and a woman who, in the month prior to the month of her marriage, was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (e) or (h) of section 402 of this title, or had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of section 402 of this title.

Subsec. (d). Pub. L. 85-840, § 301(e), included within the definition of "former wife divorced" a woman whose husband legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of eighteen.

Subsec. (e). Pub. L. 85-840, § 302(a), eliminated the requirement that an adopted child of a living individual must have been adopted for not less than three years immediately preceding the day on which application for child's benefits is filed, and inserted provisions requiring a child to be deemed, as of the date of death of an individual, to be the legally adopted child of such individual if the child was living in the decedent's household at the time of his death and was legally adopted by the surviving spouse after the individual's death but before the end of two years after the day on which the individual died or Aug. 28, 1958, and the child was not receiving regular contributions toward his support from someone other than the individual or his spouse, or from any public or private welfare organization.

Subsec. (f). Pub. L. 85-840, § 301(a)(2), included within the definition of "husband" a person who in the month prior to the month of his marriage was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 402 of this title, or who had attained age eighteen and was entitled to, or on application therefor would have been entitled to benefits under subsection (d) of section 402 of this title.

Subsec. (g). Pub. L. 85-840, § 301(c)(2), included within the definition of "widower" a person whose wife had legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of eighteen, and a person who, in the month before the month of his marriage, was entitled to, or on application therefor and attainment of retirement age in such prior month would have been entitled to, benefits under subsection (f) or (h) of section 402 of this title, or had attained age eighteen and was entitled to, or on application therefor would have been entitled to, benefits under subsection (d) of section 402 of this title.

Subsec. (h)(3). Pub. L. 85-840, § 305(b), repealed subsec. (h)(3), which defined "living with" for purposes of section 402(i) of this title.

Subsec. (1)(2). Pub. L. 85-840, § 201, substituted "while under such disability" for "while under a disability" in the opening provisions, and "eighteen-month period" for "one-year period" in cl. (A)(1).

Subsec. (1)(3). Pub. L. 85-840, § 204(a), eliminated provisions that required, for a period of disability to begin with respect to any quarter, an individual to have not less than six quarters of coverage during the thirteenth-quarter period which ends with such quarter, and

inserted provisions requiring an individual to be fully insured.

Subsec. (1) (4). Pub. L. 85-840, § 203, substituted "July 1961" for "July 1958" and "July 1960" for "July 1957", and eliminated provisions which required the applicant to be alive on July 1, 1955.

1957—Subsec. (h). Pub. L. 85-238, amended subsec. (h) generally to provide that the applicant is the wife, husband, widow, or widower if there is a finding that the applicant and the insured individual were validly married at the time the application for benefits is filed, or at the time the insured individual died, and to eliminate provisions which prescribed certain conditions under which a wife or husband would be deemed to have been living with his or her spouse, and which related to determination of status of parent.

Subsec. (1) (4). Pub. L. 85-109, substituted "July 1958" for "July 1957" and "July 1957" for "July 1956".

1956—Subsec. (a). Act Aug. 1, 1956, § 102(a), reduced the retirement age in the case of a woman from age sixty-five to age sixty-two.

Subsec. (1) (1). Act Aug. 1, 1956, § 103(c) (6), inserted "Except for purposes of sections 402(d), 423, and 425 of this title".

Subsec. (1) (2). Act Aug. 1, 1956, § 102(d) (12), substituted "the age of sixty-five" for "retirement age" in two instances.

1954—Subsec. (1). Act Sept. 1, 1954, § 106(d), added subsec. (1). Former subsec. (1), which was added by act July 18, 1952, § 3(d), ceased to be in effect at the close of June 30, 1953. See termination date note under section 413 of this title.

1952—Subsec. (1). Act July 18, 1952, added subsec. (1).

EFFECTIVE DATE OF 1964 AMENDMENT

Section 1(d) of Pub. L. 88-650 provided that:

"(1) The amendments made by subsections (a), (b), and (c) [to subsec. (1) of this section] shall apply in the case of applications for disability determinations under section 216(1) of the Social Security Act [subsec. (1) of this section] filed after the month following the month in which this Act is enacted [Oct. 1964].

"(2) Except as provided in the succeeding paragraphs, such amendments shall also apply, and as though such amendments had been enacted on July 1, 1962, in the case of applications for disability determinations filed under section 216(1) of the Social Security Act [subsec. (1) of this section] during the period beginning July 1, 1962, and ending with the close of the month following the month in which this Act is enacted [Oct. 1964], by an individual who—

"(A) has been under a disability (as defined in such section 216(1) [subsec. (1) of this section]) continuously since he filed such application and up to (i) the first day of the second month following the month in which this Act is enacted [Oct. 1964] or (ii) if earlier, the first day of the month in which he attained the age of 65, and

"(B) is living on the day specified in subparagraph (A) (1).

"(3) In the case of an individual to whom paragraph (2) applies and who filed an application for disability insurance benefits under section 223 of the Social Security Act [section 423 of this title] during the period specified in such paragraph—

"(A) if such individual was under a disability (as defined in section 223(c) of such Act [section 423(c) of this title]) throughout such period and was not entitled to disability insurance benefits under such section 223 [section 423 of this title] for any month in such period (except for the amendments made by this section), such application and any application filed during such period for benefits under section 202 of the Social Security Act [section 402 of this title] on the basis of the wages and self-employment income of such individual shall, notwithstanding section 202(j) (2) [section 402(j) (2) of this title] and the first sentence of section 223(b) [section 423(b) of this title], be deemed an effective application, or

"(B) if such individual was entitled (without the application of this section) to disability insurance benefits under section 223 [section 423 of this title] for a continuous period of months immediately preceding—

"(i) the second month following the month in which this Act was enacted [Oct. 1964], or

"(ii) if earlier, the month in which he became entitled to benefits under section 202(a) [section 402(a) of this title].

his primary insurance amount shall be recomputed, but only if such amount would be increased solely by reason of the enactment of this section.

"(4) No monthly insurance benefits, and no increase in monthly insurance benefits, may be paid under title II of the Social Security Act [this subchapter] by reason of the enactment of this section for any month before the eleventh month before the month in which this Act is enacted [Oct. 1964].

"(5) In the case of an individual (A) who is entitled under section 202 of the Social Security Act [section 402 of this title] (but without the application of subsection (j) (1) of such section) to a widow's, widower's, or parent's insurance benefit, or to an old-age, wife's or husband's insurance benefit which is reduced under section 202(q) of such Act [section 402(q) of this title], for any month in the period referred to in paragraph (2) of this subsection, (B) who was under a disability (as defined in section 223(c) of the Social Security Act [section 423(c) of this title]) which began prior to the sixth month before the first month for which the benefits referred to in clause (A) are payable and which continued through the month following the month in which this Act is enacted [Oct. 1964], and (C) who files an application for disability insurance benefits under section 223(a) (1) of the Social Security Act [section 423(a) of this title]—

"(i) subsection (a) (3) of section 223 of the Social Security Act [section 423(a) (1) of this title] shall not prevent him from being entitled to such disability insurance benefits;

"(ii) the provisions of subsection (a) (1) of such section 223 [section 423(a) (1) of this title] terminating entitlement to disability insurance benefits by reason of entitlement to old-age insurance benefits shall not apply with respect to him unless and until he again becomes entitled to such old-age insurance benefits under the provisions of section 202 of such Act [section 402 of this title];

"(iii) such individual shall, for any month for which he is thereby entitled to both old-age insurance benefits and disability insurance benefits, be entitled only to such disability insurance benefits; and

"(iv) in case the benefits reduced under subsection (q) of section 202 of such Act [section 402(q) of this title] are old-age insurance benefits (I) such old-age insurance benefits for the months in the period referred to in paragraph (2) of this subsection shall not be recomputed solely by reason of the enactment of this section, and, if otherwise recomputed, the provisions of and amendments made by this section shall not apply to such recomputation; and (II) the months for which he received such old-age insurance benefits before or during the period for which he becomes entitled, by reason of such enactment, to disability insurance benefits under such section 223 [section 423 of this title] and the months for which he received such disability insurance benefits shall be excluded from the "reduction period" and the "adjusted reduction period", as defined in paragraphs (5) and (6), respectively, of such subsection (q) for purposes of determining the amount of the old-age insurance benefits to which he may subsequently become entitled.

"(6) The entitlement of any individual to benefits under section 202 of the Social Security Act [section 402 of this title] shall not be terminated solely by reason of the enactment of this section, except where such individual is entitled to benefits under section 202(a) or 223 of such Act [sections 402(a) or 423 of this title] in an amount which (but for this subsection) would have required termination of such benefits under such section 202 [sections 402(a) or 423 of this title].

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of subsecs. (b), (c), (f), (g), and (i) (3) (A) of this section, and repeal of subsec. (a) of this section applicable with respect to monthly benefits for

months beginning on or after August 1, 1961, based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

Amendment of subsec. (i) (2) of this section by Pub. L. 87-64 effective August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

Section 105 of Pub. L. 87-64 provided in part that the amendment of subsec. (i) (4) of this section by Pub. L. 87-64 shall be effective with respect to applications for disability determinations filed on or after July 1, 1961.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 207(d) of Pub. L. 86-778 provided that: "The amendments made by this section [to subsecs. (b) and (f) of this section and to the first sentence of subsec. (e) of this section] shall apply only with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months beginning with the month in which this Act is enacted [Sept. 1960], on the basis of applications filed in or after such month."

Section 208(f) of Pub. L. 86-778 provided that: "The amendments made by the preceding provisions of this section [amending subsecs. (h) (1) and (h) (2) of this section, adding sentence following section 402(d) (3) (B) of this title, and adding the last sentence to subsec. (e) of this section] shall be applicable (1) with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months beginning with the month in which this Act is enacted [Sept. 1960] on the basis of an application filed in or after such month, and (2) in the case of a lump-sum death payment under such title [this subchapter] based on an application filed in or after such month, but only if no person, other than the person filing such application, has filed an application for a lump-sum death payment under such title [this subchapter] prior to the date of the enactment of this Act [Sept. 13, 1960] with respect to the death of the same individual."

Amendment of subsec. (i) (2) of this section by section 402(e) of Pub. L. 86-778, which redefined the term "period of disability" and inserted provisions relating to the acceptance of applications and providing that any application for a disability determination which is filed within the three months' period or six months' period shall be deemed to have been filed on such first day or in such first month, applicable only in the case of individuals who become entitled to benefits under section 423 of this title in or after Sept. 1960, see section 402(f) of Pub. L. 86-778, set out as a note under section 423 of this title.

Amendment of subsec. (i) (2) of this section by section 403(c) of Pub. L. 86-778, which required a period of disability to end with the close of the last day of the month preceding whichever of the following months is the earlier: the month in which the individual attains age sixty-five or the third month following the month in which the disability ceases, applicable only in the case of individuals who have a period of disability (as defined in subsec. (i) of this section) beginning on or after Sept. 13, 1960, or beginning before Sept. 13, 1960 and continuing, without regard to such amendment, beyond the end of Sept. 1960, see section 403(e) of Pub. L. 86-778, set out as a note under section 422 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsecs. (b)—(d), (f) and (g) of this section by Pub. L. 85-840 applicable with respect to monthly benefits under section 402 of this title for months beginning after Aug. 28, 1958, but only if an application for such benefits is filed on or after such date, see section 301 (f) of Pub. L. 85-840, set out as a note under section 402 of this title.

Section 302 (b) of Pub. L. 85-840 provided that: "The amendment made by this section [to subsec. (e) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months beginning after the date of enactment of this Act [August 28, 1958], but only if an application for such benefits is filed on or after such date."

Repeal of subsec. (h) (3) of this section by section 305 (b) of Pub. L. 85-840 applicable in the case of lump-sum death payments under section 402 (i) of this title on the basis of the wages and self-employment income of any individual who dies after August 1958, see section 305 (c) of Pub. L. 85-840, set out as a note under section 402 of this title.

Section 207 (a) of Pub. L. 85-840 provided that: "The amendments made by section 201 [to subsec. (i) (2) of this section] shall apply with respect to applications for a disability determination under section 216 (i) of the Social Security Act [subsec. (i) of this section] filed after June 1961. The amendments made by section 202 [to subsecs. (b) and (c) (3) of section 423 of this title] shall apply with respect to applications for disability insurance benefits under section 223 of such Act [section 423 of this title] filed after December 1957. The amendments made by section 203 [to subsec. (i) (4) of this section] shall apply with respect to applications for a disability determination under such section 216 (i) [subsec. (i) of this section] filed after June 1958. The amendments made by section 204 [to subsec. (i) (3) of this section and section 423 (c) (1) (A) of this title] shall apply with respect to (1) applications for disability insurance benefits under such section 223 [section 423 of this title] or for a disability determination under such section 216 (i) [subsec. (i) of this section] filed on or after the date of enactment of this Act [August 28, 1958], and (2) applications for such benefits or for such a determination filed after 1957 and prior to such date of enactment [August 28, 1958] if the applicant has not died prior to such date of enactment [August 28, 1958] and if notice to the applicant of the Secretary's decision with respect thereto has not been given to him on or prior to such date, except that (A) no benefits under title II of the Social Security Act [this subchapter] for the month in which this Act is enacted [August 1958] or any prior month shall be payable or increased by reason of the amendments made by section 204 of this Act, and (B) the provisions of section 215 (f) (1) of the Social Security Act [section 415 (f) (1) of this title] shall not prevent recomputation of monthly benefits under section 202 of such Act [section 402 of this title] (but no such recomputation shall be regarded as a recomputation for purposes of section 215 (f) of such Act [section 415 (f) of this title]). The amendments made by section 205 (other than by subsections (k) and (m)) [to sections 401 (h), 402 (b), (c) (1), (d) (1), (f) (1) (D), (g) (1) (F), (h) (1) (B), (k), (g) (5), (6), 403 (3), 414 (b), 422 (b) (3), and 425 of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after the month in which this Act is enacted [August 1958], but only if an application for such benefits is filed on or after the date of enactment of this Act [August 28, 1958]. The amendments made by section 206 [repealing section 424 of this title] and by subsections (k) and (m) of section 205 [to sections 403 (h) and 415 (g) of this title] shall apply with respect to monthly benefits under title II of the Social Security Act [this subchapter] for the month in which this Act is enacted [August 1958] and succeeding months."

EFFECTIVE DATE OF 1957 AMENDMENT

Amendment of subsec. (h) of this section by Pub. L. 85-238 applicable to monthly benefits under section 402 of this title for months after August 1957, see section 3 (i) of Pub. L. 85-238, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 102 (b) of act Aug. 1, 1956, provided that: "(1) The amendment made by subsection (a) [to subsec. (a) of this section] shall apply in the case of benefits under subsection (e) of section 202 of the Social Security Act [section 402 (e) of this title] for months after October 1956, but only, except in the case of an individual who was entitled to wife's or mother's insurance benefits under such section 202 [section 402 of this title] for October 1956, or any month thereafter, on the basis of applications filed after the date of enactment of this Act [August 1, 1956]. The amendment made by subsection (a) shall apply in the case of benefits under subsection (h) of such section 202 [section 402 (h) of this

title] for months after October 1956 on the basis of applications filed after the date of enactment of this Act [August 1, 1956].

"(2) Except as provided in paragraphs (1) and (4), the amendment made by subsection (a) shall apply in the case of lump-sum death payments under section 202 (1) of the Social Security Act [section 402 (1) of this title] with respect to deaths after October 1956, and in the case of monthly benefits under title II of such Act [this subchapter] for months after October 1956 on the basis of applications filed after the date of enactment of this Act [August 1, 1956].

"(3) For purposes of section 215 (b) (3) (B) of the Social Security Act [section 415 (b) (3) (B) of this title] (but subject to paragraphs (1) and (2) of this subsection)—

"(A) a woman who attains the age of sixty-two prior to November 1956 and who was not eligible for old-age insurance benefits under section 202 of such Act [section 402 of this title] (as in effect prior to the enactment of this Act [August 1, 1956]) for any month prior to November 1956 shall be deemed to have attained the age of sixty-two in 1956 or, if earlier, the year in which she died;

"(B) a woman shall not, by reason of the amendment made by subsection (a), be deemed to be a fully insured individual before November 1956 or the month in which she died, whichever month is the earlier; and

"(C) the amendment made by subsection (a) shall not be applicable in the case of any woman who was eligible for old-age insurance benefits under such section 202 [section 402 of this title] for any month prior to November 1956.

A woman shall, for purposes of this paragraph, be deemed eligible for old-age insurance benefits under section 202 of the Social Security Act [Section 402 of this title] for any month if she was or would have been, upon filing application therefor in such month, entitled to such benefits for such month.

"(4) For purposes of section 209 (1) of such Act [section 409 (1) of this title], the amendment made by subsection (a) shall apply only with respect to remuneration paid after October 1956."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 106 (h) of act Sept. 1, 1954, provided in part that notwithstanding the provisions of section 415 (f) of this title, the amendments to subsec. (1) made by section 106 (d) of act Sept. 1, 1954, shall apply with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 415 (f) of this title.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT
For effective and termination date, see note set out under section 413 of this title.

EFFECTIVE DATE

Section applicable (1) in case of monthly benefits for months after August 1950, and (2) in the case of lump-sum death payments with respect to deaths after August 1950, see note set out under section 409 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

DEFINITION OF "SECRETARY"

Section 114 of act Sept. 1, 1954, provided that: "As used in the provisions of the Social Security Act [sections 402, 403, 415 and 421 of this title] amended by this title, the term 'Secretary' means the Secretary of Health, Education, and Welfare."

Section 119 of act Aug. 1, 1956, ch. 836, provided that: "As used in this Act and in the provisions of the Social Security Act set forth in this Act [sections 401a, 402 (p), (q), (t), (u), 405 (b), (c) (5) (J), 421 (e), 422, 424, 425, 906 and 1310 of this title], the term 'Secretary' means the Secretary of Health, Education, and Welfare."

BENEFITS OF PARENTS

Amendment of subsec. (h) (1) of this section by Pub. L. 85-238 not operative to deprive any parent of benefits to which he would otherwise be entitled under section 402 (h) of this title, see section 3 (1) (2) of Pub. L. 85-238, set out as a note under section 402 of this title.

SPECIAL INSURED STATUS TEST IN CERTAIN CASES FOR DISABILITY PURPOSES

Section 404 of Pub. L. 86-778 provided that:

"(a) In the case of any individual who does not meet the requirements of section 216(1) (3) of the Social Security Act [subsec. (1) (3) of this section] with respect to any quarter, or who is not insured for disability insurance benefits as determined under section 223(c) (1) of such Act [section 423(c) (1) of this title] with respect to any month in a quarter, such individual shall be deemed to have met such requirements with respect to such quarter or to be so insured with respect to such month of such quarter, as the case may be, if—

"(1) he had a total of not less than twenty quarters of coverage (as defined in section 213 of such Act [section 413 of this title]) during the period ending with the close of such quarter, and

"(2) all of the quarters elapsing after 1950 and up to but excluding such quarter were quarters of coverage with respect to him and there were not fewer than six such quarters of coverage.

"(b) Subsection (a) shall apply only in the case of applications for disability insurance benefits under section 223 of the Social Security Act [section 423 of this title], or for disability determinations under section 216(1) of such Act [subsec. (1) of this section], filed in or after the month in which this Act is enacted [Sept. 1960], and then only with respect to an individual who, but for such subsection (a), would not meet the requirements for a period of disability under section 216(1) [subsec. (1) of this section] with respect to the quarter in which this Act is enacted or any prior quarter and would not meet the requirements for benefits under section 223 [section 423 of this title] with respect to the month in which this Act is enacted [Sept. 1960] or any prior month. No benefits under title II of the Social Security Act [this subchapter] for the month in which this Act is enacted [Sept. 1960] or any prior month shall be payable or increased by reason of the amendment made by such subsection."

§ 417. Benefits for veterans; definitions; determination of benefits.

(a) (1) For purposes of determining entitlement to and the amount of any monthly benefit for any month after August 1950, or entitlement to and the amount of any lump-sum death payment in case of a death after such month, payable under this subchapter on the basis of the wages and self-employment income of any World War II veteran, and for purposes of section 416 (i) (3) of this title, such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of \$160 in each month during any part of which he served in the active military or naval service of the United States during World War II. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon the active military or naval service of such veteran during World War II is determined by any agency or wholly owned instrumentality of the United States (other than the Veterans' Administration) to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) of this paragraph shall not apply in the case of any monthly benefit or lump-sum death payment under this subchapter if its application would reduce by \$0.50 or less the primary insurance amount (as computed under section 415 of this title prior to any recomputation thereof pursuant to section 415 (f) of this title) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) of this paragraph shall also not apply for purposes of section 416 (1) (3) of this title.

(2) Upon application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any World War II veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to clause (B) of paragraph (1) of this subsection unless he has been notified by some other agency or instrumentality of the United States that, on the basis of the military or naval service of such veteran during World War II, a benefit described in clause (B) of paragraph (1) of this subsection has been determined by such agency or instrumentality to be payable by it. If he has not been so notified, the Secretary of Health, Education, and Welfare shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (1) of this subsection is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection.

(3) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on military or naval service during World War II shall, at the request of the Secretary of Health, Education, and Welfare, certify to him, with respect to any veteran, such information as the Secretary deems necessary to carry out his functions under paragraph (2) of this subsection.

(b) (1) Any World War II veteran who died during the period of three years immediately following his separation from the active military or naval service of the United States shall be deemed to have died a fully insured individual whose primary insurance amount is the amount determined under section 415 (c) of this title. Notwithstanding section 415 (d) of this title, the primary insurance benefit (for purposes of section 415 (c) of this title) of such

veteran shall be determined as provided in this subchapter as in effect prior to August 28, 1950, except that the 1 per centum addition provided for in section 409 (e) (2) of this title as in effect prior to August 28, 1950 shall be applicable only with respect to calendar years prior to 1951. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application;

(B) any pension or compensation is determined by the Veterans' Administration to be payable by it on the basis of the death of such veteran;

(C) the death of the veteran occurred while he was in the active military or naval service of the United States; or

(D) such veteran has been discharged or released from the active military or naval service of the United States subsequent to July 26, 1951.

(2) Upon an application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any World War II veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to paragraph (1) (B) of this subsection unless he has been notified by the Veterans' Administration that pension or compensation is determined to be payable by the Veterans' Administration by reason of the death of such veteran. The Secretary of Health, Education, and Welfare shall thereupon report such decision to the Veterans' Administration. If the Veterans' Administration in any such case has made an adjudication or thereafter makes an adjudication that any pension or compensation is payable under any law administered by it, it shall notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment, or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection. Any payments theretofore certified by the Secretary of Health, Education, and Welfare on the basis of paragraph (1) of this subsection to any individual, not exceeding the amount of any accrued pension or compensation payable to him by the Veterans' Administration, shall (notwithstanding the provisions of section 3101 of Title 38) be deemed to have been paid to him by such Administration on account of such accrued pension or compensation. No such payment certified by the Secretary of Health, Education, and Welfare, and no payment certified by him for any month prior to the first month for which any pension or compensation is paid by the Veterans' Administration shall be deemed by reason of this subsection to have been an erroneous payment.

(c) In the case of any World War II veteran to whom subsection (a) of this section is applicable, proof of support required under section 402 (h) of this title may be filed by a parent at any time prior to July 1951 or prior to the expiration of two years after the date of the death of such veteran, whichever is the later.

(d) For the purposes of this section—

(1) The term "World War II" means the period beginning with September 16, 1940, and ending at the close of July 24, 1947.

(2) The term "World War II veteran" means any individual who served in the active military or naval service of the United States at any time during World War II and who, if discharged or released therefrom, was so discharged or released under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty; but such term shall not include any individual who died while in the active military or naval service of the United States if his death was inflicted (other than by an enemy of the United States) as lawful punishment for a military or naval offense.

(e) (1) For purposes of determining entitlement to and the amount of any monthly benefit or lump-sum death payment payable under this subchapter on the basis of wages and self-employment income of any veteran (as defined in paragraph (4) of this subsection), and for purposes of section 416 (i) (3) of this title, such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of \$160 in each month during any part of which he served in the active military or naval service of the United States on or after July 25, 1947, and prior to January 1, 1957. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

(B) a benefit (other than a benefit payable in a lump sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon the active military or naval service of such veteran on or after July 25, 1947, and prior to January 1, 1957, is determined by any agency or wholly owned instrumentality of the United States (other than the Veterans' Administration) to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

The provisions of clause (B) of this paragraph shall not apply in the case of any monthly benefit or lump-sum death payment under this subchapter if its application would reduce by \$0.50 or less the primary insurance amount (as computed under section 415 of this title prior to any recomputation thereof pursuant to subsection (f) of section 415 of this title) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) of this paragraph shall also not apply for purposes of section 416 (i) (3) of this title. In the case of monthly benefits under this subchapter for months after December 1956 (and any lump-sum death payment under this subchapter with respect to a death occurring after December 1956) based on the wages and self-employment income of a veteran who performed service (as a member of a uniformed service) to which the provisions of section 410(I)(1) of this title are applicable, wages which would, but for the provisions of

clause (B) of this paragraph, be deemed under this subsection to have been paid to such veteran with respect to his active military or naval service performed after December 1950 shall be deemed to have been paid to him with respect to such service notwithstanding the provisions of such clause, but only if the benefits referred to in such clause which are based (in whole or in part) on such service are payable solely by the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey or Public Health Service.

(2) Upon application for benefits or a lump-sum death payment on the basis of the wages and self-employment income of any veteran, the Secretary of Health, Education, and Welfare shall make a decision without regard to clause (B) of paragraph (1) of this subsection unless he has been notified by some other agency or instrumentality of the United States that, on the basis of the military or naval service of such veteran on or after July 25, 1947, and prior to January 1, 1957, a benefit described in clause (B) of paragraph (1) of this subsection has been determined by such agency or instrumentality to be payable by it. If he has not been so notified, the Secretary of Health, Education, and Welfare shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (1) of this subsection is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by paragraph (1) of this subsection.

(3) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on military or naval service on or after July 25, 1947, and prior to January 1, 1957, shall, at the request of the Secretary of Health, Education, and Welfare, certify to him, with respect to any veteran, such information as the Secretary deems necessary to carry out his functions under paragraph (2) of this subsection.

(4) For the purposes of this subsection, the term "veteran" means any individual who served in the active military or naval service of the United States at any time on or after July 25, 1947, and prior to January 1, 1957, and who, if discharged or released therefrom, was so discharged or released under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty; but such term shall not include any individual who died while in the active military or naval service of the United States if his death was inflicted (other than by an enemy of the United States) as lawful punishment for a military or naval offense.

(f) (1) In any case where a World War II veteran (as defined in subsection (d) (2) of this section) or a veteran (as defined in subsection (e) (4) of this section) has died or shall hereafter die, and

his widow or child is entitled under the Civil Service Retirement Act, as amended, to an annuity in the computation of which his active military or naval service was included, clause (B) of subsection (a) (1) of this section or clause (B) of subsection (e) (1) of this section shall not operate (solely by reason of such annuity) to make such subsection inapplicable in the case of any monthly benefit under section 402 of this title which is based on his wages and self-employment income; except that no such widow or child shall be entitled under section 402 of this title to any monthly benefit in the computation of which such service is included by reason of this subsection (A) unless such widow or child after December 1956 waives his or her right to receive such annuity, or (B) for any month prior to the first month with respect to which the Civil Service Commission certifies to the Secretary of Health, Education, and Welfare that (by reason of such waiver) no further annuity will be paid to such widow or child under such Act of May 29, 1930, as amended, on the basis of such veteran's military or civilian service. Any such waiver shall be irrevocable.

(2) Whenever a widow waives her right to receive such annuity such waiver shall constitute a waiver on her own behalf; a waiver by a legal guardian or guardians, or, in the absence of a legal guardian, the person (or persons) who has the child in his care, of the child's right to receive such annuity shall constitute a waiver on behalf of such child. Such a waiver with respect to an annuity based on a veteran's service shall be valid only if the widow and all children, or, if there is no widow, all the children, waive their rights to receive annuities under the Civil Service Retirement Act of May 29, 1930, as amended, based on such veteran's military or civilian service.

(g) (1) There are authorized to be appropriated to the Trust Funds annually, as benefits under this subchapter are paid after June 1956, such sums as the Secretary of Health, Education, and Welfare determines to be necessary to meet the additional costs, resulting from subsections (a), (b), and (e) of this section, of such benefits (including lump-sum death payments).

(2) The Secretary shall, before October 1, 1958, determine the amount which would place the Federal Old-Age and Survivors Insurance Trust Fund in the same position in which it would have been at the close of June 30, 1956, if section 410 of this title, as in effect prior to the Social Security Act Amendments of 1950, and section 417 of this title (including amendments thereof), had not been enacted. There are authorized to be appropriated to such Trust Fund annually, during the first ten fiscal years beginning after such determination is made, sums aggregating the amount so determined, plus interest accruing on such amount (as reduced by appropriations made pursuant to this paragraph) for each fiscal year beginning after June 30, 1956, at a rate for such fiscal year equal to the average rate of interest (as determined by the Managing Trustee) earned on the invested assets of such Trust Fund during the preceding fiscal year.

(h) (1) For the purposes of this section, any individual who the Secretary finds—

(A) served during World War II (as defined in subsection (d) (1) of this section) in the active military or naval service of a country which was on September 16, 1940, at war with a country with which the United States was at war during World War II;

(B) entered into such active service on or before December 8, 1941;

(C) was a citizen of the United States throughout such period of service or lost his United States citizenship solely because of his entrance into such service;

(D) had resided in the United States for a period or periods aggregating four years during the five-year period ending on the day of, and was domiciled in the United States on the day of, such entrance into such active service; and

(E) (i) was discharged or released from such service under conditions other than dishonorable after active service of ninety days or more or by reason of a disability or injury incurred or aggravated in service in line of duty, or

(ii) died while in such service,

shall be considered a World War II veteran (as defined in subsection (d) (2) of this section) and such service shall be considered to have been performed in the active military or naval service of the United States.

(2) In the case of any individual to whom paragraph (1) applies, proof of support required under section 402 (f) or (h) of this title may be filed at any time prior to the expiration of two years after the date of such individual's death or August 28, 1958, whichever is the later. (Aug. 14, 1935, ch. 531, title II, § 217, as added Aug. 28, 1950, ch. 809, title I, § 105, 64 Stat. 512, and amended July 18, 1952, ch. 945, § 5 (a), (d) (1), 66 Stat. 773, 775; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Aug. 14, 1953, ch. 483, § 1, 67 Stat. 580; Sept. 1, 1954, ch. 1206, title I, § 106 (e), 68 Stat. 1081; Aug. 9, 1955, ch. 685, § 1, 69 Stat. 621; Aug. 1, 1956, ch. 837, title IV, §§ 404 (a), (b), 406, 70 Stat. 872, 875; Aug. 28, 1958, Pub. L. 85-840, title III, § 314 (a), (b), 72 Stat. 1036; Sept. 2, 1958, Pub. L. 85-857, § 13 (1) (2), 72 Stat. 1265; Sept. 13, 1960, Pub. L. 86-778, title I, § 103(j) (2) (c), 74 Stat. 937.)

REFERENCES IN TEXT

The Civil Service Retirement Act, as amended, referred to in subsec. (f), is classified to chapter 30 of Title 5, Executive Departments and Government Officers and Employees.

CODIFICATION

"Civil Service Retirement Act" was substituted for "Civil Service Retirement Act of May 29, 1930" to conform to provisions of act May 29, 1930, ch. 349, § 18, as renumbered and amended by act July 31, 1956, ch. 804, 70 Stat. 760.

AMENDMENTS

1960—Subsec. (e) (1). Pub. L. 86-778 substituted "section 410(l) (1) of this title" for "section 410(m) (1) of this title."

1958—Subsec. (b) (2). Pub. L. 85-857, substituted "section 3101 of Title 38" for "section 454a of Title 38".

Subsec. (g). Pub. L. 85-840, § 314(b), substituted "Trust Funds" for "Trust Fund" in par. (1), and "the Federal Old-Age and Survivors Insurance Trust Fund in" for "the Trust Fund in", "such Trust Fund annually", for "the Trust Fund annually", and "such Trust Fund during" for "the Trust Fund during", in par. (2).

Subsec. (h). Pub. L. 85-840, § 314(a), added subsec. (h).

1956—Subsec. (e). Act Aug. 1, 1956, ch. 837, § 404(a), substituted "January 1, 1957" for "April 1, 1956" in five instances, and inserted provisions in par. (1) relating to monthly benefits for months after December 1956 and any lump-sum death payment under this subchapter with respect to a death occurring after December 1956.

Subsecs. (f), (g). Act Aug. 1, 1956, ch. 837, §§ 404(b) and 406, added subsecs. (f) and (g), respectively.

1955—Subsec. (e). Act Aug. 9, 1955, substituted "April 1, 1956" for "July 1, 1955" wherever appearing.

1954—Subsec. (a) (1). Act Sept. 1, 1954, § 106(e) (1), (3), added in the first sentence after "World War II veteran" the words "and for purposes of section 416(1)(3) of this title", and added a new sentence at the end.

Subsec. (e) (1). Act Sept. 1, 1954, § 106(e) (2), (3), added after "veteran (as defined in paragraph (4) of this subsection)" the words "and for purposes of section 416 (1) (3) of this title" and added a new sentence at the end.

1953—Subsec. (e). Act Aug. 14, 1953, substituted "July 1, 1955" for "January 1, 1954" wherever appearing.

1952—Act July 18, 1952, § 5(a), eliminated reference to World War II veterans in the catchline.

Subsec. (a) (1) (B). Act July 5, 1952, § 5(d) (1), added "The provision of * * * payment is based."

Subsec. (e). Act July 18, 1952, § 5(a), added subsec. (e).

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (e) (1) of this section by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v) (1) of Pub. L. 86-778, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Amendment of subsec. (b) (2) by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as a note preceding Part I of Title 38, Veterans' Benefits.

Section 314 (c) (1) of Pub. L. 85-840 provided that: "The amendment made by subsection (a) [adding subsec. (h) of this section] shall apply only with respect to (A) monthly benefits under sections 202 and 223 of the Social Security Act [sections 402 and 403 of this title] for months after the month in which this Act is enacted [August 1958], (B) lump-sum death payments under such section 202 [section 402 of this title] in the case of deaths occurring after the month in which this Act is enacted [August 1958], and (C) periods of disability under section 216 (1) [section 416 (1) of this title] in the case of applications for a disability determination filed after the month in which this Act is enacted [August 1958]."

EFFECTIVE DATE OF 1956 AMENDMENT

Section 404 (d) of act Aug. 1, 1956, ch. 837, provided that: "Except for the last sentence of section 217 (e) (1) of the Social Security Act as amended by subsection (a) of this section [subsec. (e) (1) of this section], the amendments made by such subsection (a) [to subsecs. (e) and (f) of this section] shall be effective as though they had been enacted on March 31, 1956. Such last sentence of section 217 (e) (1) of the Social Security Act shall become effective January 1, 1957."

Subsec. (g) effective Jan. 1, 1957.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 106 (h) of act Sept. 1, 1954, provided in part that notwithstanding the provisions of section 415 (f) of this title, the amendments to subsecs. (a) (1) and (e) (1) made by section 106(e) of act Sept. 1, 1954, shall apply with respect to monthly benefits under subchapter II of this chapter for months after June 1955, and with respect to lump-sum death payments under such subchapter in the case of deaths occurring after June 1955; but that no recomputation of benefits by reason of such amendments shall be regarded as a recomputation for purposes of section 415 (f) of this title.

EFFECTIVE DATE OF 1952 AMENDMENT OF SUBSEC. (e) AND SECTION 405 (o)

Section 5(c) of act of July 18, 1952, as amended by Pub. L. 86-778, title III, § 304(d), Sept. 13, 1960, 74 Stat. 966, provided that:

"(1) The amendments made by subsections (a) and (b) [to sections 417(e) and 405(o) of this title] shall apply with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months after August 1952, and with respect to lump-sum death payments in the case of deaths occurring after August 1952, except that, in the case of any individual who is entitled, on the basis of the wages and self-employment income of any individual to whom section 217(e) of the Social Security Act [subsec. (e) of this title] applies, to monthly benefits under such section 202 for August 1952 [section 402 of this title], such amendments shall apply (A) only if an application for recomputation by reason of such amendments is filed by such individual, or any other individual, entitled to benefits under such section 202 [section 402 of this title] on the basis of such wages and self-employment income, and (B) only with respect to such benefits for months after whichever of the following is the later: August 1952 or the seventh month before the month in which such application was filed. Recomputations of benefits as required to carry out the provisions of this paragraph shall be made notwithstanding the provisions of section 215(f) (1) of the Social Security Act [section 415(f) (1) of this title]; but no such recomputation shall be regarded as a recomputation for purposes of section 215(f) of such act [section 415(f) of this title]. Notwithstanding the preceding provisions of this paragraph, the primary insurance amount of an individual shall not be recomputed under such provisions unless such individual files the application referred to in clause (A) of the first sentence of this paragraph prior to January 1961 or, if he dies without filing such application, his death occurred prior to January 1961.

"(2) In the case of any veteran (as defined in section 217(e)(4) of the Social Security Act [subsec. (e)(4) of this section]) who died prior to September 1952, the requirement in subsections (f) and (h) of section 202 of the Social Security Act [section 402 (f), (h) of this title] that proof of support be filed within two years of the date of such death shall not apply if such proof is filed prior to September 1954."

EFFECTIVE DATE OF 1952 AMENDMENT OF SUBSEC. (a) (1) (B)

Section 5 (d) (2) of act July 18, 1952, provided that: "The amendment made by paragraph (1) of this subsection [to subsec. (a) (1) (B) of this section] shall apply only in the case of applications for benefits under section 202 of the Social Security Act [section 402 of this title] filed after August 1952."

EFFECTIVE DATE

Section 105 of act Aug. 28, 1950, provided in part that this section shall be effective as of Sept. 1, 1950.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

RECOMPUTATION OF PRIMARY INSURANCE AMOUNT OF CERTAIN INDIVIDUALS

Section 314 (c) (2) of Pub. L. 85-840 provided that: "In the case of any individual—

"(A) who is a World War II veteran (as defined in section 217 (d) (2) of the Social Security Act [subsec. (d) (2) of this section]) wholly or partly by reason of service described in section 217 (h) (1) (A) of such Act [subsec. (h) (1) (A) of this section]; and

"(B) who (1) became entitled to old-age insurance benefits under section 202 (a) of the Social Security Act [section 402 (a) of this title] or to disability insurance benefits under section 223 of such Act [section 423 of this title] prior to the first day of the month following the month in which this Act is enacted [August 1958], or (1) died prior to such first day, and

whose widow, former wife divorced, widower, child, or parent is entitled for the month in which this Act is enacted [August 1958], on the basis of his wages and self-employment income, to a monthly benefit under section 202 of such Act [section 402 of this title]; and

"(C) any part of whose service described in section 217 (h) (1) (A) of the Social Security Act [subsec. (h) (1) (A) of this section] was not included in the computation of his primary insurance amount under section 215 of such Act [section 415 of this title] but would have been included in such computation if the amendment made by subsection (a) of this section had been effective prior to the date of such computation.

the Secretary of Health, Education, and Welfare shall, notwithstanding the provisions of section 215 (f) (1) of the Social Security Act [section 415 (f) (1) of this title], recompute the primary insurance amount of such individual upon the filing of an application, after the month in which this Act is enacted [August 1958], by him or (if he has died without filing such an application) by any person entitled to monthly benefits under section 202 of the Social Security Act [section 402 of this title] on the basis of his wages and self-employment income. Such recomputation shall be made only in the manner provided in title II of the Social Security Act [this subchapter] as in effect at the time of the last previous computation or recomputation of such individual's primary insurance amount, and as though application therefor was filed in the month in which application for such last previous computation or recomputation was filed. No recomputation made under this subsection shall be regarded as a recomputation under section 215 (f) of the Social Security Act [section 415 (f) of this title]. Any such recomputation shall be effective for and after the twelfth month before the month in which the application is filed, but in no case for the month in which this Act is enacted [August 1958] or any prior month."

RECOMPUTATION OF SOCIAL SECURITY BENEFITS OF WIDOWS AND CHILDREN WHO WAIVE RIGHT TO ANNUITY UNDER CIVIL SERVICE RETIREMENT ACT

Section 404 (c) of act Aug. 1, 1956, ch. 837, provided that:

"In the case of any deceased individual—

"(1) who is a World War II veteran (as defined in section 217 (d) (2) of the Social Security Act [subsec. (d) (2) of this section]) or a veteran (as defined in section 217 (e) (4) of such Act [subsec. (e) (4) of this section]); and

"(2) whose widow or child is entitled under the Civil Service Retirement Act of May 29, 1930, as amended [chapter 30 of Title 5, Executive Departments and Government Officers and Employees], to an annuity in the computation of which his active military or naval service after September 15, 1940, and before January 1, 1957, was included; and

"(3) whose widow or child is entitled under section 202 of the Social Security Act [section 402 of this title], on the basis of his wages and self-employment income, to a monthly benefit in the computation of which such active military or naval service was excluded (under clause (B) of subsection (a) (1) or (e) (1) of section 217 of such Act [this section]) solely by reason of the annuity described in the preceding paragraph; and

"(4) whose widow or child is entitled by reason of section 217 (f) of the Social Security Act [subsection (f) of this section] to have such active military or naval service included in the computation of such monthly benefit,

the Secretary of Health, Education, and Welfare shall, notwithstanding the provisions of section 215 (f) (1) of the Social Security Act [section 415 (f) (1) of this title], recompute the primary insurance amount of such individual upon the filing of an application, after December 1956, by or on behalf of such widow or child. Such recomputation shall be made only in the manner provided in title II of the Social Security Act [this subchapter] as in effect at the time of such individual's death, and as though application therefor was filed in the month in which he died. No recomputation made under this subsection shall be regarded as a recomputation under sec-

tion 215 (f) of the Social Security Act [section 415 (f) of this title]. Any such recomputation shall be effective for and after the twelfth month before the month in which the application is filed, but in no case for any month before the first month with respect to which such widow or child is entitled by reason of section 217 (f) of the Social Security Act [subsec. (f) of this section] to have such active military or naval service included in the computation of such monthly benefits. The terms used in this subsection shall have the same meaning as when used in title II of the Social Security Act [this subchapter]."

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

§ 418. Voluntary agreements for coverage of State and local employees.

(a) Purpose of agreement.

(1) The Secretary of Health, Education, and Welfare shall, at the request of any State, enter into an agreement with such State for the purpose of extending the insurance system established by this subchapter to services performed by individuals as employees of such State or any political subdivision thereof. Each such agreement shall contain such provisions, not inconsistent with the provisions of this section, as the State may request.

(2) Notwithstanding section 410 (a) of this title, for the purposes of this subchapter the term "employment" includes any service included under an agreement entered into under this section.

(b) Definitions.

For the purposes of this section—

(1) The term "State" does not include the District of Columbia, Guam, or American Samoa.

(2) The term "political subdivision" includes an instrumentality of (A) a State, (B) one or more political subdivisions of a State, or (C) a State and one or more of its political subdivisions.

(3) The term "employee" includes an officer of a State or political subdivision.

(4) The term "retirement system" means a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof.

(5) The term "coverage group" means (A) employees of the State other than those engaged in performing service in connection with a proprietary function; (B) employees of a political subdivision of a State other than those engaged in performing service in connection with a proprietary function; (C) employees of a State engaged in performing service in connection with a single proprietary function; or (D) employees of a political subdivision of a State engaged in performing service in connection with a single proprietary function. If under the preceding sentence an employee would be included in more than one coverage group by reason of the fact that he performs service in connection with two or more proprietary functions or in connection with both a proprietary function and a nonproprietary function, he shall be included in only one such coverage group. The determination of the coverage group in which such employee shall be included shall be made in such manner as may be specified in the agreement. Civilian employees of National

Guard units of a State who are employed pursuant to section 42 of Title 32, and paid from funds allotted to such units by the Department of Defense, shall for purposes of this section be deemed to be employees of the State and (notwithstanding the preceding provisions of this paragraph), shall be deemed to be a separate coverage group. For purposes of this section, individuals employed pursuant to an agreement, entered into pursuant to section 1624 of Title 7 or section 499n of Title 7, between a State and the United States Department of Agriculture to perform services as inspectors of agricultural products may be deemed, at the option of the State, to be employees of the State and (notwithstanding the preceding provisions of this paragraph) shall be deemed to be a separate coverage group.

(c) Services covered.

(1) An agreement under this section shall be applicable to any one or more coverage groups designated by the State.

(2) In the case of each coverage group to which the agreement applies, the agreement must include all services (other than services excluded by or pursuant to subsection (d) or paragraphs (3), (5), or (6) of this subsection) performed by individuals as members of such group.

(3) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any one or more of the following:

(A) Any service of an emergency nature;

(B) All services in any class or classes of (i) elective positions, (ii) part-time positions, or (iii) positions the compensation for which is on a fee basis;

(C) All services performed by individuals as members of a coverage group in positions covered by a retirement system on the date such agreement is made applicable to such coverage group, but only in the case of individuals who, on such date (or, if later, the date on which they first occupy such positions), are not eligible to become members of such system and whose services in such positions have not already been included under such agreement pursuant to subsection (d) (3) of this section.

(4) The Secretary of Health, Education, and Welfare shall, at the request of any State, modify the agreement with such State so as to (A) include any coverage group to which the agreement did not previously apply, or (B) include, in the case of any coverage group to which the agreement applies, services previously excluded from the agreement; but the agreement as so modified may not be inconsistent with the provisions of this section applicable in the case of an original agreement with a State. A modification of an agreement pursuant to clause (B) of the preceding sentence may apply to individuals to whom paragraph (3) (C) of this subsection is applicable (whether or not the previous exclusion of the service of such individuals was pursuant to such paragraph), but only if such individuals are, on the effective date specified in such modification, ineligible to be members of any retirement system or if the modification with respect to

such individuals is pursuant to subsection (d) (3) of this section.

(5) Such agreement shall, if the State requests it, exclude (in the case of any coverage group) any agricultural labor, or service performed by a student, designated by the State. This paragraph shall apply only with respect to service which is excluded from employment by any provision of section 410 (a) of this title other than paragraph (8) of such section and service the remuneration for which is excluded from wages by paragraph (2) of section 409 (h) of this title.

(6) Such agreement shall exclude—

(A) service performed by an individual who is employed to relieve him from unemployment.

(B) service performed in a hospital, home, or other institution by a patient or inmate thereof,

(C) covered transportation service (as determined under section 410 (k) of this title), and

(D) service (other than agricultural labor or service performed by a student) which is excluded from employment by any provision of section 410 (a) of this title other than paragraph (8) of such section.

(7) No agreement may be made applicable (either in the original agreement or by any modification thereof) to service performed by any individual to whom paragraph (3) (C) of this subsection is applicable unless such agreement provides (in the case of each coverage group involved) either that the service of any individual to whom such paragraph is applicable and who is a member of such coverage group shall continue to be covered by such agreement in case he thereafter becomes eligible to be a member of a retirement system, or that such service shall cease to be so covered when he becomes eligible to be a member of such a system (but only if the agreement is not already applicable to such system pursuant to subsection (d) (3) of this section), whichever may be desired by the State.

(d) Positions covered by retirement systems.

(1) No agreement with any State may be made applicable (either in the original agreement or by any modification thereof) to any service performed by employees as members of any coverage group in positions covered by a retirement system either (A) on the date such agreement is made applicable to such coverage group, or (B) on September 1, 1954 (except in the case of positions which are, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to September 1, 1954, no longer covered by a retirement system on the date referred to in clause (A), and except in the case of positions excluded by paragraph (5) (A) of this subsection). The preceding sentence shall not be applicable to any service performed by an employee as a member of any coverage group in a position (other than a position excluded by paragraph (5) (A) of this subsection) covered by a retirement system on the date an agreement is made applicable to such coverage group if, on such date (or, if later, the date on which such individual first occupies such position), such individual is ineligible to be a member of such system.

(2) It is declared to be the policy of the Congress in enacting the succeeding paragraphs of this subsection that the protection afforded employees in positions covered by a retirement system on the date an agreement under this section is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof.

(3) Notwithstanding paragraph (1) of this subsection, an agreement with a State may be made applicable (either in the original agreement or by any modification thereof) to service performed by employees in positions covered by a retirement system (including positions specified in paragraph (4) of this subsection but not including positions excluded by or pursuant to paragraph (5)), if the governor of the State, or an official of the State designated by him for the purpose, certifies to the Secretary of Health, Education, and Welfare that the following conditions have been met:

(A) A referendum by secret written ballot was held on the question of whether service in positions covered by such retirement system should be excluded from or included under an agreement under this section;

(B) An opportunity to vote in such referendum was given (and was limited) to eligible employees;

(C) Not less than ninety days' notice of such referendum was given to all such employees;

(D) Such referendum was conducted under the supervision of the governor or an agency or individual designated by him; and

(E) A majority of the eligible employees voted in favor of including service in such positions under an agreement under this section.

An employee shall be deemed an "eligible employee" for purposes of any referendum with respect to any retirement system if, at the time such referendum was held, he was in a position covered by such retirement system and was a member of such system and if he was in such a position at the time notice of such referendum was given as required by clause (C) of the preceding sentence; except that he shall not be deemed an "eligible employee" if, at the time the referendum was held, he was in a position to which the State agreement already applied, or if he was in a position excluded by or pursuant to paragraph (5). No referendum with respect to a retirement system shall be valid for purposes of this paragraph unless held within the two-year period which ends on the date of execution of the agreement or modification which extends the insurance system established by this subchapter to such retirement system, nor shall any referendum with respect to a retirement system be valid for purposes of this paragraph if held less than one year after the last previous referendum held with respect to such retirement system.

(4) For the purposes of subsection (c) of this section, the following employees shall be deemed to be a separate coverage group—

(A) all employees in positions which were covered by the same retirement system on the date the agreement was made applicable to such system

(other than employees to whose services the agreement already applied on such date):

(B) all employees in positions which became covered by such system at any time after such date; and

(C) all employees in positions which were covered by such system at any time before such date and to whose services the insurance system established by this subchapter has not been extended before such date because the positions were covered by such retirement system (including employees to whose services the agreement was not applicable on such date because such services were excluded pursuant to subsection (c) (3) (C) of this section).

(5) (A) Nothing in paragraph (3) of this subsection shall authorize the extension of the insurance system established by this subchapter to service in any policeman's or fireman's position.

(B) At the request of the State, any class or classes of positions covered by a retirement system which may be excluded from the agreement pursuant to paragraph (3) or (5) of subsection (c) of this section, and to which the agreement does not already apply, may be excluded from the agreement at the time it is made applicable to such retirement system; except that, notwithstanding the provisions of paragraph (3) (C) of such subsection, such exclusion may not include any services to which such paragraph (3) (C) is applicable. In the case of any such exclusion, each such class so excluded shall, for purposes of this subsection, constitute a separate retirement system in case of any modification of the agreement thereafter agreed to.

(6) (A) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned. Where a retirement system covering positions of employees of a State and positions of employees of one or more political subdivisions of the State, or covering positions of employees of two or more political subdivisions of the State, is not divided into separate retirement systems pursuant to the preceding sentence or pursuant to subparagraph (C), then the State may, for purposes of subsection (f) of this section only, deem the system to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned.

(B) If a retirement system covers positions of employees of one or more institutions of higher learning, then, for purposes of such preceding para-

graphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of each such institution of higher learning. For the purposes of this subparagraph, the term "institutions of higher learning" includes junior colleges and teachers colleges. If a retirement system covers positions of employees of a hospital which is an integral part of a political subdivision, then, for purposes of the preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of such hospital.

(C) For the purposes of this subsection, any retirement system established by the State of California, Connecticut, Florida, Georgia, Massachusetts, Minnesota, Nevada, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, Wisconsin, or Hawaii, or any political subdivision of any such State, which, on, before, or after August 1, 1956, is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. If, in the case of a separate retirement system which is deemed to exist by reason of subparagraph (A) and which has been divided into two divisions or parts pursuant to the first sentence of this subparagraph, individuals become members of such system by reason of action taken by a political subdivision after coverage under an agreement under this section has been extended to the division or part thereof composed of positions of individuals who desire such coverage, the positions of such individuals who become members of such retirement system by reason of the action so taken shall be included in the division or part of such system composed of positions of members who do not desire such coverage if (i) such individuals, on the day before becoming such members, were in the division or part of another separate retirement system (deemed to exist by reason of subparagraph (A)) composed of positions of members of such system who do not desire coverage under an agreement under this section, and (ii) all of the positions in the separate retirement system of which such individuals so become members and all of the positions in the separate retirement system referred to in clause (i) would have been covered by a single retirement system if the State had not taken action to provide for separate retirement systems under this paragraph.

(D) The position of any individual which is covered by any retirement system to which subparagraph (C) is applicable shall, if such individual is ineligible to become a member of such system on August 1, 1956, or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions

of members of the division or part who do not desire coverage under the insurance system established under this subchapter.

(E) An individual who is in a position covered by a retirement system to which subparagraph (C) is applicable and who is not a member of such system but is eligible to become a member thereof shall, for purposes of this subsection (other than paragraph (8) of this subsection), be regarded as a member of such system; except that, in the case of any retirement system a division or part of which is covered under the agreement (either in the original agreement or by a modification thereof), which coverage is agreed to prior to 1960, the preceding provisions of this subparagraph shall apply only if the State so requests and any such individual referred to in such preceding provisions shall, if the State so requests, be treated, after division of the retirement system pursuant to such subparagraph (C), the same as individuals in positions referred to in subparagraph (F).

(F) In the case of any retirement system divided pursuant to subparagraph (C), the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of positions of members who desire such coverage if it is so provided in a modification of such agreement which is mailed, or delivered by other means, to the Secretary prior to 1963 or, if later, the expiration of two years after the date on which such agreement, or the modification thereof making the agreement applicable to such separate retirement system, as the case may be, is agreed to, but only if, prior to such modification or such later modification, as the case may be, the individual occupying such position files with the State a written request for such transfer. Notwithstanding subsection (f) (1) of this section, any such modification or later modification, providing for the transfer of additional positions within a retirement system previously divided pursuant to subparagraph (C) to the separate retirement system composed of positions of members who desire coverage, shall be effective with respect to services performed after the same effective date as that which was specified in the case of such previous division.

(G) For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or Hawaii which covers positions of employees of such State who are compensated in whole or in part from grants made to such State under subchapter III of this chapter, there shall be deemed to be, if such State so desires, a separate retirement system with respect to any of the following:

- (i) the positions of such employees;
- (ii) the positions of all employees of such State covered by such retirement system who are employed in the department of such State in which the employees referred to in clause (i) are employed; or
- (iii) employees of such State covered by such retirement system who are employed in such department of such State in positions others than those referred to in clause (i).

(7) The certification by the governor (or an official of the State designated by him for the purpose) required under paragraph (3) of this subsection shall be deemed to have been made, in the case of a division or part (created under subparagraph (C) of paragraph (6) of this subsection or the corresponding provision of prior law) consisting of the positions of members of a retirement system who desire coverage under the agreement under this section, if the governor (or the official so designated) certifies to the Secretary of Health, Education, and Welfare that—

(A) an opportunity to vote by written ballot on the question of whether they wish to be covered under an agreement under this section was given to all individuals who were members of such system at the time the vote was held;

(B) not less than ninety days' notice of such vote was given to all individuals who were members of such system on the date the notice was issued;

(C) the vote was conducted under the supervision of the governor or an agency or individual designated by him; and

(D) such system was divided into two parts or divisions in accordance with the provisions of subparagraphs (C) and (D) of paragraph (6) of this subsection or the corresponding provision of prior law.

For purposes of this paragraph, an individual in a position to which the State agreement already applied or in a position excluded by or pursuant to paragraph (5) of this subsection shall not be considered a member of the retirement system.

(8) (A) Notwithstanding paragraph (1) of this subsection, if under the provisions of this subsection an agreement is, after December 31, 1958, made applicable to service performed in positions covered by a retirement system, service performed by an individual in a position covered by such a system may not be excluded from the agreement because such position is also covered under another retirement system.

(B) Subparagraph (A) shall not apply to service performed by an individual in a position covered under a retirement system if such individual, on the day the agreement is made applicable to service performed in positions covered by such retirement system, is not a member of such system and is a member of another system.

(C) If an agreement is made applicable, prior to 1959, to service in positions covered by any retirement system, the preceding provisions of this paragraph shall be applicable in the case of such system if the agreement is modified to so provide.

(D) Except in the case of agreements with the States named in subsection (p) of this section and agreements with interstate instrumentalities, nothing in this paragraph shall authorize the application of an agreement to service in any policeman's or fireman's position.

(e) Payments and reports by States; limitation on States' liability for contributions.

(1) Each agreement under this section shall provide—

(A) that the State will pay to the Secretary of the Treasury, at such time or times as the Secretary of Health, Education, and Welfare may be regulations prescribe, amounts equivalent to the sum of the taxes which would be imposed by sections 1400 and 1410 of Title 26 if the services of employees covered by the agreement constituted employment as defined in section 1426 of Title 26; and

(B) that the State will comply with such regulations relating to payments and reports as the Secretary of Health, Education, and Welfare may prescribe to carry out the purposes of this section. (2) Where—

(A) an individual in any calendar year performs services to which an agreement under this section is applicable (i) as the employee of two or more political subdivisions of a State or (ii) as the employee of a State and one or more political subdivisions of such State; and

(B) such State provides all of the funds for the payment of those amounts referred to in paragraph (1) (A) of this subsection which are equivalent to the taxes imposed by section 3111 of Title 26 with respect to wages paid to such individual for such services; and

(C) the political subdivision or subdivisions involved do not reimburse such State for the payment of such amounts or, in the case of services described in subparagraph (A) (ii), for the payment of so much of such amounts as is attributable to employment by such subdivision or subdivisions;

then, notwithstanding paragraph (1) of this subsection, the agreement under this section with such State may provide (either in the original agreement or by a modification thereof) that the amounts referred to in paragraph (1) (A) of this subsection may be computed as though the wages paid to such individual for the services referred to in clause (A) of this paragraph were paid by one political subdivision for services performed in its employ; but the provisions of this paragraph shall be applicable only where such State complies with such regulations as the Secretary may prescribe to carry out the purposes of this paragraph. The preceding sentence shall be applicable with respect to wages paid after an effective date specified in such agreement or modification, but in no event with respect to wages paid before (i) January 1, 1957, in the case of an agreement or modification which is mailed or delivered by other means to the Secretary before January 1, 1962, or (ii) the first day of the year in which the agreement or modification is mailed or delivered by other means to the Secretary, in the case of an agreement or modification which is so mailed or delivered on or after January 1, 1962.

(f) Effective date of agreement; retroactive coverage.

(1) Except as provided in subsection (e) (2), any agreement or modification of an agreement under this section shall be effective with respect to services performed after an effective date specified in such agreement or modification; except that such date may not be earlier than the last day of the sixth calendar year preceding the year in which

such agreement or modification, as the case may be, is agreed to by the Secretary and the State.

(2) In the case of service performed by members of any coverage group—

(A) to which an agreement under this section is made applicable, and

(B) with respect to which the agreement, or modification thereof making the agreement so applicable, specifies an effective date earlier than the date of execution of such agreement and such modification, respectively, the agreement shall, if so requested by the State, be applicable to such services (to the extent the agreement was not already applicable) performed before such date of execution and after such effective date by any individual as a member of such coverage group if he is such a member on a date, specified by the State, which is earlier than such date of execution, except that in no case may the date so specified be earlier than the date such agreement or such modification, as the case may be, is mailed, or delivered by other means, to the Secretary.

(g) Termination of agreement.

(1) Upon giving at least two years' advance notice in writing to the Secretary of Health, Education, and Welfare, a State may terminate, effective at the end of a calendar quarter specified in the notice, its agreement with the Secretary of Health, Education, and Welfare either—

(A) in its entirety, but only if the agreement has been in effect from its effective date for not less than five years prior to the receipt of such notice; or

(B) with respect to any coverage group designated by the State, but only if the agreement has been in effect with respect to such coverage group for not less than five years prior to the receipt of such notice.

(2) If the Secretary of Health, Education, and Welfare, after reasonable notice and opportunity for hearing to a State with whom he has entered into an agreement pursuant to this section, finds that the State has failed or is no longer legally able to comply substantially with any provision of such agreement or of this section, he shall notify such State that the agreement will be terminated in its entirety, or with respect to any one or more coverage groups designated by him, at such time, not later than two years from the date of such notice, as he deems appropriate, unless prior to such time he finds that there no longer is any such failure or that the cause for such legal inability has been removed.

(3) If any agreement entered into under this section is terminated in its entirety, the Secretary of Health, Education, and Welfare and the State may not again enter into an agreement pursuant to this section. If any such agreement is terminated with respect to any coverage group, the Secretary of Health, Education, and Welfare and the State may not thereafter modify such agreement so as to again make the agreement applicable with respect to such coverage group.

(h) Deposits in trust fund; adjustments.

(1) All amounts received by the Secretary of the Treasury under an agreement made pursuant to this section shall be deposited in the Trust Funds in the

ratio in which amounts are appropriated to such Funds pursuant to subsections (a) (3) and (b) (1) of section 401 of this title.

(2) If more or less than the correct amount due under an agreement made pursuant to this section is paid with respect to any payment of remuneration, proper adjustments with respect to the amounts due under such agreement shall be made, without interest, in such manner and at such times as may be prescribed by regulations of the Secretary of Health, Education, and Welfare.

(3) If an overpayment cannot be adjusted under paragraph (2) of this subsection, the amount thereof and the time or times it is to be paid shall be certified by the Secretary of Health, Education, and Welfare to the Managing Trustee, and the Managing Trustee, through the Fiscal Service of the Treasury Department and prior to any action thereon by the General Accounting Office, shall make payment in accordance with such certification. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Secretary of Health, Education, and Welfare.

(i) Regulations.

Regulations of the Secretary of Health, Education, and Welfare to carry out the purposes of this section shall be designed to make the requirements imposed on States pursuant to this section the same, so far as practicable, as those imposed on employers pursuant to this subchapter and subchapter A or E of chapter 9 of Title 26.

(j) Failure to make payments.

In case any State does not make, at the time or times due, the payments provided for under an agreement pursuant to this section, there shall be added, as part of the amounts due, interest at the rate of 6 per centum per annum from the date due until paid, and the Secretary of Health, Education, and Welfare may, in his discretion, deduct such amounts plus interest from any amounts certified by him to the Secretary of the Treasury for payment to such State under any other provision of this chapter. Amounts so deducted shall be deemed to have been paid to the State under such other provision of this chapter. Amounts equal to the amounts deducted under this subsection are appropriated to the Trust Funds in the ratio in which amounts are deposited in such Funds pursuant to subsection (h) (1) of this section.

(k) Instrumentalities of two or more States.

(1) The Secretary of Health, Education, and Welfare may, at the request of any instrumentality of two or more States, enter into an agreement with such instrumentality for the purpose of extending the insurance system established by this subchapter to services performed by individuals as employees of such instrumentality. Such agreement, to the extent practicable, shall be governed by the provisions of this section applicable in the case of an agreement with a State.

(2) In the case of any instrumentality of two or more States, if—

(A) employees of such instrumentality are in positions covered by a retirement system of such

instrumentality or of any of such States or any of the political subdivisions thereof, and

(B) such retirement system is (on, before, or after August 30, 1957) divided into two divisions or parts, one of which is composed of positions of members of such system who are employees of such instrumentality and who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who are employees of such instrumentality and who do not desire such coverage, and

(C) it is provided that there shall be included in such division or part composed of the positions of members desiring such coverage the positions of employees of such instrumentality who become members of such system after such coverage is extended,

then such retirement system shall, if such instrumentality so desires, be deemed to be a separate retirement system with respect to each such division or part. An individual who is in a position covered by a retirement system divided pursuant to the preceding sentence and who is not a member of such system but is eligible to become a member thereof shall, for purposes of this subsection, be regarded as a member of such system. Coverage under the agreement of any such individual shall be provided under the same conditions, to the extent practicable, as are applicable in the case of the States to which the provisions of subsection (d) (6) (C) of this section apply. The position of any employee of any such instrumentality which is covered by any retirement system to which the first sentence of this paragraph is applicable shall, if such individual is ineligible to become a member of such system on August 30, 1957, or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this subchapter. Services in positions covered by a separate retirement system created pursuant to this subsection (and consisting of the positions of members who desire coverage under an agreement under this section) shall be covered under such agreement on compliance, to the extent practicable, with the same conditions as are applicable to coverage under an agreement under this section of services in positions covered by a separate retirement system created pursuant to subparagraph (C) of subsection (d) (6) of this section or the corresponding provision of prior law (and consisting of the positions of members who desire coverage under such agreement).

(3) Any agreement with any instrumentality of two or more States entered into pursuant to this chapter may, notwithstanding the provisions of subsection (d) (5) (A) of this section and the references thereto in subsections (d) (1) and (d) (3) of this section, apply to service performed by employees of such instrumentality in any policeman's or fireman's position covered by a retirement system, but only upon compliance, to the extent practicable, with the requirements of subsection (d) (3) of this section. For the purpose of the preceding sentence, a retire-

ment system which covers positions of policemen or firemen or both, and other positions shall, if the instrumentality concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

(l) Delegation of functions.

The Secretary of Health, Education, and Welfare is authorized, pursuant to agreement with the head of any Federal agency, to delegate any of his functions under this section to any officer or employee of such agency and otherwise to utilize the services and facilities of such agency in carrying out such functions, and payment therefor shall be in advance or by way of reimbursement, as may be provided in such agreement.

(m) Wisconsin retirement fund.

(1) Notwithstanding paragraph (1) of subsection (d) of this section, the agreement with the State of Wisconsin may, subject to the provisions of this subsection, be modified so as to apply to service performed by employees in positions covered by the Wisconsin retirement fund.

(2) All employees in positions covered by the Wisconsin retirement fund at any time on or after January 1, 1951, shall, for the purposes of subsection (c) only, be deemed to be a separate coverage group; except that there shall be excluded from such separate coverage group all employees in positions to which the agreement applies without regard to this subsection.

(3) The modification pursuant to this subsection shall exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) service performed by any individual during any period before he is included under the Wisconsin retirement fund.

(4) The modification pursuant to this subsection shall, if the State of Wisconsin requests it, exclude (in the case of employees in the coverage group established by paragraph (2) of this subsection) all service performed in policemen's positions, all service performed in firemen's positions, or both.

(n) Certain positions no longer covered by retirement systems.

Notwithstanding subsection (d) of this section, an agreement with any State entered into under this section prior to September 1, 1954 may, prior to January 1, 1958, be modified pursuant to subsection (c) (4) of this section so as to apply to services performed by employees, as members of any coverage group to which such agreement already applies (and to which such agreement applied on September 1, 1954), in positions (1) to which such agreement does not already apply, (2) which were covered by a retirement system on the date such agreement was made applicable to such coverage group, and (3) which, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to September 1, 1954, are no longer covered by a retirement system on the date such agreement is made applicable to such services.

(o) Certain employees of the State of Utah.

Notwithstanding the provisions of subsection (d) of this section, the agreement with the State of

Utah entered into pursuant to this section may be modified pursuant to subsection (c) (4) of this section so as to apply to services performed for any of the following, the employees performing services for each of which shall constitute a separate coverage group: Weber Junior College, Carbon Junior College, Dixie Junior College, Central Utah Vocational School, Salt Lake Area Vocational School, Center for the Adult Blind, Union High School (Roosevelt, Utah), Utah High School Activities Association, State Industrial School, State Training School, State Board of Education, and Utah School Employees Retirement Board. Any modification agreed to prior to January 1, 1955, may be made effective with respect to services performed by employees as members of any of such coverage groups after an effective date specified therein, except that in no case may any such date be earlier than December 31, 1950.

(p) Policemen and firemen in certain States.

Any agreement with the State of Alabama, California, Florida, Georgia, Hawaii, Kansas, Maine, Maryland, New York, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, or Washington entered into pursuant to this section prior to August 1, 1956, may, notwithstanding the provisions of subsection (d) (5) (A) of this section and the references thereto in subsection (d) (1) and (d) (3) of this section, be modified pursuant to subsection (c) (4) of this section to apply to service performed by employees of such State or any political subdivision thereof in any policeman's or fireman's position covered by a retirement system in effect on or after August 1, 1956, but only upon compliance with the requirements of subsection (d) (3) of this section. For the purposes of the preceding sentence, a retirement system which covers positions of policemen or firemen, or both, and other positions shall, if the State concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

(q) Time limitation on assessments.

(1) Where a State is liable for an amount due under an agreement pursuant to this section, such State shall remain so liable until the Secretary is satisfied that the amount due has been paid to the Secretary of the Treasury.

(2) Notwithstanding paragraph (1) of this subsection, a State shall not be liable for an amount due under an agreement pursuant to this section, with respect to the wages paid to individuals, after the expiration of the latest of the following periods—

(A) three years, three months, and fifteen days after the year in which such wages were paid, or

(B) three years after the date on which such amount became due, or

(C) three years, three months, and fifteen days after the year following the year in which this subsection is enacted,

unless prior to the expiration of such period the Secretary makes an assessment of the amount due.

(3) For purposes of this subsection and section 405(c) of this title, an assessment of an amount

due is made when the Secretary mails or otherwise delivers to the State a notice stating the amount he has determined to be due under an agreement pursuant to this section and the basis for such determination.

(4) An assessment of an amount due made by the Secretary after the expiration of the period specified in paragraph (2) of this subsection shall nevertheless be deemed to have been made within such period if—

(A) before the expiration of such period (or, if it has previously been extended under this paragraph, of such period as so extended), the State and the Secretary agree in writing to an extension of such period (or extended period) and, subject to such conditions as may be agreed upon, the Secretary makes the assessment prior to the expiration of such extension; or

(B) within the 365 days immediately preceding the expiration of such period (or extended period) the State pays to the Secretary of the Treasury less than the correct amount due under an agreement pursuant to this section with respect to wages paid to individuals in any calendar quarters as members of a coverage group, and the Secretary of Health, Education, and Welfare makes the assessment, adjusted to take into account the amount paid by the State, no later than the 365th day after the day the State made payment to the Secretary of the Treasury; but the Secretary of Health, Education, and Welfare shall make such assessment only with respect to the wages paid to such individuals in such calendar quarters as members of such coverage group; or

(C) pursuant to subparagraph (A) or (B) of section 405(c) (5) of this title he includes in his records an entry with respect to wages for an individual, but only if such assessment is limited to the amount due with respect to such wages and is made within the period such entry could be made in such records under such subparagraph.

(5) If the Secretary allows a claim for a credit or refund of an overpayment by a State under an agreement pursuant to this section, with respect to wages paid or alleged to have been paid to an individual in a calendar year for services as a member of a coverage group, and if as a result of the facts on which such allowance is based there is an amount due from the State, with respect to wages paid to such individual in such calendar year for services performed as a member of a coverage group, for which amount the State is not liable by reason of paragraph (2) of this subsection, then notwithstanding paragraph (2) of this subsection the State shall be liable for such amount due if the Secretary makes an assessment of such amount due at the time of or prior to notification to the State of the allowance of such claim. For purposes of this paragraph and paragraph (6) of this subsection, interest as provided for in subsection (j) of this section shall not be included in determining the amount due.

(6) The Secretary shall accept wage reports filed by a State under an agreement pursuant to this section or regulations of the Secretary thereunder,

after the expiration of the period specified in paragraph (2) of this subsection or such period as extended pursuant to paragraph (4) of this subsection, with respect to wages which are paid to individuals performing services as employees in a coverage group included in the agreement and for payment in connection with which the State is not liable by reason of paragraph (2) of this subsection, only if the State—

(A) pays to the Secretary of the Treasury the amount due under such agreement with respect to such wages, and

(B) agrees in writing with the Secretary of Health, Education, and Welfare to an extension of the period specified in paragraph (2) of this subsection with respect to wages paid to all individuals performing services as employees in such coverage group in the calendar quarters designated by the State in such wage reports as the periods in which such wages were paid. If the State so agrees, the period specified in paragraph (2) of this subsection, or such period as extended pursuant to paragraph (4) of this subsection, shall be extended until such time as the Secretary notifies the State that such wage reports have been accepted.

(7) Notwithstanding the preceding provisions of this subsection, where there is an amount due by a State under an agreement pursuant to this section and there has been a fraudulent attempt on the part of an officer or employee of the State or any political subdivision thereof to defeat or evade payment of such amount due, the State shall be liable for such amount due without regard to the provisions of paragraph (2) of this subsection, and the Secretary may make an assessment of such amount due at any time.

(r) Time limitation on credits and refunds.

(1) No credit or refund of an overpayment by a State under an agreement pursuant to this section with respect to wages paid or alleged to have been paid to an individual as a member of a coverage group in a calendar quarter shall be allowed after the expiration of the latest of the following periods—

(A) three years, three months, and fifteen days after the year in which occurred the calendar quarter in which such wages were paid or alleged to have been paid, or

(B) three years after the date the payment which included such overpayment became due under such agreement with respect to the wages paid or alleged to have been paid to such individual as a member of such coverage group in such calendar quarter, or

(C) two years after such overpayment was made to the Secretary of the Treasury, or

(D) three years, three months, and fifteen days after the year following the year in which this subsection is enacted,

unless prior to the expiration of such period a claim for such credit or refund is filed with the Secretary of Health, Education, and Welfare by the State.

(2) A claim for a credit or refund filed by a State after the expiration of the period specified by para-

graph (1) of this subsection shall nevertheless be deemed to have been filed within such period if—

(A) before the expiration of such period (or, if it has previously been extended under this subparagraph, of such period as so extended) the State and the Secretary agree in writing to an extension of such period (or extended period) and the claim is filed with the Secretary by the State prior to the expiration of such extension; but any claim for a credit or refund valid because of this subparagraph shall be allowed only to the extent authorized by the conditions provided for in the agreement for such extension, or

(B) the Secretary delegates from his records an entry with respect to wages of an individual pursuant to the provisions of subparagraph (A), (B), or (E) of section 405(c)(5) of this title, but only with respect to the entry so deleted.

(s) Review by Secretary.

Where the Secretary has made an assessment of an amount due by a State under an agreement pursuant to this section, disallowed a State's claim for a credit or refund of an overpayment under such agreement, or allowed a State a credit or refund of an overpayment under such agreement, he shall review such assessment, disallowance, or allowance if a written request for such review is filed with him by the State within 90 days (or within such further time as he may allow) after notification to the State of such assessment, disallowance, or allowance. On the basis of the evidence obtained by or submitted to the Secretary, he shall render a decision affirming, modifying, or reversing such assessment, disallowance, or allowance. In notifying the State of his decision, the Secretary shall state the basis therefor.

(t) Judicial review.

(1) Notwithstanding any other provision of this subchapter any State, irrespective of the amount in controversy, may file, within two years after the mailing to such State of the notice of any decision by the Secretary pursuant to subsection (s) of this section affecting such State, or within such further time as the Secretary may allow, a civil action for a redetermination of the correctness of the assessment of the amount due, the disallowance of the claim for a refund or credit, or the allowance of the refund or credit, as the case may be, with respect to which the Secretary has rendered such decision. Such action shall be brought in the district court of the United States for the judicial district in which is located the capital of such State, or, if such action is brought by an instrumentality of two or more States, the principal office of such instrumentality. The judgment of the court shall be final, except that it shall be subject to review in the same manner as judgments of such court in other civil actions. Any action filed under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(2) Notwithstanding the provisions of section 2411 of Title 28, no interest shall accrue to a State after final judgment with respect to a credit or refund of an overpayment made under an agreement pursuant to this section.

(3) The first sentence of section 2414 of Title 28 shall not apply to final judgments rendered by district courts of the United States in civil actions filed under this subsection. In such cases, the payment of amounts due to States pursuant to such final judgments shall be adjusted in accordance with the provisions of this section and with regulations promulgated by the Secretary. (Aug. 14, 1935, ch. 531, title II, § 218, as added Aug. 28, 1950, ch. 809, title I, § 106, 64 Stat. 514, and amended June 28, 1952, ch. 483, 66 Stat. 285; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 15, 1953, ch. 504, § 1, 67 Stat. 587; Sept. 1, 1954, ch. 1206, title I, § 101 (a) (6), (h) (1)—(8), (i) (1), (2), (j), 68 Stat. 1055, 1059; Aug. 1, 1956, ch. 836, title I, §§ 103 (f), (g), 104 (e), (g), 70 Stat. 823, 825, 826; Aug. 30, 1957, Pub. L. 85-226, §§ 1-3, 71 Stat. 511, 512; Aug. 30, 1957, Pub. L. 85-227, § 1, 71 Stat. 512; Aug. 30, 1957, Pub. L. 85-229, 71 Stat. 513; Aug. 27, 1958, Pub. L. 85-787, §§ 1, 2, 72 Stat. 939; Aug. 28, 1958, Pub. L. 85-798, §§ 2, 3, 72 Stat. 964, 965; Aug. 28, 1958, Pub. L. 85-840, title III, § 315 (a), (b), (c) (1), 72 Stat. 1038-1040; Sept. 16, 1959, Pub. L. 86-284, § 2, 73 Stat. 566; July 12, 1960, Pub. L. 86-624, § 30 (e), (f), 74 Stat. 420; Sept. 13, 1960, Pub. L. 86-778, title I, §§ 102 (a), (b) (1), (c) (1), (2), (d), (e), (f) (1), (g), (l), 103(i), (j) (2) (G), 74 Stat. 928-930, 934, 936-938; June 30, 1961, Pub. L. 87-64, title I, §§ 106, 107, 75 Stat. 139, 140; Oct. 24, 1962, Pub. L. 87-878, § 2, 76 Stat. 1202; July 2, 1964, Pub. L. 88-350, § 2, 78 Stat. 240; July 23, 1964, Pub. L. 88-382, 78 Stat. 335.)

REFERENCES IN TEXT

Section 42 of Title 32, referred to in subsec. (b) (5), was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641 and is now covered by section 709 of Title 32, National Guard.

Sections 1400, 1410, and 1426 of Title 26, referred to in subsec. (e) (1), which was a reference to sections 1400, 1410, and 1426 of the Internal Revenue Code, 1939, were repealed by section 7851 of Title 26, I. R. C. 1954, and are now covered by sections 3101, 3111, 3121, and 7701 (a) (1), respectively, of said Title 26.

"Subchapter A or E of chapter 9 of Title 26", referred to in subsec. (1), was a reference to subchapters A and E of chapter 9 of the Internal Revenue Code, 1939, which were repealed by section 7851 of Title 26, I. R. C. 1954, and are now covered by sections 3101 et seq. and 6651 (a) and 3504, respectively, of said Title 26.

For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

The year following the year in which this subsection is enacted, referred to in subssecs. (q) (2) (C) and (r) (1) (D), means the year following Sept. 13, 1960, which is the date of enactment of subssecs. (q) and (r) of this section.

AMENDMENTS

1964—Subsec. (d) (6) (C). Pub. L. 88-382 included retirement systems established by Nevada.

Subsec. (p). Pub. L. 88-350 inserted Texas.

1962—Subsec. (p). Pub. L. 87-878 included the State of Maine.

1961—Subsec. (d) (6) (C). Pub. L. 87-64, § 107, included retirement system established by the State of New Mexico.

Subsec. (d) (6) (F). Pub. L. 87-64, § 106, substituted "prior to 1963 or, if later, the expiration of two years after the date" for "prior to 1960 or, if later the expiration of one year after the date", and inserted sentence providing that any such modification or later modification, providing for the transfer of additional positions within a retirement system previously divided pursuant

to subpar. (C) to the separate retirement system composed of positions of members who desire coverage, shall be effective with respect to services performed after the same effective date as that which was specified in the case of such previous division.

1960—Subsec. (b) (1). Pub. L. 86-778, § 103(i), excluded Guam and American Samoa from the definition of the term "State."

Subsec. (c) (6) (C). Pub. L. 86-778, § 103(j) (2) (G), substituted "section 410(k)" for "section 410(l)."

Subsec. (d) (3). Pub. L. 86-778, § 102(a) (1), authorized certification by an official of the State designated by the Governor for that purpose.

Subsec. (d) (6). Pub. L. 86-624, § 30(e), substituted "Hawaii" for "the Territory of Hawaii" in cl. (C) and (G), and eliminated words "or Territory" which followed "State" in two instances in cl. (C) and in seven instances in cl. (G).

Subsec. (d) (6) (A). Pub. L. 86-778, § 102(c) (2), authorized a State, where a retirement system covering positions of employees of a State and positions of employees of one or more political subdivisions of the State, or covering positions of employees of two or more political subdivisions of the State, is not divided into separate retirement systems, to deem the system, for purposes of subsec. (f) of this section, to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or any one or more of the political subdivisions concerned.

Subsec. (d) (6) (B). Pub. L. 86-778, § 102(g), inserted sentences providing that if a retirement system covers positions of employees of a hospital which is an integral part of a political subdivision, then, for purposes of the preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of such hospital.

Subsec. (d) (6) (C). Pub. L. 86-778, § 102(b) (1), (l) inserted sentence requiring the positions of individuals, who become members of a separate retirement system which has been divided into two divisions or parts by reason of action taken by a political subdivision after coverage under an agreement under this section has been extended to the division or part thereof composed of positions of individuals who desire such coverage, to be included in the division or part of such system composed of positions of members who do not desire such coverage if such individuals, on the day before becoming such members, were in the division or part of another separate retirement system composed of positions of members who do not desire coverage under an agreement and all of the positions in the system of which such individuals so become members and all of the positions in the separate retirement system would have been covered by a single retirement system if the State had not taken action to provide for separate retirement systems, and included retirement systems established by the State of Texas.

Subsec. (d) (7). Pub. L. 86-778, § 102(a) (2), included certifications made by an official of the State designated by the Governor for that purpose.

Subsec. (e). Pub. L. 86-778, § 102(e) (1), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), and added par. (2).

Subsec. (f) (1). Pub. L. 86-778, § 102 (c) (1), (e) (2), inserted the exception to subsection (e) (2) of this section, and substituted provisions restricting the effective date of any agreement of modification to a date not earlier than the last day of the sixth calendar year preceding the year in which such agreement or modification is agreed to by the Secretary and the State for provisions which specified the effective date of agreements or modifications entered into prior to 1960 and which limited the effective date of agreements or modifications entered into after 1959 to a date not earlier than the last day of the calendar year preceding the year in which such agreement or modification is agreed to by the Secretary and the State.

Subsec. (p). Pub. L. 86-778, § 102(d), included the State of Virginia.

Pub. L. 86-624, § 30(f), substituted "Hawaii" for "Territory of Hawaii."

Subsecs. (q)—(t). Pub. L. 86-778, § 102(f)(1), added subsecs. (q)—(t).

1959—Subsec. (p). Pub. L. 86-284 included California, Kansas, North Dakota, and Vermont.

1958—Subsec. (d)(6). Pub. L. 85-840, § 315(a)(1), designated the first sentence as subpar. (A), the second and third sentences as subpar. (B), the fourth sentence as subpar. (C), the fifth sentence as subpar. (D), and the sixth sentence as subpar. (G), added subpars. (E) and (F), and amended subpar. (C) to include retirement systems established by the States of Massachusetts and Vermont.

Subsec. (d)(6). Pub. L. 85-787 added Massachusetts and Vermont to States authorized to divide their retirement systems into two parts, and added sentence permitting transfer, in cases of divided retirement system, of members not desiring coverage to system of members desiring coverage.

Subsec. (d)(7). Pub. L. 85-840, § 315(a)(2), substituted "(created under subparagraph (C) of paragraph (6) of this subsection or the corresponding provision of prior law)" for "(created under the fourth sentence of paragraph (6) of this subsection)", and "subparagraphs (C) and (D) of paragraph (6) of this subsection or the corresponding provision of prior law" for "the fourth and fifth sentences of paragraph (6) of this subsection".

Subsec. (d)(8). Pub. L. 85-840, § 315 (b), added subsec. (d)(8).

Subsec. (f). Pub. L. 85-840, § 315(c)(1), designated existing provisions thereof as par. (1), redesignated cl. (1)—(4) of par. (1) as cl. (A)—(D), and added par. (2).

Subsec. (k)(2). Pub. L. 85-840, § 315(a)(3), inserted provisions requiring an individual who is in a position covered by a retirement system divided pursuant to the first sentence of subsec. (k)(2) and who is not a member of such system but is eligible to become a member thereof to be regarded, for the purposes of this subsection, as a member of such system, and providing for coverage under the agreement of any such individual.

Subsec. (k)(3). Pub. L. 85-798, § 2, added subsec. (k)(3).

Subsec. (p). Pub. L. 85-798, § 3, included agreements with the State of Washington.

1957—Subsec. (d)(6). Pub. L. 85-227 authorized the States of California, Connecticut, Minnesota, and Rhode Island, or any political subdivisions thereof, to divide their retirement system into two divisions or parts.

Subsec. (d)(7). Pub. L. 85-229 added subsec. (d)(7).

Subsec. (f)(3). Pub. L. 85-226, § 3 added subsec. (f)(3). Former subsec. (f)(3) redesignated (f)(4).

Subsec. (f)(4). Pub. L. 85-226, § 3, redesignated former subsec. (f)(3) as (f)(4), and substituted "1959" for "1957".

Subsec. (k). Pub. L. 85-226, § 1 redesignated existing provisions as par. (1) and added par. (2).

Subsec. (p). Pub. L. 85-226, § 2, included agreements with the States of Alabama, Georgia, Maryland, New York, and Tennessee, or the Territory of Hawaii.

1956—Subsec. (d)(6). Act Aug. 1, 1956, § 104(e), authorized the State of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, or the Territory of Hawaii, or any political subdivision thereof, to divide their retirement system into two divisions or parts, and provided for a separate retirement system with respect to employees of the States of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or the Territory of Hawaii who are compensated in whole or in part from grants under subchapter III of this chapter.

Subsec. (h)(1). Act Aug. 1, 1956, § 103(f), required amounts to be deposited in the Trust Funds in the ratio in which amounts are appropriated to such Funds pursuant to section 401 (a) (3), (b)(1), of this title.

Subsec. (j). Act Aug. 1, 1956, § 103(g), substituted "Secretary of Health, Education, and Welfare" for "Administrator", and provided for appropriation of amounts in the ratio in which amounts are deposited in the Trust Funds pursuant to subsection (h) (1) of this section.

Subsec. (p). Act Aug. 1, 1956, § 104(g), added subsec. (p).

1954—Subsec. (b)(5). Act Sept. 1, 1954, § 101(i) (1), (2), added at the end a new sentence relating to civilian employees of State National Guard units and a new sen-

tence relating to certain State inspectors of agricultural products.

Subsec. (c)(3). Act Sept. 1, 1954, § 101(h)(3), added an additional optional exclusion with respect to all services performed by individuals as members of any coverage group who are in positions covered by a retirement system on the date when the group is brought under the agreement if these individuals are not eligible to become members of the system on that date, or on any later date when they first occupy the positions, and if they have not already been included under the agreement by means of a referendum.

Subsec. (c)(4). Act Sept. 1, 1954, § 101(h)(4), added a new sentence at the end.

Subsec. (c)(5). Act Sept. 1, 1954, § 101(a)(6), added at the end thereof the words "and service the remuneration for which is excluded from wages by paragraph (2) of section 209(h)."

Subsec. (c)(7). Act Sept. 1, 1954, § 101(h)(5), added subsec. (c)(7).

Subsec. (d). Act Sept. 1, 1954, § 101(h)(1)(A), struck out "Exclusion of" in the heading, redesignated the subsection as (d)(1), and added a new sentence at the end.

Subsec. (d)(1). Act Sept. 1, 1954, § 101(h)(1)(B), added a provision in the first sentence making the prohibition inapplicable to service in positions which though covered by a retirement system on the enactment date, were, by reason of action taken prior to the enactment date by the appropriate governmental unit, no longer covered by a retirement system when the coverage group which included employees in such positions was brought under an agreement.

Subsec. (d)(2)—(6). Act Sept. 1, 1954, § 101(h)(2), added subsec. (d)(2)—(6).

Subsec. (f). Act Sept. 1, 1954, § 101(h)(6), permitted agreements or modifications entered into during 1955, 1956, and 1957 to be made retroactive to a date not earlier than December 31, 1954.

Subsec. (m)(1). Act Sept. 1, 1954, § 101(h)(7), substituted "paragraph (1) of subsection (d)" for the words "subsection (d)."

Subsec. (n). Act Sept. 1, 1954, § 101(h)(8), added subsec. (n).

Subsec. (o). Act Sept. 1, 1954, § 101(j), added subsec. (i).

1953—Subsec. (m). Act Aug. 15, 1953, added subsec. (m).

1952—Subsec. (f). Act June 28, 1952, substituted "January 1, 1954" for "January 1, 1953."

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of section by Pub. L. 87-64 effective August 1, 1961, see section 109 of Pub. L. 87-64, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1960 AMENDMENTS

Amendments of subsec. (b)(1) of this section by Pub. L. 86-778 applicable only with respect to service performed after 1960, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of this title.

Amendment of subsec. (c)(6)(C) of this section by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of this title.

Section 102(b)(2) of Pub. L. 86-778 provided that: "The amendment made by paragraph (1) [to subsec. (d)(6)(C) of this section] shall apply in the case of transfers of positions (as described therein) which occur on or after the date of enactment of this Act [Sept. 13, 1960]. Such amendment shall also apply in the case of such transfers in any State which occurred prior to such date, but only upon request of the Governor (or other official designated by him for the purpose) filed with the Secretary of Health, Education, and Welfare before July 1, 1961; and, in the case of any such request, such amendment shall apply only with respect to wages paid on and after the date on which such request is filed."

Section 102(c)(3) of Pub. L. 86-778 provided that: "The amendment made by paragraph (1) [to subsec. (f)(1) of this section] shall apply in the case of any agreement or modification of an agreement under section 218 of the Social Security Act [this section] which is agreed to on or after January 1, 1960; except that in the case of any such agreement or modification agreed to

before January 1, 1961, the effective date specified therein shall not be earlier than December 31, 1955. The amendment made by paragraph (2) [to subsec. (d) (6) (A) of this section] shall apply in the case of any such agreement or modification which is agreed to on or after the date of the enactment of this Act [Sept. 13, 1960]."

Section 102(f) (3) of Pub. L. 86-778 provided that:

"(A) The amendments made by paragraphs (1) and (2) [adding subsecs. (q)—(t) of this section and amending subsec. (c) (5) (F) of section 405 of this title] shall become effective on the first day of the second calendar year following the year in which this Act is enacted [1960].

"(B) In any case in which the Secretary of Health, Education, and Welfare has notified a State prior to the beginning of such second calendar year that there is an amount due by such State, that such State's claim for a credit or refund of an overpayment is disallowed, or that such State has been allowed a credit or refund of an overpayment, under an agreement pursuant to section 218 of the Social Security Act [this section], then the Secretary shall be deemed to have made an assessment of such amount due as provided in section 218(q) of such Act [subsec. (q) of this section] or notified the State of such allowance or disallowance, as the case may be, on the first day of such second calendar year. In such a case the 90-day limitation in section 218(s) of such Act [subsec. (s) of this section] shall not be applicable with respect to the assessment so deemed to have been made or the notification of allowance or disallowance so deemed to have been given the State. However, the preceding sentences of this subparagraph shall not apply if the Secretary makes an assessment of such amount due or notifies the State of such allowance or disallowance on or after the first day of the second calendar year following the year in which this Act is enacted [1960] and within the period specified in section 218(q) of the Social Security Act [subsec. (q) of this section] or the period specified in section 218(r) of such Act [subsec. (r) of this section], as the case may be."

EFFECTIVE DATE OF 1958 AMENDMENT

Section 315 (c) (2) of Pub. L. 85-840 provided that: "The amendment made by this subsection [to subsec. (f) of this section] shall apply in the case of any agreement, or modification of an agreement, under section 218 of the Social Security Act [this section], which is executed after the date of enactment of this Act [August 28, 1958]."

EFFECTIVE DATE OF 1954 AMENDMENT

Section 101 (h) (9) of act Sept. 1, 1954, provided that the amendments to subsecs. (c), (d), (f), (m), and (n) by that subsection, except that made to subsec. (d) (1) by par. (1) (B), shall take effect January 1, 1955.

Section 101 (1) (1) of act Sept. 1, 1954, which added a new sentence, relating to civilian employees of State National Guard units, to subsec. (b) (5) provided that the amendment shall be effective as of January 1, 1951.

Section 101 (1) (2) of act Sept. 1, 1954, which added to subsec. (b) (5) provisions relating to certain State inspectors of agricultural products, provided in part that the amendment shall be effective as of January 1, 1955.

Section 101 (1) (3) of act Sept. 1, 1954, provided that: "In the case of any coverage group to which the amendment made by paragraph (1) [to subsec. (b) (5) of this section] is applicable, any agreement or modification of an agreement agreed to prior to January 1, 1956, may, notwithstanding section 218 (f) of the Social Security Act [subsec. (f) of this section], be made effective with respect to services performed by employees as members of such coverage group after any effective date specified therein, but in no case may such effective date be earlier than December 31, 1950."

Section 101 (j) of act Sept. 1, 1954, which added subsec. (o), provided in part that it shall be effective as of January 1, 1951.

Section 101 (n) of act Sept. 1, 1954, provided in part that the amendments to subsec. (c) (5) by section 101 (a) (6) of act Sept. 1, 1954, shall be applicable only with respect to services (whether performed after 1954 or prior to 1955) for which the remuneration is paid after 1954.

EFFECTIVE DATE OF 1953 AMENDMENT

Section 2 of act Aug. 15, 1953, provided that for the purposes of subsec. (f) of this section this amendment shall take effect January 1, 1951.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF CALIFORNIA PRIOR TO 1962

Section 102(k) of Pub. L. 86-778 provided that: "Notwithstanding any provision of section 218 of the Social Security Act [this section], the agreement with the State of California heretofore entered into pursuant to such section may at the option of such State be modified, at any time prior to 1962, pursuant to subsection (c) (4) of such section 218 [subsec. (c) (4) of this section], so as to apply to services performed by any individual who, on or after January 1, 1957, and on or before December 31, 1959, was employed by such State (or any political subdivision thereof) in any hospital employee's position which, on September 1, 1954, was covered by a retirement system, but which, prior to 1960, was removed from coverage by such retirement system if, prior to July 1, 1960, there have been paid in good faith to the Secretary of the Treasury, with respect to any of the services performed by such individual in any such position, amounts equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 [section 3101 and 3111 of title 26] if such services had constituted employment for purposes of chapter 21 of such Code [section 3101 et seq. of Title 26] at the time they were performed. Notwithstanding the provisions of subsection (f) of such section 218 [subsec. (f) of this section] such modification shall be effective with respect to (1) all services performed by such individual in any such position on or after January 1, 1960, and (2) all such services, performed before such date, with respect to which amounts equivalent to such taxes have, prior to the date of enactment of this subsection [Sept. 13, 1960], been paid."

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF MAINE PRIOR TO JULY 1, 1965

Section 316 of Pub. L. 85-840, as amended by Pub. L. 86-778, title I, § 102(j), Sept. 13, 1960, 74 Stat. 935; Pub. L. 88-350, § 1, July 2, 1964, 78 Stat. 240, provided that: "For the purposes of any modification which might be made after the date of enactment of this Act [August 28, 1958] and prior to July 1, 1965, by the State of Maine of its existing agreement made under section 218 of the Social Security Act [this section], any retirement system of such State which covers positions of teachers and positions of other employees shall, if such State so desires, be deemed (notwithstanding the provisions of subsection (d) of such section [subsec. (d) of this section]) to consist of a separate retirement system with respect to the positions of such teachers and a separate retirement system with respect to the positions of such other employees; and for the purposes of this sentence, the term 'teacher' shall mean any teacher, principal, supervisor, school nurse, school dietitian, school secretary or superintendent employed in any public school, including teachers in unorganized territory."

MODIFICATION OF AGREEMENT WITH STATE OF NEBRASKA FOR EXCLUSION OF SERVICES PERFORMED BY JUSTICES OF THE PEACE AND CONSTABLES

Section 102(i) of Pub. L. 86-778 provided that: "Notwithstanding any provision of section 218 of the Social Security Act [this section], the agreement with the State of Nebraska entered into pursuant to such section may, at the option of such State, be modified so as to exclude services performed within such State by individuals as justices of the peace or constables, if such individuals are compensated for such services on a fee basis."

Any modification of such agreement pursuant to this subsection shall be effective with respect to services performed after an effective date specified in such modification, except that such date shall not be earlier than the date of enactment of this Act [Sept. 13, 1960]."

MODIFICATION OF EXISTING AGREEMENT WITH STATE OF OKLAHOMA PRIOR TO 1962

Section 3 of Pub. L. 86-284 provided that: "Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act [subsec. (d)(5)(A) of this section] and the references thereto in subsections (d)(1) and (d)(3) of such section 218 [subsecs. (d)(1) and (d)(3) of this section], the agreement with the State of Oklahoma heretofore entered into pursuant to such section 218 [this section] may, at any time prior to 1962, be modified pursuant to subsection (c)(4) of such section 218 [subsec. (c)(4) of this section] so as to apply to services performed by any individual employed by such State (or any political subdivision thereof) in any policeman's position covered by a retirement system in effect on the date of enactment of this Act [Sept. 16, 1959] if (1) in the case of an individual performing such services on such date, such individual is ineligible to become a member of such retirement system, or, in the case of an individual who prior to such date has ceased to perform such services, such individual was, on the last day he did perform such services, ineligible to become a member of such retirement system, and (2) such State has, prior to 1959, paid to the Secretary of the Treasury, with respect to any of the services performed by such individual in any such position, the sums prescribed pursuant to subsection (e)(1) of such section 218 [subsec. (e)(1) of this section]. Notwithstanding the provisions of subsection (f) of such section 218 [subsec. (f) of this section], such modification shall be effective with respect to (1) all services performed by such individual in any such position on or after the date of enactment of this Act [Sept. 16, 1959], and (2) all such services, performed before such date, with respect to which such State has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e) of such section 218 [subsec. (e) of this section], at the time or times established pursuant to such subsection."

EFFECTIVE DATE OF MODIFICATION OF AGREEMENTS WITH CALIFORNIA, CONNECTICUT, MINNESOTA, OR RHODE ISLAND

Section 2 of Pub. L. 85-227 provided that: "Notwithstanding subsection (f) of section 218 of the Social Security Act [subsec. (f) of this section], any modification of the agreement with the State of California, Connecticut, Minnesota, or Rhode Island under such section which makes such agreement applicable to services performed in positions covered by a separate retirement system created pursuant to the fourth sentence of subsection (d)(6) of such section (and consisting of the positions of members who desire coverage under the agreement) may, if such modification is agreed to prior to 1960, be made effective with respect to services performed in such positions after an effective date specified in such modification, except that in no case may such date be earlier than December 31, 1955."

COVERAGE OF CERTAIN NONPROFESSIONAL SCHOOL DISTRICT EMPLOYEES

Section 104(f) of act Aug. 1, 1956, as amended by Pub. L. 86-284, § 1, provided that: "Notwithstanding the provisions of subsection (d) of section 218 of the Social Security Act [subsection (d) of this section], any agreement under such section entered into prior to the date of enactment of this Act [Aug. 1, 1956] by the State of Florida, Nevada, New Mexico, Minnesota, Oklahoma, Pennsylvania, Texas, Washington, or the Territory of Hawaii shall if the State or Territory concerned so requests, be modified prior to July 1, 1962, so as to apply to services performed by employees of the respective public school districts of such State or Territory who, on the date such agreement is made applicable to such services, are not in positions the incumbents of which are required by State or Territorial law or regulation to have valid State or Territorial teachers' or administrators' certificates in order to receive pay for their

services. The provisions of this subsection shall not apply to services of any such employees to which any such agreement applies without regard to this subsection."

ARIZONA TEACHERS' RETIREMENT SYSTEM

Section 101(k) of act Sept. 1, 1954, provided that: "If, prior to January 1, 1956, the agreement with the State of Arizona entered into pursuant to section 218 of the Social Security Act [this section] is modified pursuant to subsection (d)(3) of such section so as to apply to service performed by employees in positions covered by the Arizona Teachers' Retirement System the modification may, notwithstanding section 218(f) of the Social Security Act [subsec. (f) of this section], be made effective with respect to service performed in such positions after an effective date specified in the modification, but in no case may such effective date be earlier than December 31, 1950. For the purposes of any such modification, all employees in positions covered by the Arizona Teachers' Retirement System shall be deemed, notwithstanding the provisions of section 218(d)(6) of such Act [subsec. (d)(6) of this section], to constitute a separate coverage group."

VALIDATION OF COVERAGE FOR DISTRICT ENGINEERING AIDES OF SOIL AND WATER CONSERVATION DISTRICTS OF OKLAHOMA

Pub. L. 88-650, § 3, Oct. 13, 1964, 78 Stat. 1077, provided that: "For purposes of the agreement under section 218 of the Social Security Act [this section] entered into by the State of Oklahoma, remuneration paid to district engineering aides of soil and water conservation districts of the State of Oklahoma which was reported by the State as amounts paid to such aides as employees of the State for services performed by them during the period beginning January 1, 1951, and ending with the close of June 30, 1962, shall be deemed to have been paid to such aides for services performed by them in the employ of the State."

VALIDATION OF COVERAGE FOR CERTAIN EMPLOYEES OF AN INTEGRAL UNIT OF A POLITICAL SUBDIVISION OF ARKANSAS

Section 1 of Pub. L. 87-878 provided: "That, for purposes of the agreement under section 213 of the Social Security Act [this section] entered into by the State of Arkansas, where employees of an integral unit of a political subdivision of the State of Arkansas have in good faith been included under the State's agreement as a coverage group on the basis that such integral unit of a political subdivision was a political subdivision, then such unit of the political subdivision shall, for purposes of section 218(b)(2) of such Act [subsec. (b)(2) of this section], be deemed to be a political subdivision, and employees performing services within such unit shall be deemed to be a coverage group, effective with the effective date specified in such agreement or modification of such agreement with respect to such coverage group and ending with the last day of the year in which this Act is enacted [1962]."

VALIDATION OF COVERAGE FOR CERTAIN MISSISSIPPI TEACHERS

Section 102(h) of Pub. L. 86-778 provided that: "For purposes of the agreement under section 218 of the Social Security Act [this section] entered into by the State of Mississippi, services of teachers in such State performed after February 28, 1951, and prior to October 1, 1959, shall be deemed to have been performed by such teachers as employees of the State. The term 'teacher' as used in the preceding sentence means—

"(1) any individual who is licensed to serve in the capacity of teacher, librarian, registrar, supervisor, principal, or superintendent and who is principally engaged in the public elementary or secondary school system of the State in any one or more of such capacities;

"(2) any employee in the office of the county superintendent of education or the county school supervisor, or in the office of the principal of any county or municipal public elementary or secondary school in the State; and

"(3) any individual licensed to serve in the capacity of teacher who is engaged in any educational capacity in any day or night school conducted under the supervision of the State department of education as a part of the adult education program provided for under the

laws of Mississippi or under the laws of the United States."

PRESUMPTION OF WORK DEDUCTIONS IN CASE OF CERTAIN RETROACTIVE STATE AGREEMENTS

Section 101 (l) of act Sept. 1, 1954, provided that:

"(1) In the case of any services performed prior to 1955 to which an agreement under section 218 of the Social Security Act [this section] was made applicable, deductions which—

"(A) were not imposed under section 203 of such Act [section 403 of this title] with respect to such services performed prior to the date the agreement was agreed to or, if the original agreement was not applicable to such services, performed prior to the date the modification making such agreement applicable to such services was agreed to, and

"(B) would have been imposed under such section 203 [section 403 of this title] had such agreement, or modification, as the case may be, been agreed to on the date it became effective,

shall be deemed to have been imposed, but only for purposes of section 215 (f) (2) (A) [section 415 (f) (2) (A) or section 415 (f) (4) (A) of this title] or section 215 (f) (4) (A) of such Act [section 415 (f) (2) (A) or section 415 (f) (4) (A) of this title] as in effect prior to the enactment of this Act. An individual with respect to whose services the preceding sentence is applicable, or in the case of his death, his survivors entitled to monthly benefits under section 202 of the Social Security Act [section 402 of this title] on the basis of his wages and self-employment income, shall be entitled to a recomputation of his primary insurance amount under such section 215 (f) (2) (A) or section 215 (f) (4) (A) [section 415 (f) (2) (A) or section 415 (f) (4) (A) of this title], as the case may be, if the conditions specified therein are met and if, with respect to a recomputation under such section 215 (f) (2) (A) [section 415 (f) (2) (A) of this title], such individual files the application referred to in such section after August 1954 and prior to January 1956 or, with respect to a recomputation under such section 215 (f) (4) (A) [section 415 (f) (4) (A) of this title], such individual died prior to January 1956 and any of such survivors entitled to monthly benefits files an application, in addition to the application filed for such monthly benefits, for a recomputation under such section 215 (f) (4) (A) [section 415 (f) (4) (A) of this title].

"(2) For purposes of a recomputation made by reason of paragraph (1) of this subsection, the primary insurance amount of the individual who performed the services referred to in such paragraph shall be computed under subsection (a) (2) of section 215 of the Social Security Act, as amended by this Act [section 415 (a) (2) of this title] (but, for such purposes, without application of subsection (d) (4) of such section, as in effect prior to the enactment of this Act or as amended by this Act [section 415 (d) (4) of this title]) and as though he became entitled to old-age insurance benefits in whichever of the following months yields the highest primary insurance amount:

"(A) the month following the last month for which deductions are deemed, pursuant to paragraph (1) of this subsection, to have been made; or

"(B) the first month after the month determined under subparagraph (A) (and prior to September 1954) in which his benefits under section 202 (a) of the Social Security Act [section 402 (a) of this title] were no longer subject to deductions under section 203 (b) of such Act [section 403 (b) of this title]; or

"(C) the first month after the last month (and prior to September 1954) in which his benefits under section 202 (a) of the Social Security Act [section 402 (a) of this title] were subject to deductions under section 203 (b) of such Act [section 403 (b) of this title]; or

"(D) the month in which such individual filed his application for recomputation referred to in paragraph (1) of this subsection or, if he died without filing such application and prior to January 1, 1956, the month in which he died, and in any such case (but, if the individual is deceased, only if death occurred after August 1954) the amendments made by subsections (b) (1), (e) (1) and (e) (3) (B) of section 102 of this Act [to section 415 (b), (e), and (f) (3) of this title] shall be applicable.

Such recomputation shall be effective for and after the month in which the application required by paragraph (1) of this subsection is filed. The provisions of this subsection shall not be applicable in the case of any individual if his primary insurance amount has been recomputed under section 215 (f) (2) of the Social Security Act [section 415 (f) (2) of this title] on the basis of an application filed prior to September 1954.

"(3) If any recomputation under section 215 (f) of the Social Security Act [section 415 (f) of this title] is made by reason of deductions deemed pursuant to paragraph (1) of this subsection to have been imposed with respect to benefits based on the wages and self-employment income of any individual, the total of the benefits based on such wages and self-employment income for months for which such deductions are so deemed to have been imposed shall be recovered by making, in addition to any other deductions under section 203 of such Act [section 403 of this title], deductions from any increase in benefits, based on such wages and self-employment income, resulting from such recomputation."

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

§ 419. Repealed. Pub. L. 86-778, title 1, § 103(j)(1), Sept. 13, 1960, 74 Stat. 938.

Section, act Aug. 14, 1950, ch. 531, title II, § 219, as added Aug. 28, 1950, ch. 809, title I, § 107, 64 Stat. 517, prescribed the effective date of this subchapter in Puerto Rico as January 1 of the first calendar year which begins more than 90 days after the date on which the President received a certification from the Governor of Puerto Rico.

EFFECTIVE DATE OF REPEAL

Repeal of section by Pub. L. 86-778 effective on Sept. 13, 1960, see section 103(v) (1), (3) of Pub. L. 86-778, set out as a note under section 402 of this title.

§ 420. Disability provisions inapplicable if benefit rights impaired.

None of the provisions of this subchapter relating to periods of disability shall apply in any case in which their application would result in the denial of monthly benefits or a lump-sum death payment which would otherwise be payable under this subchapter; nor shall they apply in the case of any monthly benefit or lump-sum death payment under this subchapter if such benefit or payment would be greater without their application. (Aug. 14, 1935, ch. 531, title II, § 220, as added Sept. 1, 1954, ch. 1206, title I, § 106 (g), 68 Stat. 1081.)

CODIFICATION

Former section 420, act Aug. 14, 1935, ch. 531, title II, § 220, as added July 18, 1952, ch. 945, § 3 (e), 66 Stat. 772, relating to the inapplicability of the disability provisions if benefits were reduced, ceased to be in effect at the close of June 30, 1953. See termination date note under section 413 of this title.

§ 421. Disability determinations.

(a) State agencies.

In the case of any individual, the determination of whether or not he is under a disability (as defined in section 416 (i) or 423 (c) of this title) and of the day such disability began, and the determination of the day on which such disability ceases, shall, except as provided in subsection (g) of this section, be made by a State agency pursuant to an agreement entered into under subsection (b) of this section. Except as provided in subsections (c) and (d) of

this section, any such determination shall be the determination of the Secretary for purposes of this subchapter.

(b) Agreement between Secretary and State.

The Secretary shall enter into an agreement with each State which is willing to make such an agreement under which the State agency or agencies administering the State plan approved under the Vocational Rehabilitation Act, or any other appropriate State agency or agencies, or both, will make the determinations referred to in subsection (a) of this section with respect to all individuals in such State, or with respect to such class or classes of individuals in the State as may be designated in the agreement at the State's request.

(c) Review of determination by Secretary.

The Secretary may on his own motion review a determination, made by a State agency pursuant to an agreement under this section, that an individual is under a disability (as defined in section 416 (i) or 423 (c) of this title) and, as a result of such review, may determine that such individual is not under a disability (as so defined) or that such disability began on a day later than that determined by such agency, or that such disability ceased on a day earlier than that determined by such agency.

(d) Hearings and judicial review.

Any individual dissatisfied with any determination under subsection (a), (c), or (g) of this section shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 405 (b) of this title with respect to decisions of the Secretary, and to judicial review of the Secretary's final decision after such hearing as is provided in section 405 (g) of this title.

(e) State's right to cost from Trust Funds.

Each State which has an agreement with the Secretary under this section shall be entitled to receive from the Trust Funds, in advance or by way of reimbursement, as may be mutually agreed upon, the cost to the State of carrying out the agreement under this section. The Secretary shall from time to time certify such amount as is necessary for this purpose to the Managing Trustee, reduced or increased, as the case may be, by any sum (for which adjustment hereunder has not previously been made) by which the amount certified for any prior period was greater or less than the amount which should have been paid to the State under this subsection for such period; and the Managing Trustee, prior to audit or settlement by the General Accounting Office, shall make payment from the Trust Funds at the time or times fixed by the Secretary, in accordance with such certification. Appropriate adjustments between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund with respect to the payments made under this subsection shall be made in accordance with paragraph (1) of subsection (g) of section 401 of this title (but taking into account any refunds under subsection (f) of this section) to insure that the Federal Disability Trust Fund is charged with all expenses incurred which are attributable to the administration of section 423 of this title and the Fed-

eral Old-Age and Survivors Insurance Trust Fund is charged with all other expenses.

(f) Use of funds.

All money paid to a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned to the Treasury of the United States for deposit in the Trust Funds.

(g) Regulations governing determinations in certain cases.

In the case of individuals in a State which has no agreement under subsection (b) of this section, in the case of individuals outside the United States, and in the case of any class or classes of individuals not included in an agreement under subsection (b) of this section, the determinations referred to in subsection (a) of this section shall be made by the Secretary in accordance with regulations prescribed by him. (Aug. 14, 1935, ch. 531, title II, § 221, as added Sept. 1, 1954, ch. 1206, title I, § 106 (g), 68 Stat. 1081, and amended Aug. 1, 1956, ch. 836, title I, § 103 (c) (7), (8), (h), 70 Stat. 818, 823.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsection (b), is classified to chapter 4 of Title 29, Labor.

CODIFICATION

Former section 421, act Aug. 14, 1935, ch. 531, title II, § 221, as added July 18, 1952, ch. 945, § 3 (e), 66 Stat. 772, and amended by 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, relating to disability determinations, ceased to be in effect at the close of June 30, 1953. See termination date note under section 413 of this title.

AMENDMENTS

1956—Subsec. (a). Act Aug. 1, 1956, § 103(c) (7), inserted reference to section 423(c) of this title.

Subsec. (c). Act Aug. 1, 1956, § 103(c) (8), restricted disability to the definition of such term contained in section 416(i) or 423(c) of this title.

Subsec. (e). Act Aug. 1, 1956, § 103(h), substituted "Trust Funds" for "Trust Fund", and provided for adjustments between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund with respect to payments made under this subsection.

Subsec. (f). Act Aug. 1, 1956, § 103(h), substituted "Trust Funds" for "Trust Fund".

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, and section 114 of act Sept. 1, 1954 set out as notes under section 416 of this title.

TRAVEL EXPENSES FOR VERIFICATION OF DISABILITIES

Pub. L. 88-605, title II, § 200, Sept. 19, 1964, 78 Stat. 974, provided in part that: "Such amounts as are required shall be available to pay the cost of necessary travel incident to medical examinations for verifying disabilities of individuals who file applications for disability determinations under title II of the Social Security Act, as amended [this subchapter]."

Similar provisions were contained in acts Aug. 1, 1955, ch. 437, title II, § 201, 69 Stat. 408; June 29, 1956, ch. 477, title II, § 201, 70 Stat. 434; June 29, 1957, Pub. L. 85-67, title II, § 201, 71 Stat. 221; Aug. 1, 1958, Pub. L. 85-580, title II, § 201, 72 Stat. 471; Aug. 14, 1959, Pub. L. 86-158, title II, § 201, 73 Stat. 352; Sept. 2, 1960, Pub. L. 86-703, title II, § 201, 74 Stat. 769; Sept. 22, 1961, Pub. L. 87-290, title II, § 201, 75 Stat. 604; Aug. 14, 1962, Pub. L. 87-582, title II, § 200, 76 Stat. 375; Oct. 11, 1963, Pub. L. 88-136, title II, § 200, 77 Stat. 239.

§ 422. Rehabilitation services.

(a) Referral for rehabilitation services.

It is declared to be the policy of the Congress that disabled individuals applying for a determination of disability, and disabled individuals who are entitled to child's insurance benefits, shall be promptly referred to the State agency or agencies administering or supervising the administration of the State plan approved under the Vocational Rehabilitation Act for necessary vocational rehabilitation services, to the end that the maximum number of such individuals may be rehabilitated into productive activity.

(b) Deductions on account of refusal to accept rehabilitation services.

(1) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this subchapter to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under sections 402 and 423 of this title for any month in which such individual, if a child who has attained the age of eighteen and is entitled to child's insurance benefits or if an individual entitled to disability insurance benefits, refuses without good cause to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act. Any individual who is a member or adherent of any recognized church or religious sect which teaches its members or adherents to rely solely, in the treatment and cure of any physical or mental impairment, upon prayer or spiritual means through the application and use of the tenets or teachings of such church or sect, and who, solely because of his adherence to the teachings or tenets of such church, or sect, refuses to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act, shall, for the purposes of the first sentence of this subsection, be deemed to have done so with good cause.

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled or from any mother's insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or such mother's insurance benefit or benefits under section 402 of this title for any month in which such child or person entitled to mother's insurance benefits is married to an individual who is entitled to disability insurance benefits and in which such individual refuses to accept rehabilitation services and a deduction, on account of such refusal, is imposed under paragraph (1) of this subsection. If both this paragraph and paragraph (3) of this subsection are applicable to a child's insurance benefit for any month, only an amount equal to such benefit shall be deducted.

(3) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to disability insurance benefits, to which a wife, husband, or child is entitled, until the total of such deductions equal such wife's, husband's, or child's insurance benefit or benefits under section

402 of this title for any month in which the individual, on the basis of whose wages and self-employment income such benefit was payable, refuses to accept rehabilitation services and deductions, on account of such refusal, are imposed under paragraph (1) of this subsection.

(c) Period of trial work.

(1) The term "period of trial work," with respect to an individual entitled to benefits under section 423 or 402(d) of this title, means a period of months beginning and ending as provided in paragraphs (3) and (4).

(2) For purposes of sections 416(i) and 423 of this title, any services rendered by an individual during a period of trial work shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. For purposes of this subsection 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.

(3) A period of trial work for any individual shall begin with the month in which he becomes entitled to disability insurance benefits, or, in the case of an individual entitled to benefits under section 402(d) of this title who has attained the age of eighteen, with the month in which he becomes entitled to such benefits or the month in which he attains the age of eighteen, whichever is later. Notwithstanding the preceding sentence, no period of trial work may begin for any individual prior to the beginning of the month following September 1960; and no such period may begin for an individual in a period of disability of such individual in which he had a previous period of trial work.

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

(A) 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

(B) the month in which his disability (as defined in section 423(c)(2) of this title) ceases (as determined after application of paragraph (2) of this subsection).

(5) In the case of an individual who becomes entitled to benefits under section 423 of this title for any month as provided in clause (ii) of subsection (a)(1) of such section, the preceding provisions of this subsection shall not apply with respect to services in any month beginning with the first month for which he is so entitled and ending with the first month thereafter for which he is not entitled to benefits under section 423 of this title. (Aug. 14, 1935, ch. 531, title II, §§ 222, as added Sept. 1, 1954, ch. 1206, title I, § 106(g) 68 Stat. 1081, and amended Aug. 1, 1956, ch. 836, title I, § 103(b), 70 Stat. 817; Aug. 28, 1958, Pub. L. 85-840, title II, § 205(n), title III, § 307(g), 72 Stat. 1025, 1032; Sept. 13, 1960, Pub. L. 86-778, title IV, § 403(a), 74 Stat. 968.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in the text, is classified to chapter 4 of Title 29, Labor.

AMENDMENTS

1960—Subsec. (c). Pub. L. 86-778 amended subsection generally by substituting provisions relating to period of trial work for provisions which related to services performed pursuant to a State-approved rehabilitation program.

1958—Subsec. (b). Pub. L. 85-840 designated existing provisions thereof as par. (1), and added pars. (2) and (3).

1956—Subsec. (a). Act Aug. 1, 1956, designated existing provisions as subsec. (a), authorized referral of disabled individuals who are entitled to child's insurance benefits, and substituted "rehabilitated into productive activity" for "restored to productive activity".

Subsecs. (b), (c). Act Aug. 1, 1956, added subsecs. (b) and (c).

EFFECTIVE DATE OF 1960 AMENDMENT

Section 403(e) of Pub. L. 86-778 provided that:

"(1) The amendment made by subsection (a) [to subsec. (c) of this section] shall be effective only with respect to months beginning after the month in which this Act is enacted [Sept. 1960].

"(2) The amendments made by subsections (b) and (d) [to sections 423(a)(1) and 402(d)(1) of this title] shall apply only with respect to benefits under section 223(a) or 202(d) of the Social Security Act [section 423(a) or 402(d) of this title] for months after the month in which this Act is enacted [Sept. 1960] in the case of individuals who, without regard to such amendments, would have been entitled to such benefits for the month in which this Act is enacted [Sept. 13, 1960] or for any succeeding month.

"(3) The amendment made by subsection (c) [to section 416(1)(2) of this title] shall apply only in the case of individuals who have a period of disability (as defined in section 216(i) of the Social Security Act [section 416(i) of this title]) beginning on or after the date of the enactment of this Act [Sept. 13, 1960], or beginning before such date and continuing, without regard to such amendment, beyond the end of the month in which this Act is enacted [Sept. 1960]."

EFFECTIVE DATE OF 1958 AMENDMENT

Section 307 (h) (3) of Pub. L. 85-840 provided that:

"The amendments made by subsection (g) [adding subsec. (b) (2) of this section] shall apply with respect to monthly benefits under section 202 of the Social Security Act [section 402 of this title] for months, occurring after the month in which this Act is enacted [August 1958], in which a deduction is incurred under paragraph (1) of section 222 (b) of the Social Security Act [par. (1) of subsec. (b) of this section]."

Amendment of subsec. (b) (3) of this section by section 205 of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after Aug. 28, 1958, but only if an application for such benefits is filed on or after August 28, 1958, see section 207 (a) of Pub. L. 85-840, set out as a note under section 416 of this title.

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

§ 423. Disability insurance benefit payments.

(a) Disability insurance benefits.

(1) Every individual who—

(A) is insured for disability insurance benefits (as determined under subsection (c) (1) of this section),

(B) has not attained the age of sixty-five,

(C) has filed application for disability insurance benefits, and

(D) is under a disability (as defined in subsection (c) (2) of this section) at the time such application is filed,

shall be entitled to a disability insurance benefit (1) for each month beginning with the first month after

his waiting period (as defined in subsection (c) (3) of this section) in which he becomes so entitled to such insurance benefits, or (ii) for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability insurance benefits which terminated, or had a period of disability (as defined in section 416(i) of this title) which ceased, within the 60-month period preceding the first month in which he is under such disability, and ending with the month preceding whichever of the following months is the earliest: the month in which he dies, the month in which he attains age 65, the first month for which he is entitled to old-age insurance benefits, or the third month following the month in which his disability ceases.

(2) Such individual's disability insurance benefit for any month shall be equal to his primary insurance amount for such month determined under section 415 of this title as though he had attained age 62 (if a woman) or age 65 (if a man) in—

(A) the first month of his waiting period, or

(B) in any case in which clause (ii) of paragraph (1) of this subsection is applicable, the first month for which he becomes entitled to such disability insurance benefits,

and as though he had become entitled to old-age insurance benefits in the month in which he filed his application for disability insurance benefits. For the purposes of the preceding sentence, in the case of a woman who both was fully insured and had attained age 62 in or before the first month referred to in subparagraph (A) or (B) of such sentence, as the case may be, the elapsed years referred to in section 415(b)(3) of this title shall not include the first year in which she both was fully insured and had attained age 62, or any year thereafter.

(3) If, for any month before the month in which an individual attains age 65, such individual is entitled to—

(A) a widow's, widower's, or parent's insurance benefit, or

(B) an old-age, wife's or husband's insurance benefit which is reduced under subsection (q) of section 402 of this title,

such individual may not, for any month after the first month for which such individual is so entitled, become entitled to disability insurance benefits; and a period of disability may not begin with respect to such individual in any month after such first month.

(b) Filing of application.

No application for disability insurance benefits shall be accepted as a valid application for purposes of this section (1) if it is filed more than nine months before the first month for which the applicant becomes entitled to such benefits, or (2) in any case in which clause (ii) of paragraph (1) of subsection (a) is applicable, if it is filed more than six months before the first month for which the applicant becomes entitled to such benefits; and any application filed within such nine months' period or six months' period, as the case may be, shall be deemed to have been filed in such first month. An individual who would have been entitled to a dis-

ability insurance benefit for any month after June 1957 had he filed application therefor prior to the end of such month shall be entitled to such benefit for such month if he is continuously under a disability after such month and until he files application therefor and he files said application prior to the end of the twelfth month immediately succeeding such month.

(c) Definitions.

For purposes of this section—

(1) An individual shall be insured for disability insurance benefits in any month if—

(A) he would have been a fully insured individual (as defined in section 414 of this title) had he attained age 62 (if a woman) or age 65 (if a man) and filed application for benefits under section 402(a) of this title on the first day of such month, and

(B) he had not less than twenty quarters of coverage during the forty-quarter period ending with the quarter in which such first day occurred, not counting as part of such forty-quarter period any quarter any part of which was included in a period of disability (as defined in section 416 (1) of this title, unless such quarter was a quarter of coverage.

(2) The term "disability" means inability 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 to be of long-continued and indefinite duration. An individual shall not be considered to be under a disability unless he furnishes such proof of the existence thereof as may be required.

(3) The term "waiting period" means, in the case of any application for disability insurance benefits, the earliest period of six consecutive calendar months—

(A) throughout which the individual who files such application has been under a disability which continues until such application is filed, and

(B) (i) which begins not earlier than with the first day of the eighteenth month before the month in which such application is filed if such individual is insured for disability insurance benefits in such eighteenth month, or (ii) if he is not so insured in such month, which begins not earlier than with the first day of the first month after such eighteenth month in which he is so insured.

Notwithstanding the preceding provisions of this paragraph, no waiting period may begin for any individual before January 1, 1957. (Aug. 14, 1935, ch. 531, title II, § 223, as added Aug. 1, 1956, ch. 836, title I, § 103(a), 70 Stat. 815, and amended Aug. 28, 1958, Pub. L. 85-840, title II, §§ 202, 204(b), 72 Stat. 1020, 1021; Sept. 13, 1960, Pub. L. 86-778, title III, § 303(f), title IV, §§ 401 (a), (b), 402 (a), (c), (d), 403(b), 74 Stat. 964, 967, 969; June 30, 1961, Pub. L. 87-64, title I, § 102 (b) (2) (B), (C), (c) (2) (C), (3) (D), (E), 75 Stat. 134, 135.)

AMENDMENTS

1961—Subsec. (a) (1). Pub. L. 87-64, § 102(b) (2) (C), substituted "the month in which he attains age 65, the

first month for which he is entitled to old-age insurance benefits" for "the month in which he attains the age of sixty-five."

Subsec. (a) (2). Pub. L. 87-64, § 102(c) (2) (C), (3) (D), substituted "as though he had attained age 62 (if a woman) or age 65 (if a man)" for "as though he had attained retirement age", and "fully insured and had attained age 62" for "fully insured and had attained retirement age", in two instances.

Subsec. (a) (3). Pub. L. 87-64, § 102(b) (2) (B), added subsec. (a) (3).

Subsec. (c) (1) (A). Pub. L. 87-64, § 102(c) (3) (E), substituted "attained age 62 (if a woman) or age 65 (if a man)" for "attained retirement age."

1960—Subsec. (a) (1). Pub. L. 86-778, §§ 401(a), 402(a), 403(b), eliminated provisions from cl. (B) which required an individual to have attained the age of 50, inserted provisions authorizing payment of benefits to an individual for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability insurance benefits which terminated, or had a period of disability which ceased, within the 60-month period preceding the first month in which he is under such disability, and substituted provisions requiring benefits to end with the month preceding whichever of the following is the earliest: the month in which he dies, the month in which he attains the age of 65, or the third month following the month in which his disability ceases for provisions which required the benefits to end with the month preceding the first month in which any of the following occurs: his disability ceases, he dies, or he attains the age of 65.

Subsec. (a) (2). Pub. L. 86-778, § 303(f), required the benefit for any month to be equal to an individual's primary insurance amount for the month determined under section 415 of this title as though he had attained retirement age in (A) the first month of his waiting period, or (B) in any case in which clause (ii) of par. (1) of this subsection is applicable, the first month for which he becomes entitled to such disability insurance benefits, and as though he had become entitled to old-age insurance benefits in the month in which he filed his application for disability insurance benefits, and inserted sentence permitting exclusion from the elapsed years, in the case of a woman who both was fully insured and had attained retirement age in or before the first month referred to in subpar. (A) or (B), the first year in which she both was fully insured and had attained retirement age, or any year thereafter. For amendment of subsec. (a) (2) by section 402(b) of Pub. L. 86-778, see note under this section.

Subsec. (b). Pub. L. 86-778, § 402 (c), (d), prohibited acceptance of an application, in any case in which clause (ii) of paragraph (1) of subsec. (a) of this section is applicable, if it is filed more than six months before the first month for which the applicant becomes entitled to benefits, inserted provisions requiring any application filed within the nine months' period or six months' period, as the case may be, to be deemed to have been filed in such first month, and substituted "if he is continuously under a disability after such month and until he files application therefor, and he files such application" for "if he files application therefor."

Subsec. (c) (3). Pub. L. 86-778, § 401(b), eliminated provisions which prohibited a waiting period for any individual from beginning before the first day of the sixth month before the month in which he attains the age of 50.

1958—Subsec. (b). Pub. L. 85-840, § 202(a), provided that individuals who would have been entitled to disability insurance benefits for any month after June 1957 had they filed application therefor prior to the end of such month shall be entitled to disability benefits for such month if they file application therefor prior to the end of the twelfth month immediately succeeding such month.

Subsec. (c) (1). Pub. L. 85-840, § 204(b), substituted "fully insured" for "fully and currently insured" in cl. (A).

Subsec. (c)(3). Pub. L. 85-840, § 202(b), inserted "which continues until such application is filed" following "under a disability" in cl. (A), and substituted "eighth month" for "sixth month" in three instances in cl. (B).

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of subsecs. (a)(2) and (c)(1)(A) of this section by Pub. L. 87-64 applicable with respect to monthly benefits for months beginning on or after August 1, 1961 based on applications filed in or after March 1961, and with respect to lump-sum death payments under this subchapter in the case of deaths on or after August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

Subsec. (a)(3) of this section and amendment of subsec. (a)(1) of this section by Pub. L. 87-64 effective August 1, 1961, see sections 102(f) and 109 of Pub. L. 87-64, set out as notes under section 402 of this title.

EFFECTIVE DATE OF 1960 AMENDMENTS

Section 401(c) of Pub. L. 86-778 provided that: "The amendments made by this section [to subsecs. (a)(1)(B) and (c)(3) of this section] shall apply only with respect to monthly benefits under sections 202 and 223 of the Social Security Act [this section and section 402 of this title] for months after the month following the month in which this Act is enacted [Sept. 1960] which are based on the wages and self-employment income of an individual who did not attain the age of fifty in or prior to the month following the month in which this Act is enacted [Sept. 1960], but only where applications for such benefits are filed in or after the month in which this Act is enacted [Sept. 1960]."

Section 402(f) of Pub. L. 86-778 provided that: "The amendments made by subsections (a) and (b) [which inserted provisions in subsec. (a)(1) of this section authorizing payment of benefits to an individual for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability insurance benefits which terminated, or had a period of disability which ceased, within the 60-month period preceding the first month in which he is under such disability, and amended subsec. (a)(2) of this section as set out in the note under this section] shall apply only with respect to benefits under section 223 of the Social Security Act [this section] for the month in which this Act is enacted [Sept. 1960] and subsequent months. The amendment made by subsection (c) [to the first sentence of subsec. (b) of this section] shall apply only in the case of applications for benefits under such section 223 [this section] filed after the seventh month before the month in which this Act is enacted [Sept. 1960]. The amendment made by subsection (d) [to the second sentence of subsec. (b) of this section] shall apply only in the case of applications for benefits under such section 223 [this section] filed in or after the month in which this Act is enacted [Sept. 1960]. The amendment made by subsection (e) [which redefined the term period of disability in section 416(i)(2) of this title and inserted provisions in section 416(i)(2) of this title prohibiting acceptance of an application, in any case in which section 423(a)(1) of this title is applicable, filed more than six months before the first month for which the applicant becomes entitled to benefits under this section and providing that any application for a disability determination which is filed within such three months' period or six months' period shall be deemed to have been filed on such first day or in such first month, as the case may be] shall apply only in the case of individuals who become entitled to benefits under such section 223 [this section] in or after the month in which this Act is enacted [Sept. 1960]."

Amendment of subsec. (a)(1) of this section by section 403(b) of Pub. L. 86-778, which substituted "whichever of the following months is the earliest: the month in which he dies, the month in which he attains the age of sixty-five, or the third month following the month in which his disability ceases" for "the first month in which any of the following occurs: his disability ceases, he dies, or he attains the age of sixty-five", applicable

only with respect to benefits under subsec. (a) of this section or section 402(d) of this title for months after Sept. 1960, in the case of individuals who, without regard to such amendment, would have been entitled to such benefits for Sept. 1960, or for any succeeding month, see section 403(e) of Pub. L. 86-778, set out as a note under section 422 of this title.

Section 303(f) of Pub. L. 86-778 provided in part that the amendment of subsec. (a)(2) of this section by section 303(f) of Pub. L. 86-778 shall be effective with respect to individuals who become entitled to benefits under this section after 1960.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsecs. (b) and (c)(3) of this section by section 202 of Pub. L. 85-840 applicable with respect to applications for disability insurance benefits under this section filed after December 1957, see section 207 (a) of Pub. L. 85-840, set out as a note under section 416 of this title.

For applicability of subsec. (c)(1)(A) of this section as amended by section 204 of Pub. L. 85-840, see section 207 (a) of Pub. L. 85-840, set out as a note under section 416 of this title.

EFFECTIVE DATE

Section 103 (d) of act Aug. 1, 1956, provided that:

"(1) The amendment made by subsection (a) [adding section 423-425 of this title] shall apply only with respect to monthly benefits under title II of the Social Security Act [this subchapter] for months after June 1957.

"(2) For purposes of determining entitlement to a disability insurance benefit for any month after June 1957 and before December 1957, an application for disability insurance benefits filed by any individual after July 1957 and before January 1958 shall be deemed to have been filed during the first month after June 1957 for which such individual would (without regard to this paragraph) have been entitled to a disability insurance benefit had he filed application before the end of such month."

COMPUTATION OF DISABILITY INSURANCE BENEFITS

Section 402(b) of Pub. L. 86-778 provided that:

"Section 223(a)(2) of such Act [subsec. (a)(2) of this section] is amended to read as follows:

"(2) Such individual's disability insurance benefit for any month shall be equal to his primary insurance amount for such month determined under section 215 [section 415 of this title] as though he became entitled to old-age insurance benefits in—

"(A) the first month of his waiting period, or

"(B) in any case in which clause (1) of paragraph (1) of this subsection is applicable, the first month for which he becomes so entitled to such disability insurance benefits."

Amendment of subsec. (a)(2) of this section by section 402(b) of Pub. L. 86-778 applicable only with respect to benefits under this section for Sept. 1960, and subsequent months, see section 402(f) of Pub. L. 86-778, set out as a note under this section.

SPECIAL INSURED STATUS TEST IN CERTAIN CASES FOR DISABILITY PURPOSES

Individuals not insured for disability benefits as determined under subsec. (c)(1) of this section with respect to any month in a quarter deemed to have met such requirements in certain cases, see section 404 of Pub. L. 68-778, set out as a note under section 416 of this title.

§ 424. Repealed. Pub. L. 85-840, title II, § 206, Aug. 28, 1958, 72 Stat. 1025.

Section, act Aug. 14, 1935, ch. 531, title II, § 224, as added Aug. 1, 1956, ch. 836, title I, § 103 (a), 70 Stat. 816, and amended July 17, 1957, Pub. L. 85-109, § 2 (a), 71 Stat. 308, related to reduction of benefits based on disability.

EFFECTIVE DATE OF REPEAL

Repeal of this section applicable with respect to monthly benefits under this subchapter for August 1958 and succeeding months, see section 207 (a) of Pub. L. 85-840, set out as a note under section 416 of this title.

§ 425. Suspension of benefits based on disability.

If the Secretary, on the basis of information obtained by or submitted to him, believes that an individual entitled to benefits under section 423 of this title, or that a child who has attained the age of eighteen and is entitled to benefits under section 402 (d) of this title, may have ceased to be under a disability, the Secretary may suspend the payment of benefits under such section 423 or 402 (d) of this title until it is determined (as provided in section 421 of this title) whether or not such individual's disability has ceased or until the Secretary believes that such disability has not ceased. In the case of any individual whose disability is subject to determination under an agreement with a State under section 421 (b) of this title, the Secretary shall promptly notify the appropriate State of his action under this section and shall request a prompt determination of whether such individual's disability has ceased. For purposes of this section, the term "disability" has the meaning assigned to such term in section 423 (c) (2) of this title. Whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the benefits of any individual entitled thereto under subsection (b), (c), or (d) of section 402 of this title, on the basis of the wages and self-employment income of such individual, shall be suspended for such month. (Aug. 14, 1935, ch. 531, title II, § 225, as added Aug. 1, 1956, ch. 836, title I, § 103 (a), 70 Stat. 817, and amended Aug. 28, 1958, Pub. L. 85-840, title II, § 205 (c), 72 Stat. 1025.)

AMENDMENTS

1958—Pub. L. 85-840 provided that whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the benefits of any individual entitled thereto under subsection (b), (c), or (d) of section 402 of this title, on the basis of the wages and self-employment income of such individual, shall be suspended for such month.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of this section by section 205 of Pub. L. 85-840 applicable with respect to monthly benefits under this subchapter for months after August 28, 1958, but only if an application for such benefits is filed on or after Aug. 28, 1958, see section 207 (a) of Pub. L. 85-840, set out as a note under section 416 of this title.

EFFECTIVE DATE

Section applicable only with respect to monthly benefits under this subchapter for months after June 1957, see section 103 (a) of act Aug. 1, 1956, set out as a note under section 423 of this title.

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

SUBCHAPTER III.—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

§ 501. Appropriation.

The amounts made available pursuant to section 1101 (c) (1) (A) of this title for the purpose of assisting the States in the administration of their unemployment compensation laws shall be used as hereinafter provided. (Aug. 14, 1935, ch. 531, title III, § 301, 49 Stat. 626; Apr. 19, 1939, ch. 73, 53 Stat.

581; Sept. 13, 1960, Pub. L. 86-778, title V, § 524 (a), 74 Stat. 982.)

AMENDMENTS

1960—Pub. L. 86-778 eliminated provisions which prescribed specific sums for fiscal years 1936-1939 and for each fiscal year thereafter and inserted provisions relating to amounts made available pursuant to section 1101 (c) (1) (A) of this title.

1939—Act Apr. 19, 1939, provided increased appropriation for fiscal year ending June 30, 1939, and for each fiscal year thereafter.

§ 502. Payments to States; computation of amounts.

(a) The Secretary of Labor shall from time to time certify to the Secretary of the Treasury for payment to each State which has an unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act, such amounts as the Secretary of Labor determines to be necessary for the proper and efficient administration of such law during the fiscal year for which such payment is to be made. The Secretary's determination shall be based on (1) the population of the State; (2) an estimate of the number of persons covered by the State law and of the cost of proper and efficient administration of such law; and (3) such other factors as the Secretary of Labor finds relevant. The Secretary of Labor shall not certify for payment under this section in any fiscal year a total amount in excess of the amount appropriated therefor for such fiscal year.

(b) Out of the sums appropriated therefor, the Secretary of the Treasury shall, upon receiving a certification under subsection (a) of this section, pay, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, to the State agency charged with the administration of such law the amount so certified. (Aug. 14, 1935, ch. 531, title III, § 302, 49 Stat. 626; Aug. 10, 1939, ch. 666, title III, § 301, 53 Stat. 1378; 1940 Reorg. Plan No. III, § 1 (a), eff. June 30, 1940, 5 F. R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 20, 1949, 14 F. R. 5225, 63 Stat. 1065.)

REFERENCES IN TEXT

Federal Unemployment Tax Act, referred to in subsec. (a), was formerly classified to sections 1600-1611 of Title 26, Internal Revenue Code, 1939. Said sections were repealed by section 7851 of Title 26, I. R. C. 1954, and are now covered by sections 3301-3308 of said Title 26. For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

AMENDMENTS

1939—Subsec. (a). Act Aug. 10, 1939, substituted "Federal Unemployment Tax Act" for "sections 1101-1110 of this title," and inserted the word "efficient" preceding "administration".

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of Labor, and functions of all agencies and employees of such Department were, with the exception of the functions vested by the Administrative Procedure Act (section 1001 et seq. of Title 5, Executive Departments and Government Officers and Employees) in hearing examiners employed by such Department, transferred to the Secretary of Labor, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 6, § 1, 2, 15 F. R. 3174, 64 Stat. 1263,

set out in note under section 611 of Title 5, Executive Departments and Government Officers and Employees.

Functions of the Federal Security Administrator with respect to unemployment compensation were transferred to the Secretary of Labor by 1949 Reorg. Plan No. 2. See note set out under section 1332-15 of Title 5, Executive Departments and Government Officers and Employees.

Section 1 of 1949 Reorg. Plan No. 2, also provided that the functions transferred by this section shall be performed by the Secretary of Labor, or subject to his direction and control, by such officers, agencies, and employees of the Department of Labor as he shall designate.

"Administrator" was substituted for "Board" by 1946, Reorg. Plan No. 2. See note under section 902 of this title.

Division of Disbursement and certain other offices and agencies and their functions were consolidated into Fiscal Service of Treasury Department by 1940 Reorg. Plan No. III, set out in note under section 133t of Title 5, Executive Departments and Government Officers and Employees.

CROSS REFERENCES

Withholding amounts from certification for payment, see note under section 363 of Title 45, Railroads.

§ 503. State laws, provisions required; stopping payments on failure to comply with law.

(a) The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by the Secretary of Labor under the Federal Unemployment Tax Act, includes provision for—

(1) Such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary of Labor shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due; and

(2) Payment of unemployment compensation solely through public employment offices or such other agencies as the Secretary of Labor may approve; and

(3) Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied; and

(4) The payment of all money received in the unemployment fund of such State (except for refunds of sums erroneously paid into such fund and except for refunds paid in accordance with the provisions of section 1606 (b) of Title 26), immediately upon such receipt, to the Secretary of the Treasury to the credit of the unemployment trust fund established by section 1104 of this title; and

(5) Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 1606 (b) of Title 26: *Provided*, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration: *Provided*

further, That the amounts specified by section 1103 (c) (2) of this title may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for administration of its unemployment compensation law and public employment offices; and

(6) The making of such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and compliance with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports; and

(7) Making available upon request to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of such recipient's rights to further compensation under such law; and

(8) Effective July 1, 1941, the expenditure of all moneys received pursuant to section 502 of this title solely for the purposes and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of such State law; and

(9) Effective July 1, 1941, the replacement, within a reasonable time, of any moneys received pursuant to section 502 of this title, which, because of any action or contingency, have been lost or have been expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor for the proper administration of such State law.

(b) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that in the administration of the law there is—

(1) a denial, in a substantial number of cases, of unemployment compensation to individuals entitled thereto under such law; or

(2) a failure to comply substantially with any provision specified in subsection (a) of this section;

the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such denial or failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State: *Provided*, That there shall be no finding under clause (1) until the question of entitlement shall have been decided by the highest judicial authority given jurisdiction under such State law: *Provided further*, That any costs may be paid with respect to any claimant by a State and included as costs of administration of its law.

(c) The Secretary of Labor shall make no certification for payment to any State if he finds, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law—

(1) That such State does not make its records available to the Railroad Retirement Board, and

furnish to the Railroad Retirement Board at the expense of the Railroad Retirement Board such copies thereof as the Railroad Retirement Board deems necessary for its purposes; or

(2) That such State is failing to afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

(Aug. 14, 1935, ch. 531, title III, § 303, 49 Stat. 626; June 25, 1938, ch. 680, § 13 (g), 52 Stat. 1112; June 20, 1939, ch. 227, § 18, 53 Stat. 848; Aug. 10, 1939, ch. 666, title III, § 302, 53 Stat. 1378; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 416 (c), 60 Stat. 991; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 20, 1949, 14 F. R. 5225, 63 Stat. 1065; Aug. 28, 1950, ch. 809, title IV, § 405 (b), 64 Stat. 560; Aug. 5, 1954, ch. 657, § 5 (a) (1), 68 Stat. 673.)

REFERENCES IN TEXT

Federal Unemployment Tax Act, referred to in subsec. (a), was formerly classified to sections 1600—1611 of Title 26, Internal Revenue Code, 1939. Said sections were repealed by section 7851 of Title 26, I. R. C. 1954, and are now covered by sections 3301—3308 of said Title 26. For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

Section 1606 (b) of Title 26, referred to in subsec. (4, 5), which was a reference to section 1606 (b) of the Internal Revenue Code, 1939, was repealed by section 7851 of Title 26, I. R. C. 1954, and is now covered by section 3305 (b) of said Title 26. For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

AMENDMENTS

1954—Subsec. (a) (5). Act Aug. 5, 1954, made it clear that the funds credited to the State account may, subject to certain restrictions, be used for administrative expenses of the State in connection with its unemployment compensation law.

1950—Subsec. (b). Act Aug. 28, 1950, added provisos.

1946—Subsec. (a) (5). Act Aug. 10, 1946, added proviso allowing payment of disability benefits.

1939—Subsec. (a). Act Aug. 10, 1939, substituted "Federal Unemployment Tax Act" for "sections 1101—1110 of this title", amended pars. (1), (4), and (5) generally, and added pars. (8) and (9).

Subsec. (c) (2). Act June 20, 1939, substituted "unemployment" for "employment".

1938—Subsec. (c). Act June 25, 1938, added subsec. (c).

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of Labor and functions of all agencies and employees of such Department were, with the exception of the functions vested by the Administrative Procedure Act (section 1001 et seq. of Title 5, Executive Departments and Government Officers and Employees) in hearing examiners employed by such Department, transferred to the Secretary of Labor, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 6, §§ 1, 2, 15 F. R. 3174, 64 Stat. 1263, set out in note under section 611 of Title 5, Executive Departments and Government Officers and Employees.

Functions of the Federal Security Administrator with respect to unemployment compensation were transferred to the Secretary of Labor by 1949 Reorg. Plan No. 2. See note set out under section 133z-15 of Title 5, Executive Departments and Government Officers and Employees.

Section 1 of 1949 Reorg. Plan No. 2 also provided that the functions transferred by this section shall be performed by the Secretary of Labor, or subject to his direc-

tion and control, by such officers, agencies, and employees of the Department of Labor as he shall designate.

"Administrator" was substituted for "Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

CROSS REFERENCES

Withdrawal as breach of conditions, see note under section 363 of Title 45, Railroads.

SUBCHAPTER IV.—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN

AMENDMENTS

1962—Pub. L. 87-543, title I, § 104(a) (1), July 25, 1962, 76 Stat. 185, substituted "Aid and Services to Needy Families with Children" for "Aid to Dependent Children" in the heading of the subchapter.

§ 601. Appropriations.

For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for aid and services to needy families with children. (Aug. 14, 1935, ch. 531, title IV, § 401, 49 Stat. 627; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 312(a), 70 Stat. 848; July 25, 1962, Pub. L. 87-543, title I, § 104 (a) (4), (c) (2), 76 Stat. 185, 186.)

AMENDMENTS

1962—Pub. L. 87-543 substituted in the second sentence "aid and services to needy families with children" for "aid to dependent children", and inserted in the first sentence "and rehabilitation" following "financial assistance" and "or retain capability for" following "attain".

1950—Act Aug. 1, 1956, restated the purpose to include encouragement of care of dependent children in their own homes or in the homes of relatives, and authorized services to needy dependent children and the parents or relatives to help maintain and strengthen family life and to help such parents or relatives to attain the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

Section 104(b) of Pub. L. 87-543 provided that: "Each State plan approved under title IV of the Social Security Act [this subchapter] and in effect on the date of the enactment of this Act [July 25, 1962] shall be deemed for purposes of such title [this subchapter], without the necessity of any change in such plan, to have been conformed with the amendments made by subsection (a) of this section [to sections 601—604, 606—608, 1202 and 1352 of this title]."

§ 602. State plans for aid and services to needy families with children; contents; approval by Secretary.

(a) A State plan for aid and services to needy families with children must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to families with dependent children is denied or is not acted upon with reasonable promptness; (5) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan; and (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) provide that the State agency shall, in determining need, take into consideration any other income and resources of any child or relative claiming aid to families with dependent children, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination, the State agency may, subject to limitations prescribed by the Secretary, permit all or any portion of the earned or other income to be set aside for future identifiable needs of a dependent child; (8) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to families with dependent children; (9) provide, effective July 1, 1951, that all individuals wishing to make application for aid to families with dependent children shall have opportunity to do so, and that aid to dependent children shall be furnished with reasonable promptness to all eligible individuals; (10) effective July 1, 1952, provide for prompt notice to appropriate law-enforcement officials of the furnishing of aid to families with dependent children in respect of a child who has been deserted or abandoned by a parent; (11) provide, effective

October 1, 1950, that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 302 of this title; (12) provide a description of the services (if any) which the State agency makes available to maintain and strengthen family life for children, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services; and (13) provide for the development and application of a program for such welfare and related services for each child who receives aid to families with dependent children as may be necessary in the light of the particular home conditions and other needs of such child, and provide for coordination of such programs, and any other services provided for children under the State plan, with the child-welfare services plan developed as provided in sections 721—728 of this title, with a view toward providing welfare and related services which will best promote the welfare of such child and his family.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes as a condition of eligibility for aid to families with dependent children, a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within one year immediately preceding the application, if the parent or other relative with whom the child is living has resided in the State for one year immediately preceding the birth. (Aug. 14, 1935, ch. 531, title IV, § 402, 49 Stat. 627; Aug. 10, 1939, ch. 666, title IV, § 401, 53 Stat. 1379. 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 2, § 321, pt. 6, § 361 (c, d), 64 Stat. 549, 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 312 (b), 70 Stat. 849; July 25, 1962, Pub. L. 87-543, title I, §§ 103, 104(a) (2), (3) (A), (B), (5) (A), 106(b), 76 Stat. 185, 188.)

AMENDMENTS

1962—Pub. L. 87-543, § 104(a) (2), substituted "aid and services to needy families with children" for "aid to dependent children" in the catchline.

Subsec. (a). Pub. L. 87-543, §§ 103, 104(a) (3) (A), (5) (A), 106(b), substituted "aid and services to needy families with children" for "aid to dependent children", in the opening provisions, and "aid to families with dependent children" for "aid to dependent children" wherever appearing in clauses (4), (7)—(10), added the provision respecting the consideration of expenses reasonably attributable to the earning of income and the exception provision in clause (7), and added clause (13).

Subsec. (b). Pub. L. 87-543, § 104(a) (3) (B), substituted "aid to families with dependent children" for "aid to dependent children."

1956—Subsec. (a). Act Aug. 1, 1956, added clause (12).

1950—Subsec. (a). Act Aug. 28, 1950, § 321 (a), (b), substituted in cl. (4) "provide for granting * * * with reasonableness" for "provide for granting to any individual, whose claim with respect to aid to a dependent child is denied," struck out "and" preceding cl. (8) and a semicolon after it, and added cls. (9)—(11).

Subsec. (b) (2). Act Aug. 28, 1950, § 321(c), prevented denial of aid in cases where the child of parents

normally resident in the State happens to be born across the State line.

1939—Subsec. (a). Act Aug. 10, 1939, amended cl. (5) generally, and added cls. (7) and (8).

EFFECTIVE DATE OF 1962 AMENDMENT

Enactment of subsec. (a) (13) and amendment of subsec. (a) (7) of this section by sections 103, 106 of Pub. L. 87-543 effective July 1, 1963, see section 202(a) of Pub. L. 87-543, set out as a note under section 302 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of this section by act Aug. 1, 1956, effective July 1, 1957, see section 314 [315] of act Aug. 1, 1956, set out as a note under section 302 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Subsecs. (a) and (c) of section 321 of act Aug. 28, 1950, provided in part that amendments of subsections (a) and (b) of this section shall become effective as of July 1, 1951.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment by act Aug. 10, 1939, adding clauses (7) and (8) to subsec. (a) was made effective July 1, 1941, by section 401 (b) of act Aug. 10, 1939. Clause (5) of such subsec. was amended by act Aug. 10, 1939 without specific provision as to effective date.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1. "Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950, § 361 (c), (d).

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

PUBLIC ACCESS TO STATE DISBURSEMENT RECORDS

Public access to State records of disbursements of funds and payments under this subchapter, see note under section 302 of this title.

STATE PLANS IN EFFECT JULY 25, 1962; AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962 deemed to have been conformed to amendment of opening provisions and clauses (4), (7)—(10) of subsec. (a) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

§ 603. Payment to States; computation of amounts.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to families with dependent children under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) fourteen-seventeenths of such expenditures not counting so much of any expenditure with respect to any month as exceeds the product of \$17 multiplied by the total number of recipients of aid to families with dependent children for such month (which total number,

for purposes of this subsection means (i) the number of individuals with respect to whom such aid in the form of money payments is paid for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to families with dependent children in the form of medical or any other type of remedial care, plus (iii) the number of individuals, not counted under clause (i) or (ii), with respect to whom payments described in section 606(b)(2) of this title are made in such month and included as expenditures for purposes of this paragraph or paragraph (2)); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of \$30 multiplied by the total number of recipients of aid to families with dependent children for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to families with dependent children under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds \$18 multiplied by the total number of recipients of such aid for such month; and

(3) in the case of any State whose State plan approved under section 602 of this title meets the requirements of subsection (c)(1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are prescribed pursuant to subsection (c)(1) of this section and are provided (in accordance with the next sentence) to any relative, specified in section 606(a) of this title with whom any dependent child (applying for or receiving aid to families with dependent children) is living in order to help such relative attain or retain capability for self-support or self-care, or services which are so prescribed and so provided in order to maintain and strengthen family life for any such child, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to any such child or relative, or

(iii) any of the services prescribed pursuant to subsection (c)(1) of this section, and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for any relative specified in section 606(a) of this title with whom any child (who, within such period or periods as the Secretary may prescribe, has been or is likely

to become an applicant for or recipient of aid to families with dependent children) is living, or as appropriate for such a child, if such services are requested by such relative and are provided to such relative or child in accordance with the next sentence, or

(iv) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to any relative, specified in section 606(a) of this title, with whom any child (who, within such period or periods as the Secretary may prescribe, has been or is likely to become an applicant for or recipient of aid to families with dependent children) is living, or to such child, if such services are requested by such relative or for services so provided to any child who is an applicant for or recipient of such aid, or to any relative, specified in section 606(a) of this title, with whom such a child is living; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraphs (A) and (B) shall include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this subchapter shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) subject to limitations prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabili-

tation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(4) in the case of any State whose State plan approved under section 602 of this title does not meet the requirements of subsection (c) (1) of this section, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (3) and provided in accordance with the provisions of such paragraph.

The number of individuals with respect to whom payments described in section 606(b) (2) of this title are made for any month, who may be included as recipients of aid to families with dependent children for purposes of paragraph (1) or (2), may not exceed 5 per centum of the number of other recipients of aid to families with dependent children for such month.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a) of this section, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of dependent children in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which he finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to aid to families with dependent children furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c) (1) In order for a State to qualify for payments under paragraph (3) of subsection (a) of this section, its State plan approved under section 602 of this title must provide that the State agency shall make available at least those services to maintain and strengthen family life for children, and to help relatives specified in section 606(a) of this title with whom children (who are applicants for or recipients of aid to families with dependent children) are living to attain or retain capability for self-support or self-care, which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (3) of subsection (a) of this section until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (3) of subsection (a) of this section but shall instead be made, subject to the other provisions of this subchapter, under paragraph (4) of such subsection. (Aug. 14, 1935, ch. 531, title IV, § 403, 49 Stat. 628; Aug. 10, 1939, ch. 666, title IV, § 402, 53 Stat. 1380; 1940 Reorg. Plan No. III, § 1(a), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title V, §§ 502, 504, 60 Stat. 992, 993; Aug. 6, 1947, ch. 510, § 3, 61 Stat. 794; June 14, 1948, ch. 468, § 3(b), 62 Stat. 439; Aug. 28, 1950, ch. 809, title III, pt. 2, § 322(a), pt. 6, § 361 (c, d), 64 Stat. 550, 558; July 18, 1952, ch. 945, § 8(b), 66 Stat. 778; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title III, § 303(a), 68 Stat. 1097; Aug. 1, 1956, ch. 836, title III, §§ 302, 312(c), 342, 351(a), 70 Stat. 847, 849, 852, 854; Aug. 28, 1958, Pub. L. 85-840, title V, § 502, 72 Stat. 1048; July 25, 1962, Pub. L. 87-543, title I, §§ 101 (a) (2), (b) (2) (A)—(C), 104(a) (3) (C), 108 (b), (c), 76 Stat. 174, 180, 185, 190.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (a) (3) (D), (E), is classified to sections 31—42 of Title 29, Labor.

Such Act, referred to in subsec. (a) (3) (D) (i), (ii), refers to the Vocational Rehabilitation Act.

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-543, § 101(a) (2), substituted "aid and services to needy families with children" for "aid to dependent children", in opening provision.

Subsec. (a) (1). Pub. L. 87-543, §§ 101(a) (2), 108(c), substituted "aid to families with dependent children", in four instances, and "such aid" in subpar. (A) (i) for "aid to dependent children", and added subpar. (A) (iii).

Subsec. (a) (2). Pub. L. 87-543, § 101(a) (2), substituted "aid to families with dependent children" and "such aid" for "aid to dependent children."

Subsec. (a) (3). Pub. L. 87-543, § 101 (a) (2), (b) (2) (A), inserted in the opening provisions "whose State plan approved under section 602 of this title meets the requirements of subsection (c) (1) of this section" following "any State", and substituted provisions which increased the Federal share of expenses of administration of State public assistance plans by providing quarterly payments of the sum of 75 per centum of the quarterly expenses for certain prescribed services to help relatives attain and retain capability for self-support or self-care and to maintain and strengthen family life for dependent children, services likely to prevent or reduce dependency, and services appropriate for relatives and dependent children where such relatives request such services, and training of State or local public assistance personnel administering such plans and one-half of other administrative expenses for other services, permitted State health or vocational rehabilitation or other appropriate State agencies to furnish such services, except vocational rehabilitation services, and required the determination of the portion of expenses covered by the 75 and 50 per centum provisions in accordance with methods and procedures permitted by the Secretary for former provisions requiring quarterly payments of one-half of the quarterly expenses of administration of State plans, including staff services of State or local public assistance agencies to help relatives attain self-support or self-care and to maintain and strengthen family life for dependent children.

Subsec. (a) (4). Pub. L. 87-543, § 101(b) (2) (B), added subsec. (a) (4).

Subsec. (a), closing provisions. Pub. L. 87-543, § 108(b), limited to the number of individuals with respect to whom protective payments are made in any month who may be included as recipients of aid to families with dependent children to 5 per centum of the number of other recipients of such aid during the month.

Subsec. (b) (2) (B). Pub. L. 87-543, § 104(a) (3) (C), substituted "aid to families with dependent children" for "aid to dependent children."

Subsec. (c). Pub. L. 87-543, § 101(b) (2) (C), added subsec. (c).

1958—Subsec. (a). Pub. L. 85-840 substituted provisions authorizing the counting of the first \$30 of expenditures multiplied by the total number of recipients for provisions which authorized the counting of the first \$32 with respect to the first dependent child and the adult relative with whom the child is living and \$23 with respect to each of the other dependent children in the home, inserted provisions permitting sums spent for insurance premiums for medical or any other type of remedial care or the cost thereof to be included within the expenditures, excluded Guam from the provisions which allow an average monthly payment of \$30 and included Guam within the provisions which authorize an average monthly payment of \$18, and permitted the counting of individuals with respect to whom expenditures were made as old-age assistance in the form of medical or any type of remedial care in determining the total number of recipients.

1956—Subsec. (a). Act Aug. 1, 1956, § 302, substituted "during such quarter as aid to dependent children in the form of money payments under the State plan" for "during such quarter as aid to dependent children under the State plan" in cls. (1) and (2), "with respect to whom aid to dependent children in the form of money payments is paid for such month" for "with respect to whom aid to dependent children is paid for such month" in par. (a) of cl. (1), and inserted cl. (4).

Act Aug. 1, 1956, § 312(c), eliminated “, which shall be used exclusively as aid to dependent children,” following “the Virgin Islands, an amount” in cls. (1) and (2), and substituted “including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision), to relatives with whom such children (applying for or receiving such aid) are living, in order to help such relatives attain self-support or self-care, or which are provided to maintain and strengthen family life for such children” for “which amount shall be used for paying the costs of administering the State plan or for aid to dependent children, or both, and for no other purpose” in cl. (3).

Act Aug. 1, 1956, § 342, substituted “October 1, 1956” for “October 1, 1952”, eliminated “, which shall be used exclusively as aid to dependent children,” following “the Virgin Islands, an amount” in cls. (1) and (2), substituted “\$32” for “\$30” in three instances, “\$23” for “\$21”, “\$17” for “\$15”, and “fourteen-seventeenth” for “four-fifths”, inserted “and not counting so much of such expenditure for any month with respect to a relative with whom any dependent child is living as exceeds \$18” in cl. (2), and substituted “Secretary of Health, Education, and Welfare” for “Secretary”, and “including services which are provided by the staff of the State plan, including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to relatives with whom such children (applying for or receiving such aid) are living, in order to help such relatives attain self-support or self-care, or which are provided to maintain and strengthen family life for such children” for “which amount shall be used for paying the costs of administering the State plan or for aid to dependent children, or both, and for no other purpose” in cl. (3).

Act Aug. 1, 1956, § 351(a), inserted “, and not counting so much of such expenditure for any month with respect to a relative with whom any dependent child is living as exceeds \$18” in cl. (2).

1954—Subsec. (b)(1). Act Sept. 1, 1954, § 303(a), substituted the words “the State’s proportionate share” for “one-half.”

1952—Subsec. (a). Act July 18, 1952, increased the Federal share of the State’s average monthly payment to four-fifths of the first \$25 plus one-half of the remainder within individual maximums of \$55, and to change formulas for computing the Federal share of public assistance for Puerto Rico and the Virgin Islands.

1950—Subsec. (a). Act Aug. 28, 1950, § 322(a), changed the basis of computation of the Federal portion of aid to dependent children.

1948—Subsec. (a). Act June 14, 1948, inserted \$27 for \$24 wherever appearing, \$18 for \$15, and \$12 for \$9.

1946—Subsec. (a). Act Aug. 10, 1946, § 502(a), increased the maximum monthly State expenditure to which the Federal Government will contribute from \$18 for one dependent child and \$12 each for other dependent children in the same family to \$24 and \$15, respectively, and increased the Federal contribution from one-half the State’s expenditure for carrying out the State plan to a contribution to be used exclusively as aid to dependent children of two-thirds the State’s expenditure up to \$9 monthly per child plus one-half the State’s expenditure over \$9, and a contribution of one-half the State’s expenditure for administration.

Subsec. (b). Act Aug. 10, 1946, § 502(b), substituted “the State’s proportionate share” for “one-half”.

1939—Subsec. (a). Act Aug. 10, 1939, substituted “one-half” for “one-third”.

Subsec. (b). Act Aug. 10, 1939, substituted “one half” for “two thirds” in par. (1) and inserted in par. (2) provision reading: “(B) reduced by a sum * * * under the state plan.”

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (a)(1)—(3) of this section by section 101(a)(2) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Aug. 31, 1962, and addition of subsecs. (a)(4) and (c) and amendment of subsec. (a)(3) of this section by section 101(b)(2)(A)—(C) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chap-

ter, as the case may be, made after June 30, 1963, see section 202(f) of Pub. L. 87-543, set out as a note under section 303 of this title.

Section 202(e) of Pub. L. 87-543 provided that: “The amendments made by sections 105 (other than subsection (c)) and 108 [adding 603(a)(1)(A)(iii), 603(a) last par., and 609 of this title, amending section 606(b) of this title, and enacting provisions set out as notes under sections 603 and 609 of this title] shall be applicable in the case of expenditures under a State plan approved under title IV of the Social Security Act [this subchapter], made during the period beginning October 1, 1962, and ending with the close of June 30, 1967.”

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment of this section by Pub. L. 85-840, see section 512 of Pub. L. 85-840, set out as a note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1956 AMENDMENT

Amendment of subsec. (a) of this section by section 342 of act Aug. 1, 1956, effective only for the period beginning Oct. 1, 1956, and ending with the close of June 30, 1959, see section 345 of act Aug. 1, 1956, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 351 (d) of act Aug. 1, 1956, provided that: “The amendments made by this section [to subsec. (a)(2) of this section and sections 606 (b) and 1308 of this title] shall be effective with respect to the fiscal year ending June 30, 1957, and all succeeding fiscal years.”

Amendment of this section by section 302 of act Aug. 1, 1956, effective July 1, 1957, see section 305 of act Aug. 1, 1956, set out as a note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT

Amendment of subsec. (a) effective for the period beginning Oct. 1, 1952, and ending Sept. 30, 1954, see note set out under section 303 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 322 (b) of act Aug. 28, 1950, provided that the amendment of subsection (a) shall be effective Oct. 1, 1950.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 3 (d) of act June 14, 1948, provided that the amendment of subsec. (a) of this section by section 3 (b) of act June 14, 1948, shall become effective on Oct. 1, 1948.

EFFECTIVE AND TERMINATION DATE OF 1946 AMENDMENT

Amendment of section by section 502 of act Aug. 10, 1946, effective only for the period beginning Oct. 1, 1946, and ending with the close of June 30, 1950, see paraphrase of section 504 of such act Aug. 10, 1946, as amended by act Aug. 6, 1947, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of subsec. (b) by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 402 of act Aug. 10, 1939.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

“Administrator” was substituted for “Board”, and “he”, “him”, or “his” for “it” or “its” wherever appearing by act Aug. 28, 1950, § 361 (c), (d).

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

Division of Disbursement and certain other offices and agencies and their functions were consolidated into Fiscal Service of Treasury Department by 1940 Reorg. Plan No. III, set out in note under section 133t of Title 5, Executive Departments and Government Officers and Employees.

REPORT TO PRESIDENT AND CONGRESS: RECOMMENDATIONS AS TO CONTINUATION AND MODIFICATION OF AMENDMENT

Section 108(d) of Pub. L. 87-543 provided that: "The Secretary shall submit to the President, for transmission to the Congress prior to January 1, 1967, a full report of the administration of the provisions of the amendments made by this section [to this section and sections 606 of this title], including the experiences of each of the States in making protective payments under the provisions of their respective State plans which are in accord with such amendments [to this section and section 606 of this title], together with his recommendations as to continuation of and modifications in such amendments [to this section and section 606 of this title]."

Provision applicable in the case of expenditures under a State plan approved under this subchapter, made during the period beginning Oct. 1, 1962, and ending with the close of June 30, 1967, see section 202(e) of Pub. L. 87-543, set out as Effective Date of 1962 Amendment note under this section.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962, deemed to have been conformed to amendment of subsec. (b) (2) (B) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

CROSS REFERENCES

Navajo and Hopi Indians, additional Federal contributions in connection with rehabilitation program, see section 639 of Title 25, Indians.

§ 604. Stopping payments on deviation from required provisions of plan or failure to comply therewith.

(a) In the case of any State plan for aid and services to needy families with children which has been approved by the Secretary, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence requirement prohibited by section 602(b) of this title, or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 602(a) of this title to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

(b) No payment to which a State is otherwise entitled under this subchapter for any period before September 1, 1962, shall be withheld by reason of any action taken pursuant to a State statute which requires that aid be denied under the State plan approved under this subchapter with respect to a child because of the conditions in the home in which the child resides; nor shall any such payment be withheld for any period beginning on or after such date by reason of any action taken pursuant to such a statute if provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child. (Aug. 14, 1935, ch. 531, title IV, § 404, 49 Stat. 628; 1946 Reorg. Plan

No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (c), (d), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; May 8, 1961, Pub. L. 87-31, 64, 75 Stat. 77; July 25, 1962, Pub. L. 87-543, title I, §§ 104(a) (5) (B), 107(b), 76 Stat. 185-189.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-543, § 104(a) (5) (B), substituted "aid and services to needy families with children" for "aid to dependent children."

Subsec. (b). Pub. L. 87-543, § 107(b), prohibited the withholding of payments from a State on and after Sept. 1, 1962 by reason of any action taken pursuant to a State statute where provision is made pursuant to a State statute for adequate care and assistance of the child.

1961—Pub. L. 87-31 designated existing provisions as subsec. (a) and added subsec. (b).

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950.

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962 deemed to have been conformed to amendment of subsec. (a) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

§ 605. Use of payments for benefit of children.

Whenever the State agency has reason to believe that any payments of aid to families with dependent children made with respect to a child are not being or may not be used in the best interests of the child, the State agency may provide for such counseling and guidance services with respect to the use of such payments and the management of other funds by the relative receiving such payments as it deems advisable in order to assure use of such payments in the best interests of such child, and may provide for advising such relative that continued failure to so use such payments will result in substitution therefore for protective payments as provided under section 606(b) (2) of this title, or in seeking appointment of a guardian or legal representative as provided in section 1311 of this title, or in the imposition of criminal or civil penalties authorized under State law if it is determined by a court of competent jurisdiction that such relative is not using or has not used for the benefit of the child any such payments made for that purpose; and the provision of such services or advice by the State agency (or the taking of the action specified in such advice) shall not serve as a basis for withholding funds from such State under section 604 of this title and shall not prevent such payments with respect to such child from being considered aid to families with dependent children. (Aug. 14, 1935, ch. 531, title IV, § 405, 49 Stat. 629; July 25, 1962, Pub. L. 87-543, title I, § 107(a), 76 Stat. 188.)

AMENDMENTS

1962—Pub. L. 87-543 substituted provisions relating to use of payments for benefit of children for former provision appropriating \$250,000 for fiscal year ending June 30, 1936, to defray expenses of former Social Security Board under sections 601-605 of this title.

§ 606. Definitions.

When used in this subchapter—

(a) The term "dependent child" means a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, and (2) who is (A) under the age of eighteen, or (B) under the age of twenty-one and (as determined in accordance with standards prescribed by the Secretary) a student regularly attending a high school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational or technical training designed to fit him for gainful employment;

(b) The term "aid to families with dependent children" means money payments with respect to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, a dependent child or dependent children, and includes (1) money payments or medical care or any type of remedial care recognized under State law to meet the needs of the relative with whom any dependent child is living (and the spouse of such relative if living with him and if such relative is the child's parent and the child is a dependent child by reason of the physical or mental incapacity of a parent or is a dependent child under section 607 of this title), and (2) payments with respect to any dependent child (including payments to meet the needs of the relative, and the relative's spouse, with whom such child is living) which do not meet the preceding requirements of this subsection, but which would meet such requirements except that such payments are made to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such child and relative, but only with respect to a State whose State plan approved under section 602 of this title includes provision for—

(A) determination by the State agency that the relative of the child with respect to whom such payments are made has such inability to manage funds that making payments to him would be contrary to the welfare of the child and, therefore, it is necessary to provide such aid with respect to such child and relative through payments described in this clause (2);

(B) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of aid to families with

dependent children to be paid (and in conjunction with other income and resources), meet all the need of the individuals with respect to whom such payments are made;

(C) undertaking and continuing special efforts to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family;

(D) periodic review by such State agency of the determination under clause (A) to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1311 of this title, if and when it appears that the need for such payments is continuing, or is likely to continue, beyond a period specified by the Secretary;

(E) aid in the form of foster home care in behalf of children described in section 608(a) of this title; and

(F) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) for any individual with respect to whom it is made;

(c) The term "relative with whom any dependent child is living" means the individual who is one of the relatives specified in subsection (a) of this section and with whom such child is living (within the meaning of such subsection) in a place of residence maintained by such individual (himself or together with any one or more of the other relatives so specified) as his (or their) own home. (Aug. 14, 1935, ch. 531, title IV, § 406, 49 Stat. 629; Aug. 10, 1939, ch. 666, title IV, § 403, 53 Stat. 1380; Aug. 28, 1950, ch. 809, title III, pt. 2, § 323 (a), 64 Stat. 551; Aug. 1, 1956, ch. 836, title III, §§ 321, 322, 351 (b), 70 Stat. 850, 855; July 25, 1962, Pub. L. 87-543, title I, §§ 104 (a) (3) (D), 108(a), 109, 152, 156(b), 76 Stat. 185, 188, 189, 190, 206, 207; Oct. 13, 1964, Pub. L. 88-641, § 2(a), 78 Stat. 1042.)

AMENDMENTS

1964—Subsec. (a). Pub. L. 88-641 included within the definition of "dependent child" one who is under the age of 21 and a student regularly attending a high school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational or technical training designed to fit him for gainful employment.

1962—Subsec. (b). Pub. L. 87-543, §§ 104(a) (3) (D), 156(b), substituted "aid to families with dependent children" for "aid to dependent children" and inserted "(if provided in or after the third month before the month in which the recipient makes application for aid)" preceding "medical care".

Pub. L. 87-543, §§ 108(a), 109, 152, designated existing provisions as par. (1) and added par. (2); inserted in par. (1) "(and the spouse of such relative if living with him and if such relative is the child's parent and the child is a dependent child by reason of the physical or mental incapacity of a parent or is a dependent child under section 607 of this title)" following "relative with whom any dependent child is living"; and deleted from par. (1) "for any month" and "if money payments have been made under the State plan with respect to such child for such month" preceding and following "to meet the needs of the relative with whom any dependent child is living".

1956—Subsec. (a). Act Aug. 1, 1956, §§ 321, 322, included first cousins, nephews, and nieces, as persons with whom a needy child may be living, and eliminated the requirement of school attendance for children between the ages of 16 and 18.

Subsec. (b). Act Aug. 1, 1956, § 351(b), eliminated "(except when used in clause (2) of section 603(a) of this title)" preceding "Includes money payments or medical care".

1950—Subsec. (b). Act Aug. 28, 1950, redefined "aid to dependent children".

Subsec. (c). Act Aug. 28, 1950, added subsec. (c).

1939—Subsec. (a). Act Aug. 10, 1939, redefined "dependent child".

EFFECTIVE DATE OF 1962 AMENDMENT

Section 202(c) of Pub. L. 87-543 provided that: "The amendments made by sections 102 (b) (2) and (d), and 152 [enacting section 728 of this title and amending sections 606(b) (1), 721 and 723(a) of this title] shall be applicable in the case of expenditures, under a State plan approved under title I, IV, X, or XIV of the Social Security Act [subchapter I, IV, X, or XIV of this chapter] or developed as provided in part 3 of title V of such Act [sections 721—728 of this title], as the case may be, made after June 30, 1962."

Amendment of subsec. (b) of this section by section 108(a) of Pub. L. 87-543 applicable in the case of expenditures under a State plan approved under this subchapter, made during the period beginning Oct. 1, 1962, and ending with the close of June 30, 1967, see section 202(e) of Pub. L. 87-543, set out as a note under section 603 of this title.

Amendment of subsec. (b) of this section by section 109 of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Sept. 30, 1962, see section 202(d) of Pub. L. 87-543, set out as a note under section 303 of this title.

Amendment of subsec. (b) of this section by section 156(b) of Pub. L. 87-543 applicable in the case of applications made after Sept. 30, 1962, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, see section 156(e) of Pub. L. 87-543, set out as a note under section 306 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 323 of part III of title III of act Aug. 1, 1956, provided that: "The amendments made by this part [to subsec. (a) of this section] shall become effective July 1, 1957."

Amendment of subsec. (b) of this section by section 351 (b) of act Aug. 1, 1956, effective with respect to the fiscal year ending June 30, 1957, and all succeeding fiscal years, see section 351 (d) of act Aug. 1, 1956, set out as a note under section 603 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 323 (b) of act Aug. 28, 1950, provided that the amendment of subsection (b) and the addition of subsection (c) shall take effect as of Oct. 1, 1950.

REPORT TO PRESIDENT AND CONGRESS: RECOMMENDATIONS AS TO CONTINUATION AND MODIFICATION OF AMENDMENT

Report of administration of provisions enacted as an amendment of this section by section 108 of Pub. L. 87-543 and relating to protective payments under dependent children program and recommendations as continuation and modification of the provisions, see section 108(d) of Pub. L. 87-543, set out as a note under section 603 of this title.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962, deemed to have been conformed to amendment of subsec. (b) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

§ 607. Dependent children of unemployed parents; termination date; definition.

Effective for the period beginning May 1, 1961, and ending with the close of June 30, 1967, the term "dependent child" shall, notwithstanding section 606(a) of this title, include a needy child who meets the requirements of section 606(a) (2) of this title who has been deprived of parental support or care by

reason of the unemployment (as defined by the State) of a parent, and who is living with any of the relatives specified in section 606(a) (1) of this title in a place of residence maintained by one or more of such relatives as his (or their) own home, but only with respect to a State whose State plan approved under section 602 of this title—

- (1) includes aid for any such child, and
- (2) includes—

(A) provision for entering into cooperative arrangements with the system of public employment offices in the State looking toward employment of the unemployed parents of such children, including appropriate provision for registration and periodic reregistration of the unemployed parent of any such child and for maximum utilization of the job placement services and other services and facilities of such offices, and

(B) provisions to assure that aid to families with dependent children is not provided to any such child or relative if, and for as long as, the unemployed parent refuses without good cause to accept employment, in which he is able to engage, which (i) is offered through such public employment offices, or (ii) is otherwise offered by an employer if the offer is determined by the State or local agency administering the State plan, after notification by such employer, to be a bona fide offer of such employment, and

(3) includes provision (A) for entering into cooperative arrangements with the State agency responsible for administering or supervising the administration of vocational education in the State, looking toward maximum utilization of available public vocational education services and facilities in the State in order to encourage the retraining of individuals capable of being retrained, and (B) for denying aid to families with dependent children to any such child or relative if, and for as long as, the unemployed parent refuses without good cause to undergo any such retraining.

For purposes of the preceding sentence, a State plan may, at the option of the State, provide for the denial of all (or any part) of the aid under the plan to which any child or relative might otherwise be entitled for any month, if the unemployed parent of such child receives unemployment compensation under an unemployment compensation law of a State or of the United States for any week any part of which is included in such month. (Aug. 14, 1935, ch. 531, title IV, § 407, as added May 8, 1961, Pub. L. 87-31, § 1, 75 Stat. 75, and amended July 25, 1962, Pub. L. 87-543, title I, §§ 104(a) (3) (E), 131(a), 134, 76 Stat. 185, 193, 196; Oct. 13, 1964, Pub. L. 88-641, § 2(b), 78 Stat. 1042.)

AMENDMENTS

1964—Pub. L. 88-641 substituted "needy child who meets the requirements of section 606(a) (2) of this title, who" for "needy child under the age of eighteen who" and "section 606(a) (1) of this title" for "section 606(a) of this title."

1962—Pub. L. 87-543 extended termination date from June 30, 1962, to June 30, 1967, substituted "aid to families with dependent children" for "aid to dependent children" in clause (2) (B), designated existing provisions as clause (3) (A), and added clause (3) (B).

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of par. (3) of this section by section 134 of Pub. L. 87-543 effective July 1, 1963, see section 202(a) of Pub. L. 87-543, set out as a note under section 302 of this title.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962, deemed to have been conformed to amendment of clause (2)(B) of this section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

§ 608. Payments to States for foster home care of dependent children; definitions.

Effective for the period beginning May 1, 1961

(a) the term "dependent child" shall, notwithstanding section 606(a) of this title, also include a child (1) who would meet the requirements of such section 606(a) or of section 607 of this title except for his removal after April 30, 1961, from the home of a relative (specified in such section 607 of this title) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, (2) whose placement and care are the responsibility of (A) the State or local agency administering the State plan approved under section 602 of this title, or (B) any other public agency with whom the State agency administering or supervising the administration of such State plan has made an agreement which is still in effect and which includes provision for assuring development of a plan, satisfactory to such State agency, for such child as provided in paragraph (f) (1) and such other provisions as may be necessary to assure accomplishment of the objectives of the State plan approved under section 602 of this title, (3) who has been placed in a foster family home or child-care institution as a result of such determination, and (4) who received aid under such State plan in or for the month in which court proceedings leading to such determination were initiated;

(b) the term "aid to families with dependent children" shall, notwithstanding section 606(b) of this title, include also foster care in behalf of a child described in paragraph (a) of this section—

(1) in the foster family home of any individual, whether the payment therefor is made to such individual or to a public or nonprofit private child-placement or child-care agency, or

(2) in a child-care institution, whether the payment therefor is made to such institution or to a public or nonprofit private child-placement or child-care agency, but subject to limitations prescribed by the Secretary with a view to including as "aid to families with dependent children" in the case of such foster care in such institutions only those items which are included in such term in the case of foster care in the foster family home of an individual.

(c) the number of individuals counted under clause (A) of section 603(a)(1) of this title for any month shall include individuals (not otherwise included under such clause) with respect to whom expenditures were made in such month as aid to families with dependent children in the form of foster care; and

(d) services described in paragraph (f) (2) of this section shall be considered as part of the administration of the State plan for purposes of section 603(a) (3) and (4) of this title;

but only with respect to a State whose State plan approved under section 602 of this title—

(e) includes aid for any child described in paragraph (a) of this section, and

(f) includes provision for (1) development of a plan for each such child (including periodic review of the necessity for the child's being in a foster family home or child-care institution) to assure that he receives proper care and that services are provided which are designed to improve the conditions in the home from which he was removed or to otherwise make possible his being placed in the home of a relative specified in section 606(a) of this title, and (2) use by the State or local agency administering the State plan, to the maximum extent practicable, in placing such a child in a foster family home or child-care institution, of the services of employees, of the State public-welfare agency referred to in section 722(a) of this title (relating to allotments to States for child welfare services under sections 721—726 of this title) or of any local agency participating in the administration of the plan referred to in such section, who perform functions in the administration of such plan.

For purposes of this section, the term "foster family home" means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing homes of this type, as meeting the standards established for such licensing; and the term "child-care institution" means a non-profit private child-care institution which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing. (Aug. 14, 1935, ch. 531, title IV, § 408, as added May 8, 1961, Pub. L. 87-31, § 2, 75 Stat. 76, and amended July 25, 1962, Pub. L. 87-543, title I, §§ 101(b)(2)(D), 104(a)(3)(F), (G), 131(b), 135(a)—(d), 155(a), 76 Stat. 180, 185, 193, 196, 197, 207.)

AMENDMENTS

1962—Pub. L. 87-543, § 131(b), deleted from the introductory phrase "and ending with the close of June 30, 1962" following "May 1, 1963."

Par. (a)(2). Pub. L. 87-543, § 155(a), incorporated existing provisions in (A) and added (B).

Par. (a)(3). Pub. L. 87-543, § 135(a), inserted "or child-care institution" following "foster family home."

Par. (b). Pub. L. 87-543, §§ 104(a)(3)(F), 135(b), substituted "aid to families with dependent children" for "aid to dependent children" in provisions designated clause (1), and designated existing provisions as clause (1), added to such clause (1) "whether the payment therefor is made to such individual or to a public or nonprofit private child-placement or child-care agency, or" and added clause (2).

Par. (c). Pub. L. 87-543, § 104(a)(3)(G), substituted "aid to families with dependent children" for "aid to dependent children."

Par. (d). Pub. L. 87-543, § 101(b)(2)(D), inserted "and (4)" following "section 603(a)(3)."

Par. (f) (1), (2). Pub. L. 87-543, § 135(c), inserted "or child-care institution" following "foster family home."

Pub. L. 87-543, § 135(d), inserted provisions in last sentence defining "child-care institution."

EFFECTIVE DATE OF 1962 AMENDMENT

Section 135(e) of Pub. L. 87-543, as amended by Pub. L. 88-641, § 1, Oct. 13, 1964, 78 Stat. 1042, provided that: "The amendments made by the preceding provisions of this section [to this section] shall be effective only in the case of expenditures under a State plan approved under title IV of the Social Security Act [this subchapter] made during the period beginning October 1, 1962, and ending with the close of June 30, 1967."

Amendment of par. (d) of this section by section 101(b) (2) (D) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after June 30, 1963, see section 202(f) of Pub. L. 87-543, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT: REPORT TO PRESIDENT AND CONGRESS; RECOMMENDATIONS AS TO CONTINUATION AND MODIFICATION OF AMENDMENT

Section 155(b) of Pub. L. 87-543, as amended by Pub. L. 88-48, June 29, 1963, 77 Stat. 70; Pub. L. 88-345, June 30, 1964, 78 Stat. 235, provided that: "The amendment made by subsection (a) [to par. (a) (2) of this section] shall apply only for the period beginning October 1, 1962, and ending with the close of June 30, 1967. The Secretary shall submit to the President, for transmission to the Congress prior to December 31, 1963, a full report of the administration of the provisions of the amendment made by subsection (a) [to par. (a) (2) of this section], including the experiences of each of the States in arranging for foster care under the provisions of their respective State plans which are in accord with such amendment, together with his recommendations as to continuation of, and modifications in, such amendment."

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS.

State plans in effect July 25, 1962, deemed to have been conformed to amendment of pars. (b), (c) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

§ 609. Community work and training programs.

(a) For the purpose of assisting the States in encouraging, through community work and training programs of a constructive nature, the conservation of work skills and the development of new skills for individuals who have attained the age of 18 and are receiving aid to families with dependent children, under conditions which are designed to assure protection of the health and welfare of such individuals and the dependent children involved, expenditures (other than for medical or any other type of remedial care) for any month with respect to a dependent child (including payments to meet the needs of any relative or relatives, specified in section 606(a) of this title, with whom he is living) under a State plan approved under section 602 of this title shall not be excluded from aid to families with dependent children because such expenditures are made in the form of payments for work performed in such month by any one or more of the relatives with whom such child is living if such work is performed for the State agency or any other public agency under a program (which need not be in effect in all political subdivisions of the State) administered by or under the supervision of such State agency, if there is State financial participation in such expenditures, and if such State plan includes—

(1) provisions which, in the judgment of the Secretary, provide reasonable assurance that—

(A) appropriate standards for health, safety, and other conditions applicable to the performance of such work by such relatives are established and maintained;

(B) payments for such work are at rates not less than the minimum rate (if any) provided by or under State law for the same type of work and not less than the rates prevailing on similar work in the community;

(C) such work is performed on projects which serve a useful public purpose, do not result either in displacement of regular workers or in the performance by such relatives of work that would otherwise be performed by employees of public or private agencies, institutions, or organizations, and (except in cases of projects which involve emergencies or which are generally of a nonrecurring nature) are of a type which has not normally been undertaken in the past by the State or community, as the case may be;

(D) in determining the needs of any such relative, any additional expenses reasonably attributable to such work will be considered;

(E) any such relative shall have reasonable opportunities to seek regular employment and to secure any appropriate training or retraining which may be available;

(F) any such relative will, with respect to the work so performed, be covered under the State workmen's compensation law or be provided comparable protection; and

(G) aid under the plan will not be denied with respect to any such relative (or the dependent child) for refusal by such relative to perform any such work if he has good cause for such refusal;

(2) provision for entering into cooperative arrangements with the system of public employment offices in the State looking toward employment or occupational training of any such relatives performing work under such program, including appropriate provision for registration and periodic reregistration of such relatives and for maximum utilization of the job placement services and other services and facilities of such offices;

(3) provision for entering into cooperative arrangements with the State agency or agencies responsible for administering or supervising the administration of vocational education and adult education in the State, looking toward maximum utilization of available public vocational or adult education services and facilities in the State in order to encourage the training or retraining of any such relatives performing work under such program and otherwise assist them in preparing for regular employment;

(4) provision for assuring appropriate arrangements for the care and protection of the child during the absence from the home of any such relative performing work under such program in order to assure that such absence and work will not be inimical to the welfare of the child;

(5) provision that there will be no adjustment or recovery by the State or any political subdivision thereof on account of any payments which are correctly made for such work; and

(6) such other provisions as the Secretary finds necessary to assure that the operation of such program will not interfere with achievement of the objectives set forth in section 601 of this title.

(b) In the case of any State which makes expenditures in the form described in subsection (a) of this section under its State plan approved under section 602 of this title, the proper and efficient administration of the State plan for purposes of section 603(a) (3) and (4) of this title, may not include the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in subsection (a) of this section or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary. (Aug. 14, 1935, ch. 531, title IV, § 409, as added July 25, 1962, Pub. L. 87-543, title I, § 105(a), 76 Stat. 186, and amended July 25, 1962, Pub. L. 87-543, title I, § 101(b) (2) (E), 76 Stat. 180.)

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-543 inserted "and (4)" following "section 603(a) (3)."

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (b) of this section by section 101(b) (2) (E) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after June 30, 1963, see section 202(f) of Pub. L. 87-543, set out as a note under section 303 of this title.

EFFECTIVE DATE

Section applicable in the case of expenditures under a State plan approved under this subchapter, made during the period beginning Oct. 1, 1962, and ending with the close of June 30, 1967, see section 202(e) of Pub. L. 87-543, set out as a note under section 603 of this title.

REPORT TO PRESIDENT AND CONGRESS: RECOMMENDATIONS AS TO CONTINUATION AND MODIFICATION OF PROGRAMS

Section 105(b) of Pub. L. 87-543 provided that: "The Secretary shall submit to the President, for transmission to the Congress prior to January 1, 1967, a full report of the administration of the provisions of the amendment made by subsection (a) [enacting this section], including the experiences of each of the States in paying for work under community work and training programs under the provisions of their respective State plans which are in accord with such amendment, together with his recommendations as to continuation of and modifications in such amendment."

Provision applicable in the case of expenditures under a State plan approved under this subchapter, made during the period beginning Oct. 1, 1962, and ending with the close of June 30, 1967, see section 202(e) of Pub. L. 87-543, set out as Effective Date of 1962 Amendment note under section 603 of this title.

EXPENDITURES DEEMED MADE UNDER STATE PLANS AND CONSTITUTING AID TO DEPENDENT CHILDREN OR AID TO FAMILIES WITH DEPENDENT CHILDREN

Section 105(c) of Pub. L. 87-543 provided that: "Expenditures (other than for medical or any other type of remedial care) made at any time during the period beginning July 1, 1961, and ending with the close of September 30, 1962, which would have been considered aid to dependent children or aid to families with dependent children, as the case may be, under a State plan approved under title IV of the Social Security Act [this subchapter] except that they were made in the form of

payments for work performed by a relative with whom a dependent child (as defined in section 406 or 407 of such Act [section 606 or 607 of this title]) is living, shall be deemed to have been made under a State plan approved under title IV of the Social Security Act [this subchapter] and to constitute aid to dependent children or aid to families with dependent children, as the case may be, if (1) such expenditures were made under conditions which meet the requirements set forth in section 409 of such Act (added by subsection (a) of this section) [this section], other than subparagraphs (D) and (F) of subsection (a) (1) thereof [subpars. (D) and (F) of subsec. (a) (1) of this section] and other than the requirement that the State agency (administering or supervising the administration of such plan) be administering or supervising the administration of the program under which such work is performed, and (2) at the time such expenditures were made, such State plan met the requirements of paragraphs (1), (2), and (3) of section 407 of the Social Security Act [section 607 of this title]. The costs of administration of any such State plan may include, with respect to expenditures described in the preceding sentence, only such costs as are permitted in accordance with the provisions of subsection (b) of such section 409. [subsec. (b) of this section]."

SUBCHAPTER V.—GRANTS TO STATES FOR MATERNAL AND CHILD WELFARE

MATERNAL AND CHILD HEALTH SERVICES

§ 701. Appropriation.

For the purpose of enabling each State to extend and improve, as far as practicable under the conditions in such State, services for promoting the health of mothers and children, especially in rural areas and in areas suffering from severe economic distress, the following sums are hereby authorized to be appropriated: \$25,000,000 for the fiscal year ending June 30, 1963, \$30,000,000 for the fiscal year ending June 30, 1964, \$35,000,000 for the fiscal year ending June 30, 1965, \$40,000,000 each for the fiscal year ending June 30, 1966, and the succeeding fiscal year, \$45,000,000 each for the fiscal year ending June 30, 1968, and the succeeding fiscal year, and \$50,000,000 each for the fiscal year ending June 30, 1970, and succeeding fiscal year. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Federal Security Administrator, State plans for such services. (Aug. 14, 1935, ch. 531, title V, § 501, 49 Stat. 629; Aug. 10, 1939, ch. 666, title V, § 501, 53 Stat. 1380; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401(b) (1), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 3, § 331(a), pt. 6, § 361 (e), 64 Stat. 551, 558; Aug. 28, 1958, Pub. L. 85-840, title VI § 602(a), 72 Stat. 1054; Sept. 13, 1960, Pub. L. 86-778, title VII, § 707(a) (1) (A), 74 Stat. 995; Oct. 24, 1963, Pub. L. 88-156, § 2(a), 77 Stat. 273.)

AMENDMENTS

1963—Pub. L. 88-156 increased the appropriation from \$25,000,000 for each fiscal year beginning after June 30, 1960, to \$30,000,000 for fiscal year ending June 30, 1964; \$35,000,000 for fiscal year ending June 30, 1965; \$40,000,000 each for fiscal years ending June 30, 1966, and 1967; \$45,000,000 each for fiscal years ending June 30, 1968 and 1969, and \$50,000,000 each for fiscal year ending June 30, 1970, and succeeding fiscal years.

1960—Pub. L. 86-778 increased the appropriation from \$21,500,000 to \$25,000,000 for each fiscal year beginning after June 30, 1960.

1958—Pub. L. 85-840 increased the appropriation from \$16,500,000 to \$21,500,000 for each fiscal year beginning after June 30, 1958.

1950—Act Aug. 28, 1950, increased appropriations from \$11,000,000 annually to \$15,000,000 for fiscal year 1951, and to \$16,500,000 for each fiscal year thereafter.

1946—Act Aug. 10, 1946, increased appropriations from \$5,820,000 to \$11,000,000.

1939—Act Aug. 10, 1939, increased appropriations from \$3,800,000 to \$5,820,000.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 707(c) of Pub. L. 86-778 provided that: "The amendments made by this section [adding section 726 of this title and amending this section and sections 702 (a) (2), (b), 704(c), 711, 712 (a) (2), (b), 714(c), 721 and 722(a) of this title] shall be effective only with respect to fiscal years beginning after June 30, 1960."

EFFECTIVE DATE OF 1950 AMENDMENT

Section 331 (f) of act Aug. 28, 1950, provided that the amendment of this section shall be effective with respect to fiscal years beginning after Jan. 30, 1950.

EFFECTIVE DATE OF 1946 AMENDMENT

Section 401 (b) of act Aug. 10, 1946, provided in part that the amendments to sections 701, 702, 711, 712, 721 and 741 of this title shall be effective with respect to the fiscal year ending June 30, 1947, and subsequent fiscal years.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Children's Bureau", "Chief of Children's Bureau", and "Secretary of Labor" wherever appearing by act Aug. 28, 1950, § 361 (e).

Identical changes were effected by 1946 Reorg. Plan No. 2, set out in note under section 133y-16 of Title 5, Executive Departments and Government Officers and Employees, which transferred the Children's Bureau to the Federal Security Agency and certain of its functions, as well as all functions of the Secretary of Labor under sections 701-731 of this title to the Federal Security Administrator. For assignment of these functions within the Federal Security Agency, see note under section 902 of this title.

ALLOTMENTS FOR FISCAL YEAR 1947

Section 401 (c) of act Aug. 10, 1946, provided that: "The amendments made by subsection (b) [of section 401 of said act to sections 701, 702, 711, 712, 721, 731 of this title] shall not require amended allotments for the fiscal year 1947 until sufficient appropriations have been made to carry out such amendments, and allotments from such appropriations shall be made in amounts not exceeding the amounts authorized by the amendments made by this section [to said sections and section 1301 of this title]."

§ 702. Allotments to States.

(a) The Secretary shall allot one-half of the sum appropriated pursuant to section 701 of this title for each fiscal year as follows: He shall allot to each State \$70,000 and such part of the remainder of such one-half as he finds that the number of live births in such State bore to the total number of live births in the United States in the latest calendar year for which he has statistics.

(b) The Secretary shall also allot to the States (in addition to the allotments made under subsection (a) of this section) the remaining one-half of the sum appropriated for each fiscal year pursuant to section 701 of this title. Such one-half shall be allotted from time to time according to the financial need of each State for assistance in carry-

ing out its State plan, as determined by the Administrator after taking into consideration the number of live births in such State; except that not more than 25 per centum of such one-half shall be available for grants to State health agencies (administering or supervising the administration of a State plan approved under section 703 of this title), and to public or other nonprofit institutions of higher learning (situated in any State), for special projects of regional or national significance which may contribute to the advance of maternal and child health.

(c) The amount of any allotment to a State under subsection (a) of this section for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 704 of this title until the end of the second succeeding fiscal year. No payment to a State under section 704 of this title shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available. (Aug. 14, 1935, ch. 531, title V, § 502, 49 Stat. 629; Aug. 10, 1939, ch. 666, title V, § 502, 53 Stat. 1380; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401 (b) (2, 3), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 3, § 331 (b), pt. 6, § 361 (e), 64 Stat. 551, 558; Aug. 28, 1958, Pub. L. 85-840, title VI, § 602 (b), (c), 72 Stat. 1055; Sept. 13, 1960, Pub. L. 86-778, title VII, § 707 (a) (1) (B), (C), (b) (1) (A), 74 Stat. 995, 996; Oct. 24, 1963, Pub. L. 88-156, § 2(b), (c), 77 Stat. 273.)

AMENDMENTS

1963—Subsec. (a). Pub. L. 88-156, § 2(b), eliminated par. (1), which had provided out of the appropriation under section 701 of this title \$7,500,000 for allotment among the States for fiscal year ending June 30, 1951, \$60,000 outright to each State and the remainder under an allotment formula; and designated par. (2) as subsec. (a), substituted therein provision for allotment among the States of one-half of the sum appropriated for each fiscal year pursuant to section 701 of this title for former provision allotting among the States out of the appropriation under such section 701 the sum of \$12,500,000 for each fiscal year beginning after June 30, 1960, and omitted following the \$70,000 outright allotment to each State "even though the amount appropriated for such year is less than \$25,000,000."

Subsec. (b). Pub. L. 88-156, § 2(c), substituted the provision of the first sentence for allotment to the States of one-half of the sum appropriated for each fiscal year pursuant to section 701 of this title for former provision allotting to the States out of the appropriation under such section 701 the sum of \$12,500,000 for each fiscal year beginning after June 30, 1960, and substituted in the second sentence "Such one-half" and "such one-half" for "Such sums" and "such sum", respectively.

1960—Subsec. (a) (2). Pub. L. 86-778, § 707(a) (1) (B), increased the total allotment to the States from \$10,750,000 to \$12,500,000 for each fiscal year beginning after June 30, 1960, and required the Secretary to allot \$70,000 each fiscal year to each State even though the amount appropriated for such year is less than \$25,000,000.

Subsec. (b). Pub. L. 86-778, § 707 (a) (1) (C), (b) (1) (A), increased the total allotment to the States from \$10,750,000 to \$12,500,000 for each fiscal year beginning after June 30, 1960, inserted words "from time to time" after "shall be allotted", and limited to not more than 25 per centum of such sums the amount available for grants to State health agencies and to public or other nonprofit institutions of higher learning for special projects of regional or national significance which may contribute to the advancement of maternal and child health.

1958—Subsec. (a) (2). Pub. L. 85-840, § 602(b), increased the total allotment to the States from \$8,250,000 to \$10,750,000 for each fiscal year beginning after June 30, 1958, and required the Secretary to allot \$60,000 each fiscal year to each State even though the amount appropriated for the fiscal year is less than \$21,500,000.

Subsec. (b). Pub. L. 85-840, § 602(c), increased the total allotment to the States from \$8,250,000 to \$10,750,000 for each fiscal year beginning after June 30, 1958.

1950—Subsec. (a). Act Aug. 28, 1950, increased the total allotment to the States from \$5,500,000 to \$7,500,000, and the basic allotment to each State from \$35,000 to \$60,000 for the fiscal year 1951, and increased the total allotment to the States to \$8,250,000 with the same \$60,000 basic State allotment for fiscal years thereafter.

Subsec. (b). Act Aug. 28, 1950, increased the total allotment to the States from \$5,500,000 to \$7,500,000 for fiscal year 1951 and to \$8,250,000 for fiscal years thereafter.

1946—Subsec. (a). Act Aug. 10, 1946, § 401(b) (2), increased the allotments to \$5,500,000 with each State getting \$35,000 and a proportionate part of the remainder of the \$5,500,000.

Subsec. (b). Act Aug. 10, 1946, § 401(b) (3), increased the allotment from \$1,980,000 to \$5,500,000.

1939—Subsec. (a). Act Aug. 10, 1939, increased the allotment from \$1,800,000 to \$2,800,000.

Subsec. (b). Act Aug. 10, 1939, increased the allotment from \$980,000 to \$1,980,000.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsecs. (a) (2) and (b) of this section by Pub. L. 86-778 effective only with respect to fiscal years beginning after June 30, 1960, see section 707(c) of Pub. L. 86-778, set out as a note under section 701 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 331 (f) of act Aug. 28, 1950, provided that the amendment of subsections (a) and (b) of this section, sections 711, 712 (a), (b), and 721(a) of this title shall be effective with respect to fiscal years beginning after June 30, 1950.

EFFECTIVE DATE OF 1946 AMENDMENT

Effective date and allotments for fiscal year 1947, see notes under section 701 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Children's Bureau", "Chief of Children's Bureau", and "Secretary of Labor" wherever appearing by act Aug. 28, 1950, § 361 (e).

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 701 of this title.

SPECIAL PROJECTS FOR MENTALLY RETARDED CHILDREN

Pub. L. 88-605, title II, § 200, Sept. 19, 1964, 78 Stat. 976, provided in part: "That \$3,500,000 of the amount available under section 502 (b) of such Act [subsec. (b) of this section] shall be used only for special projects for mentally retarded children."

Similar provisions were contained in the following prior appropriation acts:

1963—Oct. 11, 1963, Pub. L. 88-136, title II, § 200, 77 Stat. 240.

1962—Aug. 14, 1962, Pub. L. 87-582, title II, § 200, 76 Stat. 376.

1961—Sept. 22, 1961, Pub. L. 87-290, title II, § 201, 75 Stat. 606.

1960—Sept. 2, 1960, Pub. L. 86-703, title II, § 201, 74 Stat. 770.

1959—Aug. 14, 1959, Pub. L. 86-158, title II, § 201, 73 Stat. 353.

1958—Aug. 1, 1958, Pub. L. 85-580, title II, § 201, 72 Stat. 472.

1957—June 29, 1957, Pub. L. 85-67, title II, § 201, 71 Stat. 222.

1956—June 29, 1956, ch. 477, title II, § 201, 70 Stat. 434.

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

§ 703. State plans; contents; approval by Administrator.

(a) A State plan for maternal and child-health services must (1) provide for financial participation by the State; (2) provide for the administration of the plan by the State health agency or the supervision of the administration of the plan by the State health agency; (3) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Administrator shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan; (4) provide that the State health agency will make such reports, in such form and containing such information, as the Administrator may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for the extension and improvement of local maternal and child-health services administered by local child-health units; (6) provide for cooperation with medical, nursing, and welfare groups and organizations; and (7) provide for the development of demonstration services in needy areas and among groups in special need.

(b) The Administrator shall approve any plan which fulfills the conditions specified in subsection (a) of this section and shall thereupon notify the State health agency of his approval. (Aug. 14, 1935, ch. 531, title V, § 503, 49 Stat. 630; Aug. 10, 1939, ch. 666, title V, § 503, 53 Stat. 1380; 1946 Reorg. Plan No. 2, §§ 1, 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (e), 64 Stat. 558.)

CODIFICATION

Provision of subsec. (b) providing that the Chief of the Children's Bureau should notify the Secretary of Labor of the approval of a plan was omitted under the authority of 1946 Reorg. Plan No. 2.

AMENDMENTS

1939—Subsec. (a) (3). Act Aug. 10, 1939, provided methods relating to the establishment and maintenance of personnel standards on a merit basis.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board" and "Chief of Children's Bureau" by act Aug. 28, 1950.

Identical changes were effected by 1946 Reorg. Plan No. 2. See notes under sections 701 and 902 of this title.

"Administrator" was substituted for "Board", "Secretary of Labor", and "Chief of the Children's Bureau" since the functions of all three under this section were transferred to the Federal Security Administrator by 1946 Reorg. Plan No. 2; see notes to sections 701 and 902 of this title. For this reason a provision of subsec. (b) that the Chief of the Children's Bureau should notify the Secretary of Labor of the approval of a plan was omitted.

§ 703a. Same; obstetrical services; approval by Administrator.

Any State plan which provides standards for professional obstetrical services in accordance with the laws of the State shall be approved by the Administrator. (Pub. L. 88-605, title II, § 200, Sept. 19, 1964, 78 Stat. 976.)

CODIFICATION

Section is from the Department of Health, Education, and Welfare Appropriation Act, 1965, and is not a part of the Social Security Act which comprises this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

- 1963—Oct. 11, 1963, Pub. L. 88-136, title II, § 200, 77 Stat. 240.
- 1962—Aug. 14, 1962, Pub. L. 87-582, title II, § 200, 76 Stat. 376.
- 1961—Sept. 22, 1961, Pub. L. 87-290, title II, § 201, 75 Stat. 605.
- 1960—Sept. 2, 1960, Pub. L. 86-703, title II, § 201, 74 Stat. 770.
- 1959—Aug. 14, 1959, Pub. L. 86-158, title II, § 201, 73 Stat. 353.
- 1958—Aug. 1, 1958, Pub. L. 85-580, title II, § 201, 72 Stat. 472.
- 1957—June 29, 1957, Pub. L. 85-67, title II, § 201, 71 Stat. 222.
- 1956—June 29, 1956, ch. 477, title II, § 201, 70 Stat. 434.
- 1955—Aug. 1, 1955, ch. 437, title II, § 201, 69 Stat. 408.
- 1954—July 2, 1954, ch. 457, title II, § 201, 68 Stat. 444.
- 1953—July 31, 1953, ch. 296, title II, § 201, 67 Stat. 255.
- 1952—July 5, 1952, ch. 575, title II, § 201, 66 Stat. 368.
- 1951—Aug. 31, 1951, ch. 373, title II, § 201, 65 Stat. 219.
- 1950—Sept. 6, 1950, ch. 896, ch. V, title II, § 201, 64 Stat. 653.
- 1949—June 29, 1949, ch. 275, title II, § 201, 63 Stat. 284.
- 1946—June 16, 1946, ch. 472, title I, § 101, 62 Stat. 447.
- 1947—July 8, 1947, ch. 210, title II, § 201, 61 Stat. 273.
- 1946—July 26, 1946, title I, § 101, 60 Stat. 681.
- 1945—July 3, 1945, ch. 263, title I, § 101, 59 Stat. 363.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Chief of the Children's Bureau" by 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095. See note under section 701 of this title.

§ 704. Payment to States; computation of amounts.

(a) From the sums appropriated therefor and the allotments available under section 702 (a) of this title, the Secretary of the Treasury shall pay to each State which has an approved plan for maternal and child-health services, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Administrator shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a) of this section, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such investigation as he may find necessary.

(2) The Administrator shall then certify the amount so estimated by him to the Secretary of the Treasury, reduced or increased, as the case may be, by any sum by which the Administrator finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Administrator for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Administrator, the amounts so certified.

(c) The Administrator shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States from the allotments available under section 702(b) of this title, and the Secretary of the Treasury shall, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Administrator. Payments of grants for special projects under section 702(b) of this title may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants. (Aug. 14, 1935, ch. 531, title V, § 504, 49 Stat. 630; 1940 Reorg. Plan No. III, § 1(a), eff. June 30, 1940, 5 F. R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(e), 64 Stat. 558; Sept. 13, 1960, Pub. L. 86-778, title VII, § 707(b) (1) (B), 74 Stat. 996.)

AMENDMENTS

1960—Subsec. (c). Pub. L. 86-778 permitted payments of grants for special projects under section 702(b) of this title to be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine, and required such payments to be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (c) of this section by Pub. L. 86-778 effective only with respect to fiscal years beginning after June 30, 1960, see section 707(c) of Pub. L. 86-778, set out as a note under section 701 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Children's Bureau", "Chief of Children's Bureau", and "Secretary of Labor" wherever appearing by act Aug. 28, 1950.

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 701 of this title.

Division of Disbursement and certain other offices and agencies and their functions were consolidated into Fiscal Service of Treasury Department by 1940 Reorg. Plan No. III, set out in note under section 133t of Title 5, Executive Departments and Government Officers and Employees.

§ 704a. Allotments excluded from computation.

An allotment to a State pursuant to section 702 (b) or 712(b) of this title shall not be included in computing for the purposes of subsections (a) and (b) of sections 704 and 714 of this title an amount expended or estimated to be expended by the State. (Pub. L. 88-605, title II, § 200, Sept. 19, 1964, 78 Stat. 975.)

CODIFICATION

Section is from the Department of Health, Education, and Welfare Appropriation Act, 1965, and is not a part of the Social Security Act which comprises this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

- 1963—Oct. 11, 1963, Pub. L. 88-136, title II, § 200, 77 Stat. 240.
- 1962—Aug. 14, 1962, Pub. L. 87-582, title II, § 200, 76 Stat. 376.
- 1961—Sept. 22, 1961, Pub. L. 87-290, title II, § 201, 75 Stat. 605.
- 1960—Sept. 2, 1960, Pub. L. 86-703, title II, § 201, 74 Stat. 770.
- 1959—Aug. 14, 1959, Pub. L. 86-158, title II, § 201, 73 Stat. 353.
- 1958—Aug. 1, 1958, Pub. L. 85-580, title II, § 201, 72 Stat. 472.
- 1957—June 29, 1957, Pub. L. 85-67, title II, § 201, 71 Stat. 222.
- 1956—June 29, 1956, ch. 477, title II, § 201, 70 Stat. 434.
- 1955—Aug. 1, 1955, ch. 437, title II, § 201, 69 Stat. 409.
- 1954—July 2, 1954, ch. 457, title II, § 201, 68 Stat. 444.
- 1953—July 31, 1953, ch. 296, title II, § 201, 67 Stat. 255.
- 1952—July 5, 1952, ch. 575, title II, § 201, 66 Stat. 368.
- 1951—Aug. 31, 1951, ch. 373, title II, § 201, 65 Stat. 219.
- 1950—Sept. 6, ch. 896, ch. V, title II, § 201, 64 Stat. 653.
- 1949—June 29, 1949, ch. 275, title II, § 201, 63 Stat. 284.
- 1948—June 16, 1948, ch. 472, title I, § 101, 62 Stat. 447.
- 1947—July 8, 1947, ch. 210, title II, § 201, 61 Stat. 273.
- 1946—July 26, 1946, ch. 672, title I, § 101, 60 Stat. 681.
- 1945—July 3, 1945, ch. 263, title I, 59 Stat. 364.
- 1944—June 28, 1944, ch. 302, title I, 58 Stat. 550.
- 1943—July 12, 1943, ch. 221, title I, § 1, 57 Stat. 497.
- 1942—July 2, 1942, ch. 475, title I, 56 Stat. 565.
- 1941—July 1, 1941, ch. 269, title I, 55 Stat. 469.
- 1940—June 26, 1940, ch. 428, title I, 54 Stat. 578.
- 1939—June 29, 1939, ch. 249, § 1, 53 Stat. 924.
- Aug. 9, 1939, ch. 633, title I, § 1, 53 Stat. 1320.

- 1938—Apr. 27, 1938, ch. 180, title IV, § 1, 52 Stat. 288.
- 1937—June 16, 1937, ch. 359, § 1, title IV, 50 Stat. 301.
- 1936—May 15, 1936, ch. 405, § 1, 49 Stat. 1350.

§ 704b. Nonavailability of allotments after close of fiscal year.

No allotment for this or any succeeding fiscal year under this subchapter shall be available after the close of such fiscal year except as may be necessary to liquidate obligations incurred during such year. (July 5, 1952, ch. 575, title II, § 201, 66 Stat. 368.)

CODIFICATION

Section is from the Federal Security Agency Appropriation Act, 1953, and is not a part of the Social Security Act which comprises this chapter.

§ 705. Stopping payment on failure to comply with plan.

In the case of any State plan for maternal and child-health services which has been approved by the Administrator, if the Administrator, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 703 of this title to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State. (Aug. 14, 1935, ch. 531, title V, § 505, 49 Stat. 631; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (e), 64 Stat. 558.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Children's Bureau", "Chief of Children's Bureau", and "Secretary of Labor" wherever appearing by act Aug. 28, 1950.

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 701 of this title.

SERVICES FOR CRIPPLED CHILDREN**§ 711. Appropriation.**

For the purpose of enabling each State to extend and improve (especially in rural areas and in areas suffering from severe economic distress), as far as practicable under the conditions in such State, services for locating crippled children, and for providing medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and aftercare, for children who are crippled or who are suffering from conditions which lead to crippling, the following sums are hereby authorized to be appropriated: \$25,000,000 for the fiscal year ending June 30, 1963, \$30,000,000 for the fiscal year ending June 30, 1964, \$35,000,000 for the fiscal year ending June 30, 1965, \$40,000,000 each for the fiscal year ending June 30, 1966, and the succeeding fiscal year,

\$45,000,000 each for the fiscal year ending June 30, 1968, and the succeeding fiscal year, and \$50,000,000 each for the fiscal year ending June 30, 1970, and succeeding fiscal years. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Administrator, State plans for such services. (Aug. 14, 1935, ch. 531, title V, § 511, 49 Stat. 631; Aug. 10, 1939, ch. 666, title V, § 504, 53 Stat. 1380; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401 (b) (4), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 3, § 331(c), pt. 6, § 361(e), 64 Stat. 551, 558; Aug. 28, 1958, Pub. L. 85-840, title VI, § 603(a), 72 Stat. 1055; Sept. 13, 1960, Pub. L. 86-778, title VII, § 707(a) (2) (A), 74 Stat. 995; Oct. 24, 1963, Pub. L. 86-156, § 3(a), 77 Stat. 273.)

AMENDMENTS

1963—Pub. L. 88-156 increased the appropriation from \$25,000,000 for each fiscal year beginning after June 30, 1960, to \$30,000,000 for fiscal year ending June 30, 1964; \$35,000,000 for fiscal year ending June 30, 1965; \$40,000,000 each for fiscal years ending June 30, 1966 and 1967; \$45,000,000 each for fiscal years ending June 30, 1968 and 1969, and \$50,000,000 each for fiscal year ending June 30, 1970, and succeeding fiscal years.

1960—Pub. L. 86-778 increased the appropriation from \$20,000,000 to \$25,000,000 for each fiscal year beginning after June 30, 1960.

1958—Pub. L. 85-840 increased the appropriation from \$15,000,000 to \$20,000,000 for each fiscal year beginning after June 30, 1958.

1950—Act Aug. 28, 1950, increased the appropriation from \$7,500,000 to \$12,000,000 for fiscal year 1951 and to \$15,000,000 for fiscal years thereafter.

1948—Act Aug. 10, 1946, increased appropriation from \$3,870,000 to \$7,500,000, effective with respect to the fiscal year ending June 30, 1947, and subsequent fiscal years.

1939—Act Aug. 1939, increased appropriation from \$2,850,000 to \$3,870,000.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of section by Pub. L. 86-778 effective only with respect to fiscal years beginning after June 30, 1960, see section 707(c) of Pub. L. 86-778, set out as a note under section 701 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 31 (f) of act Aug. 28, 1950, provided that the amendment of this section shall be effective with respect to fiscal years beginning after Jan. 30, 1950.

EFFECTIVE DATE OF 1946 AMENDMENT

Effective date and allotments for fiscal year 1947, see notes under section 701 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Children's Bureau", "Chief of Children's Bureau", and "Secretary of Labor" wherever appearing by act Aug. 28, 1950, § 361 (e).

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 701 of this title.

ADDITIONAL APPROPRIATION FOR FISCAL YEAR 1950; ALLOTMENT

Act Apr. 15, 1949, ch. 57, 63 Stat. 47, authorized an additional sum of \$1,500,000 for the fiscal year 1949, to provide necessary services and care for additional numbers of crippled children.

Section 2 of act Apr. 15, 1949, provided for the manner of disbursement of the additional appropriation.

§ 712. Allotments to States.

(a) The Secretary shall allot one-half of the sum appropriated pursuant to section 711 of this title for each fiscal year as follows: He shall allot to each State \$70,000 and shall allot the remainder of such one-half to the States according to the need of each State as determined by him after taking into consideration the number of crippled children in such State in need of the services referred to in section 711 of this title and the cost of furnishing such services to them.

(b) The Secretary shall also allot to the States (in addition to the allotments made pursuant to subsection (a) of this section) the remaining one-half of the sum appropriated for each fiscal year under section 711 of this title. Such one-half shall be allotted from time to time according to the financial need of each State for assistance in carrying out its State plan, as determined by the Administrator after taking into consideration the number of crippled children in each State in need of the services referred to in section 711 of this title and the cost of furnishing such services to them; except that not more than 25 per centum of such one-half shall be available for grants to State agencies (administering or supervising the administration of a State plan approved under section 713 of this title), and to public or other nonprofit institutions of higher learning (situated in any State), for special projects of regional or national significance which may contribute to the advancement of services for crippled children.

(c) The amount of any allotment to a State under subsection (a) of this section for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 714 of this title until the end of the second succeeding fiscal year. No payment to a State under section 714 of this title shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available. (Aug. 14, 1935, ch. 531, title V, § 512, 49 Stat. 631; Aug. 10, 1939, ch. 666, title V, § 505, 53 Stat. 1380; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401 (b) (5, 6), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 3, § 331 (d), pt. 6, § 361 (e), 64 Stat. 552, 558; Aug. 28, 1958, Pub. L. 85-840, title VI, § 603 (b), (c), 72 Stat. 1055; Sept. 13, 1960, Pub. L. 86-778, title VII, § 707 (a) (2) (B), (C), (b) (2) (A), 74 Stat. 996; Oct. 24, 1963, Pub. L. 88-156, § 3 (b), (c), 77 Stat. 274.)

AMENDMENTS

1963—Subsec. (a). Pub. L. 88-156, § 3(b), eliminated par. (1), which had provided out of the appropriation under section 711 of this title \$6,000,000 for allotment among the States for fiscal year ending June 30, 1951, \$60,000 outright to each State and the remainder according to the need of each State based upon the number of crippled children in the State and the cost of services furnished to them; and designated par. (2) as subsec. (a), substituted therein provision for allotment among the States of one-half of the sum appropriated for each fiscal year pursuant to section 711 of this title for former provision allotting among the States out of

the appropriation under such section 711 the sum of \$12,500,000 for each fiscal year beginning after June 30, 1960, and omitted following the \$70,000 outright allotment to each State "(even though the amount appropriated for such year is less than \$25,000,000)."

Subsec. (b). Pub. L. 86-778, § 3(c), substituted the provision of the first sentence for allotment to the States of one-half of the sum appropriated for each fiscal year pursuant to section 711 of this title for former provision allotting to the States out of the appropriation under such section 711 the sum of \$12,500,000 for each fiscal year beginning after June 30, 1960, and substituted in the second sentence "Such one-half" and "such one-half" for "Such sums" and "such sum", respectively.

1960—Subsec. (a) (2). Pub. L. 86-778, § 707(a) (2) (B), increased the total allotment to the States from \$10,000,000 to \$12,500,000 for each fiscal year beginning after June 30, 1960, and required the Secretary to allot \$70,000 each fiscal year to each State even though the amount appropriated for such year is less than \$25,000,000.

Subsec. (b). Pub. L. 86-778, § 707 (a) (2) (C), (b) (2) (A), increased the total allotment to the States from \$10,000,000 to \$12,500,000 for each fiscal year beginning after June 30, 1960, inserted words "from time to time" after "shall be allotted", and limited to not more than 25 per centum of such sums the amount available for grants to State health agencies and to public or other nonprofit institutions of higher learning for special projects of regional or national significance which may contribute to the advancement of maternal and child health.

1958—Subsec. (a) (2). Pub. L. 85-840, § 603(b), increased the total allotment to the States from \$7,500,000 to \$10,000,000 for each fiscal year beginning after June 30, 1958, and required the Secretary to allot \$60,000 each fiscal year to each State even though the amount appropriated for the fiscal year is less than \$20,000,000.

Subsec. (b). Pub. L. 85-840, § 603(c), increased the total allotment to the States from \$7,500,000 to \$10,000,000 for each fiscal year beginning after June 30, 1958.

1950—Subsec. (a). Act Aug. 28, 1950, increased the total allotment to the States from \$3,750,000 to \$6,000,000 and the basic allotment to each State from \$30,000 to \$60,000 for the fiscal year 1951, and increased the total allotment to the States to \$7,500,000 with the same basis \$60,000 State allotment for fiscal years thereafter.

Subsec. (b). Act Aug. 28, 1950, increased the total allotment to the States from \$3,750,000 to \$6,000,000 for fiscal year 1951 and to \$7,500,000 for fiscal years thereafter.

1946—Subsec. (a). Act Aug. 10, 1946, § 401(b) (5), increased the amounts of allotments to \$3,750,000, with each State getting \$30,000 and a proportionate part of the remainder of the \$3,750,000.

Subsec. (b). Act Aug. 10, 1946, § 401(b) (6), increased the allotment from \$1,000,000 to \$3,750,000.

1939—Subsec. (a). Act Aug. 10, 1939, amended subsec. (a).

Subsec. (b). Act Aug. 10, 1939, added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Act Aug. 10, 1939, redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsecs. (a) (2) and (b) of this section by Pub. L. 86-778 effective only with respect to fiscal years beginning after June 30, 1960, see section 707(c) of Pub. L. 86-778, set out as a note under section 701 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 331(f) of act Aug. 28, 1950, provided that the amendment of this section shall be effective with respect to fiscal years beginning after June 30, 1950.

EFFECTIVE DATE OF 1946 AMENDMENT

Effective date and allotments for fiscal year 1947, see notes under section 701 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan

No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Children's Bureau", "Chief of Children's Bureau", and "Secretary of Labor" wherever appearing by act Aug. 28, 1950, § 361 (e).

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 701 of this title.

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

CROSS REFERENCES

Certification of available allotments, see section 714 (c) of this title.

§ 713. State plans; contents; approval by Administrator.

(a) A State plan for services for crippled children must (1) provide for financial participation by the State; (2) provide for the administration of the plan by a State agency or the supervision of the administration of the plan by a State agency; (3) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Administrator shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan; (4) provide that the State agency will make such reports, in such form and containing such information, as the Administrator may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for carrying out the purposes specified in section 711 of this title; and (6) provide for cooperation with medical, health, nursing, and welfare groups and organizations and with any agency in such State charged with administering State laws providing for vocational rehabilitation of physically handicapped children.

(b) The Administrator shall approve any plan which fulfills the conditions specified in subsection (a) of this section and shall thereupon notify the State agency of his approval. (Aug. 14, 1935, ch. 531, title V, § 513, 49 Stat. 632; Aug. 10, 1939, ch. 666, title V, § 506, 53 Stat. 1381; 1946 Reorg. Plan No. 2, §§ 1, 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (e), 64 Stat. 558.)

CODIFICATION

Provision of subsec. (b) providing that Chief of the Children's Bureau should notify the Secretary of Labor of the approval of a plan was omitted under the authority of 1946 Reorg. Plan No. 2, § 1.

AMENDMENTS

1939—Subsec. (a) (3). Act Aug. 10, 1939, provided methods relating to establishment and maintenance of personnel standards on a merit basis.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan

No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board" and "Chief of Children's Bureau" by act Aug. 28, 1950.

Identical changes were effected by 1946 Reorg. Plan No. 2. See notes under sections 701 and 902 of this title.

§ 714. Payment to States; computation of amounts.

(a) From the sums appropriated therefor and the allotments available under section 712 (a) of this title, the Secretary of the Treasury shall pay to each State which has an approved plan for services for crippled children, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Administrator shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a) of this section, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such investigation as he may find necessary.

(2) The Administrator shall then certify the amount so estimated by him to the Secretary of the Treasury, reduced or increased, as the case may be, by any sum by which the Administrator finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Administrator for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Administrator, the amount so certified.

(c) The Administrator shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States from the allotment available under section 712(b) of this title, and the Secretary of the Treasury shall, through the Fiscal Service of the Treasury Department, and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Administrator. Payments of grants for special projects under section 712(b) of this title may be made in advance or by way of reimbursement, and in

such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants. (Aug. 14, 1935, ch. 531, title V, § 514, 49 Stat. 632; Aug. 10, 1939, ch. 666, title V, § 507(a), (b), 53 Stat. 1381; 1940 Reorg. Plan No. III, § 1 (a) (1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(e), 64 Stat. 558; Sept. 13, 1960, Pub. L. 86-778, title VII, § 707(b) (2) (B), 74 Stat. 996.)

AMENDMENTS

1960—Subsec. (c). Pub. L. 86-778 permitted payments of grants for special projects under section 712(b) of this title to be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine, and required such payments to be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants.

1939—Subsec. (a). Act Aug. 10, 1939, substituted "section 712(a)" for "section 712".

Subsec. (c). Act Aug. 10, 1939, § 507(b), added subsec. (c).

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (c) of this section by Pub. L. 86-778 effective only with respect to fiscal years beginning after June 30, 1960, see section 707(a) of Pub. L. 86-778, set out as a note under section 701 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Children's Bureau", "Chief of Children's Bureau", and "Secretary of Labor" wherever appearing by act Aug. 28, 1950.

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 701 of this title.

Division of Disbursement and certain other offices and agencies and their functions were consolidated into Fiscal Service of Treasury Department by 1940 Reorg. Plan No. III, set out in note under section 133t of Title 5, Executive Departments and Government Officers and Employees.

§ 715. Stopping payment on failure to comply with State plan.

In the case of any State plan for services for crippled children which has been approved by the Administrator, if the Administrator, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 713 of this title to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State. (Aug. 14, 1935, ch. 531, title V, § 515, 49 Stat. 633; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (e), 64 Stat. 558.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Children's Bureau", "Chief of Children's Bureau", and "Secretary of Labor" wherever appearing by act Aug. 28, 1950.

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 701 of this title.

CHILD-WELFARE SERVICES

§ 721. Appropriation.

For the purpose of enabling the United States, through the Secretary, to cooperate with State public-welfare agencies in establishing, extending, and strengthening child-welfare services, the following sums are authorized to be appropriated: \$25,000,000 each for the fiscal year ending June 30, 1961, and the succeeding fiscal year, \$30,000,000 for the fiscal year ending June 30, 1963, \$35,000,000 for the fiscal year ending June 30, 1964, \$40,000,000 each for the fiscal year ending June 30, 1965, and the succeeding fiscal year, \$45,000,000 each for the fiscal year ending June 30, 1967, and the succeeding fiscal year, and \$50,000,000 each for the fiscal year ending June 30, 1969, and succeeding fiscal years. (Aug. 14, 1935, ch. 531, title V, § 521, 49 Stat. 633; Aug. 10, 1939, ch. 666, title V, § 507(c), 53 Stat. 1381; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401(b)(7), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 3, § 331(e), pt. 6, § 361(e), 64 Stat. 552, 558; Aug. 1, 1956, ch. 836, title IV, § 402, 70 Stat. 856; Aug. 28, 1958, Pub. L. 85-840, title VI, § 601, 72 Stat. 1952; Sept. 13, 1960, Pub. L. 86-778, title VII, § 707(a)(3)(A), 74 Stat. 996; July 25, 1962, Pub. L. 87-543, title I, § 102(a), (d)(1), 76 Stat. 182, 184.)

AMENDMENTS

1962—Pub. L. 87-543 increased the appropriation authorization by substituting provision for \$25,000,000 each for fiscal years ending June 30, 1961 and June 30, 1962, \$30,000,000 for fiscal year ending June 30, 1963, \$35,000,000 for fiscal year ending June 30, 1964, \$40,000,000 each for fiscal years ending June 30, 1965 and June 30, 1966, \$45,000,000 each for fiscal years ending June 30, 1967 and June 30, 1968, and \$50,000,000 each for fiscal year ending June 30, 1969 and succeeding fiscal years for former provision for \$25,000,000 for each fiscal year, beginning with fiscal year ending June 30, 1961, and substituted "child-welfare services" for "public-welfare services (hereinafter in this subchapter referred to as 'child-welfare services') for the protection and care of homeless dependent, and neglected children, and children in danger of becoming delinquent".

1960—Pub. L. 86-778 increased the annual appropriation from \$17,000,000 to \$25,000,000 beginning with the fiscal year ending June 30, 1961.

1958—Pub. L. 85-840 increased the annual appropriation from \$12,000,000 to \$17,000,000 for each fiscal year beginning with the fiscal year ending June 30, 1959, and eliminated provisions with respect to the use of child-welfare funds in predominantly rural areas, which prescribed the manner of allotment, related to expenditure of amounts allotted, and which required certification of amounts to be paid to the State. See sections 722—725 of this title.

1956—Subsec. (a). Act Aug. 1, 1956, increased the annual authorization of appropriations from \$10,000,000 to \$12,000,000 for each fiscal year, beginning with the fiscal year ending June 30, 1958.

1950—Subsec. (a). Act Aug. 28, 1950, increased annual appropriation from \$3,500,000 to \$10,000,000, increased the basic allotment to each State from \$20,000 to \$40,000, provided that allotments shall be on the basis of rural population under the age of 18, and authorized expenditures for returning any run-away child under age 16 from one State to his own community in another State if such return is in the interest of the child and the cost cannot be otherwise met.

1946—Subsec. (a). Act Aug. 10, 1946, increased the appropriation from \$1,510,000 to \$3,500,000 and the allotment to each State from \$10,000 to \$20,000, effective with respect to the fiscal year ending June 30, 1947, and subsequent fiscal years.

1939—Subsec. (a). Act Aug. 10, 1939, increased annual appropriation from \$1,500,000 to \$1,510,000.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of this section by section 102(d)(1) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IX, X, or XIV of this chapter or developed as provided in sections 721—728 of this title, as the case may be, made after June 30, 1962, see section 202(c) of Pub. L. 87-543, set out as a note under section 606 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of section by Pub. L. 86-778 effective only with respect to fiscal years beginning after June 30, 1960, see section 707(c) of Pub. L. 86-778, set out as a note under section 701 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Section 403 of act Aug. 1, 1956, provided that: "The amendment made by section 402 [to subsec. (a) of this section] shall be effective with respect to fiscal years beginning after June 30, 1957."

EFFECTIVE DATE OF 1950 AMENDMENT

Section 331 (f) of act Aug. 28, 1950, provided that the amendment of this section shall be effective with respect to fiscal years beginning after June 30, 1950.

EFFECTIVE DATE OF 1946 AMENDMENT

Effective date and allotments for fiscal year 1947, see notes under section 701 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Children's Bureau", "Chief of Children's Bureau", and "Secretary of Labor" wherever appearing by act Aug. 28, 1950, § 361 (e). Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 701 of this title.

Division of Disbursement and certain other offices and agencies and their functions were consolidated into Fiscal Service of Treasury Department by 1940 Reorg. Plan No. III, set out in note under section 133t of Title 5, Executive Departments and Government Officers and Employees.

ADVISORY COUNCIL ON CHILD WELFARE SERVICES

Section 705 of Pub. L. 85-840 established an Advisory Council on Child-Welfare Services for the purpose of making recommendations and advising the Secretary of Health, Education, and Welfare in connection with the effectuation of the provisions of part 3 of title V of the Social Security Act, as amended by the Social Security Amendments of 1958. The Council was directed to make a report of its findings and recommendations (including recommendations for changes in the provisions of part 3 of title V of the Social Security Act [sections 721—725 of

this title)) to the Secretary and to the Congress on or before January 1, 1960, after which date such Council ceased to exist.

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

§ 722. Allotments to States.

All but \$10,000,000 of the total appropriated for a fiscal year under section 721 of this title, or, if such total is less than \$35,000,000, all but the excess (if any) of such total over \$25,000,000, shall be allotted by the Secretary for use by cooperating State public-welfare agencies which have plans developed jointly by the State agency and the Secretary as follows: He shall allot to each State \$70,000 or, if the amount appropriated under section 721 of this title for such year is less than \$25,000,000, he shall allot to each State \$50,000 or, if greater, such portion of \$70,000 as the amount appropriated under such section bears to \$25,000,000; and he shall allot to each State an amount which bears the same ratio to the remainder of the sum available for allotment under this subsection for such year as the product of (1) the population of such State under the age of 21 and (2) the allotment percentage of such State (as determined under section 724 of this title) bears to the sum of the corresponding products of all the States.

(b) (1) If the amount allotted to a State under subsection (a) of this section for any fiscal year is less than such State's base allotment, it shall be increased to such base allotment, the total of the increases thereby required being derived by proportionately reducing the amount allotted under subsection (a) of this section to each of the remaining States, but with such adjustments as may be necessary to prevent the allotment of any such remaining State under subsection (a) of this section from being thereby reduced to less than its base allotment.

(2) For purposes of paragraph (1) of this subsection the base allotment of any State for any fiscal year means the amount which would be allotted to such State for such year under the provisions of section 721 of this title, as in effect prior to August 28, 1958, as applied to an appropriation of \$12,000,000. (Aug. 14, 1935, ch. 531, title V, § 522, as added Aug. 28, 1958, Pub. L. 85-840, title VI, § 601, 72 Stat. 1053, and amended Sept. 13, 1960; Pub. L. 86-778, title VII, § 707(a) (3) (B), 74 Stat. 996; July 25, 1962, Pub. L. 87-543, title I, § 102(c) (1), 76 Stat. 183.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-543 substituted "All but \$10,000,000 of the total appropriated for a fiscal year under section 721 of this title, or, if such total is less than \$35,000,000, all but the excess (if any) of such total over \$25,000,000," "He shall allot to each State \$70,000 or, if the amount appropriated under section 721 of this title for such year is less than \$25,000,000, he shall allot to each State \$50,000 or, if greater, such portion of \$70,000 as the amount appropriated under such section bears to \$25,000,000" and "the remainder of the sum available for allotment under this subsection for such year" for "The sums appropriated for each fiscal year under section 721 of this title", "He shall allot to each State \$50,000 or, if greater, such portion of \$70,000 as the amount appropriated under section 721 of this title for such year bears to the amount authorized to

be so appropriated" and "the remainder of the sums so appropriated for such year", respectively.

1960—Subsec. (a). Pub. L. 86-778 substituted "shall allot to each State \$50,000 or, if greater, such portion of \$70,000" for "shall allot to each State such portion of \$60,000."

EFFECTIVE DATE OF 1962 AMENDMENT

Section 202(b) of Pub. L. 87-543 provided that: "The amendments made by sections 102(c), 123, and 132(d) [enacting sections 727 and 906(f) and amending sections 722(a), 726(a) and 906 (a), (b) of this title, and repealing credits to section 1308 of this title and provisions set out as notes under such section 1308] shall be applicable in the case of fiscal years beginning after June 30, 1962."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (a) of this section by Pub. L. 86-778 effective only with respect to fiscal years beginning after June 30, 1960, see section 707(c) of Pub. L. 86-778, set out as a note under section 701 of this title.

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

§ 723. Payment to States; computation of amounts.

(a) From the sums appropriated therefor and the allotment available under sections 721-728 of this title, the Secretary shall from time to time pay to each State—

(1) that has a plan for child-welfare services which has been developed as provided in sections 721-728 of this title and which—

(A) provides for coordination between the services provided under such plan and the services provided for dependent children under the State plan approved under subchapter IV of this chapter, with a view to provision of welfare and related services which will best promote the welfare of such children and their families, and

(B) provides, with respect to day care services (including the provision of such care) provided under the plan—

(i) for cooperative arrangements with the State health authority and the State agency primarily responsible for State supervision of public schools to assure maximum utilization of such agencies in the provision of necessary health services and education for children receiving day care,

(ii) for an advisory committee, to advise the State public welfare agency on the general policy involved in the provision of day care services under the State plan, which shall include among its members representatives of other State agencies concerned with day care or services related thereto and persons representative of professional or civic or other public or nonprofit private agencies, organizations, or groups concerned with the provision of day care,

(iii) for such safeguards as may be necessary to assure provision of day care under the plan only in cases in which it is in the best interest of the child and the mother and only in cases in which it is determined, under criteria established by the State, that a need for such care exists; and, in cases in which

the family is able to pay part or all of the costs of such care, for payment of such fees as may be reasonable in the light of such ability, and

(iv) for giving priority, in determining the existence of need for such day care, to members of low-income or other groups in the population and to geographical areas which have the greatest relative need for extension of such day care, and

(2) that makes a satisfactory showing that the State is extending the provision of child-welfare services in the State, with priority being given to communities with the greatest need for such services after giving consideration to their relative financial need, and with a view to making available by July 1, 1975, in all political subdivisions of the State, for all children in need thereof, child-welfare services provided by the staff (which shall to the extent feasible be composed of trained child-welfare personnel) of the State public welfare agency or of the local agency participating in the administration of the plan in the political subdivision,

an amount equal to the Federal share (as determined under section 724 of this title) of the total sum expended under such plan (including the cost of administration of the plan) in meeting the costs of State, district, county, or other local child-welfare services, in developing State services for the encouragement and assistance of adequate methods of community child-welfare organization, in paying the costs of returning any runaway child who has not attained the age of eighteen to his own community in another State, and of maintaining such child until such return (for a period not exceeding fifteen days), in cases in which such costs cannot be met by the parents of such child or by any person, agency, or institution legally responsible for the support of such child: *Provided*, That in developing such services for children the facilities and experience of voluntary agencies shall be utilized in accordance with child-care programs and arrangements in the States and local communities as may be authorized by the State.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period under the provisions of subsection (a) of this section.

(2) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid thereunder to the State for such prior period.

(Aug. 14, 1935, ch. 531, title V, § 523, as added Aug. 28, 1958, Pub. L. 85-840, title VI, § 601, 72 Stat. 1053, and amended July 25, 1962, Pub. L. 87-543, title I, § 102(b), 76 Stat. 182.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-543 incorporated existing provisions in par. (1) and added subpars. (A), and (B) and par. (2), and inserted "State," in "costs of State, district, county, or other local child-welfare services".

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (a) of this section by section 102(b)(1) of Pub. L. 87-543 effective July 1, 1963, see section 202(a) of Pub. L. 87-543, set out as a note under section 302 of this title.

Amendment of subsec. (a) of this section by section 102(h)(2) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IX, or XIV of this chapter or developed as provided in sections 721-728 of this title, as the case may be, made after June 30, 1962, see section 202(c) of Pub. L. 87-543, set out as a note under section 606 of this title.

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

§ 724. Allotment percentage and Federal share.

(a) The "allotment percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that (A) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (B) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

(b) For the fiscal year ending June 30, 1960, and each year thereafter, the "Federal share" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (1) in no case shall the Federal share be less than 33½ per centum or more than 66⅔ per centum, and (2) the Federal share shall be 66⅔ per centum in the case of Puerto Rico, the Virgin Islands, and Guam. For the fiscal year ending June 30, 1959, the Federal share shall be determined pursuant to the provisions of section 721 of this title as in effect prior to August 28, 1958.

(c) The Federal share and the allotment percentage for each State shall be promulgated by the Secretary between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation: *Provided*, That the Secretary shall promulgate such Federal shares and allotment percentages as soon as possible after August 28, 1958, which promulgation shall be conclusive for each of the 3 fiscal years in the period ending June 30, 1961.

(d) For purposes of this section, the term "United States" means the fifty States and the District of Columbia.

(e) Promulgations made before satisfactory data are available from the Department of Commerce

for a full year on the per capita income of Alaska shall prescribe a Federal share for Alaska of 50 per centum and, for purposes of such promulgations, Alaska shall not be included as part of the "United States". Promulgations made thereafter but before per capita income data for Alaska for a full three-year period are available from the Department of Commerce shall be based on satisfactory data available therefrom for Alaska for such one full year or, when such data are available for a two-year period, for such two years. (Aug. 14, 1935, ch. 531, title V, § 524, as added Aug. 28, 1958, Pub. L. 85-840, title VI, § 601, 72 Stat. 1054, and amended June 25, 1959, Pub. L. 86-70, § 32(b), 73 Stat. 149; July 12, 1960, Pub. L. 86-624, § 30(b), 74 Stat. 420.)

AMENDMENTS

1960—Subsecs. (a)–(c). Pub. L. 86-624, § 30(b) (1), substituted "United States" for "continental United States (including Alaska)" in subsecs. (a), (b), and (c). Subsecs. (d), (e). Pub. L. 86-624, § 30(b) (2), added subsecs. (d) and (e).

1959—Subsec. (a). Pub. L. 86-70, § 32(b) (1), (8), substituted "(including Alaska)" for "(excluding Alaska)", and eliminated provisions which established the allotment percentage at 50 per centum in the case of Alaska.

Subsec. (b). Pub. L. 86-70, § 32(b) (2), (3), substituted "(including Alaska)" for "(excluding Alaska)", and eliminated provisions which established the Federal share at 50 per centum in the case of Alaska.

Subsec. (c). Pub. L. 86-70, § 32(b) (3), substituted "(including Alaska)" for "(excluding Alaska)".

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of section by Pub. L. 86-624 applicable in the case of promulgations or computations of Federal shares, allotment percentages, allotment ratios, and Federal percentages, as the case may be, made after August 21, 1959, see section 47(a) of Pub. L. 86-624, set out as a note under section 442 of Title 20, Education.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of section by Pub. L. 86-70 applicable in the case of promulgations of Federal shares, allotment percentages, allotment ratios, and Federal percentages, as the case may be, made after satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska, see section 47(a) of Pub. L. 86-70, set out as a note under section 442 of Title 20, Education.

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

§ 725. Reallotment of allotments to States.

The amount of any allotment to a State under section 722 of this title for any fiscal year which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in such section shall be available for reallotment from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in carrying out their State plans so developed for sums in excess of those previously allotted to them under that section and (2) will be able to use such excess amounts during such fiscal year. Such reallotments shall be made on the basis of the State plans so developed, after taking into consideration the population under the age of twenty-one, and the per capita income of each such State as compared with the population under the age of twenty-one, and the

per capita income of all such States with respect to which such a determination by the Secretary has been made. Any amount so reallotted to a State shall be deemed part of its allotment under section 722 of this title. (Aug. 14, 1935, ch. 531, title V, § 525, as added Aug. 28, 1958, Pub. L. 85-840, title VI, § 601, 72 Stat. 1054.)

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

§ 726. Research, training, or demonstration projects.

(a) There are authorized to be appropriated for each fiscal year such sums as the Congress may determine for grants by the Secretary to public or other nonprofit institutions of higher learning, and to public or other nonprofit agencies and organizations engaged in research or child welfare activities, for special research or demonstration projects in the field of child welfare which are of regional or national significance and for special projects for the demonstration of new methods or facilities which show promise of substantial contribution to the advancement of child welfare; and for grants by the Secretary to public or other nonprofit institutions of higher learning for special projects for training personnel for work in the field of child welfare, including traineeships with such stipends and allowances as may be permitted by the Secretary.

(b) Payments of grants for special projects under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants. (Aug. 14, 1935, ch. 531, title V, § 526, as added Sept. 13, 1960, Pub. L. 86-778, title VII, § 707(b) (3), 74 Stat. 997, and amended July 25, 1962, Pub. L. 87-543, title I, § 123 (d), 76 Stat. 193.)

AMENDMENTS

1962—Pub. L. 87-543, § 123(d) (2), inserted "training" in the catchline.

Subsec. (a). Pub. L. 87-543, § 123(d) (1), authorized grants for projects for training personnel.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (a) of this section by section 102(c) (1) of Pub. L. 87-543 applicable in the case of fiscal years beginning after June 30, 1962, see section 202(b) of Pub. L. 87-543, set out as a note under section 722 of this title.

EFFECTIVE DATE

Section effective only with respect to fiscal years beginning after June 30, 1960, see section 707(c) of Pub. L. 86-778, set out as a note under section 701 of this title.

§ 727. Day care services.

(a) Allotments to States.

In order to assist the States to provide adequately for the care and protection of children whose parents are, for part of the day, working or seeking work, or otherwise absent from the home or unable for other reasons to provide parental supervision, the portion of the appropriation under section 721 of this title for any fiscal year which is not allotted under section 722 of this title shall be allotted by the Secretary among the States solely for use, under

the State plan developed as provided in sections 721—728 of this title, for day care services, including the provision of day care in facilities (including private homes) which are licensed by the State, or are approved (as meeting the standards established for such licensing) by the State agency responsible for licensing facilities of this type, as follows: He shall allot to each State an amount which bears the same ratio to such portion of the appropriation as the produce of (1) the population of the State under the age of 21 and (2) the allotment percentage of such State (as determined under section 724 of this title) bears to the sum of the corresponding products of all the States, except that the allotment of any State as so computed which is less than \$10,000 shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining States (as so computed) having an allotment in excess of that amount, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from being thereby reduced to less than that amount.

(b) Reallocation of allotments to States.

The amount of any allotment to a State under subsection (a) of this section for any fiscal year which the State certifies to the Secretary will not be required for the purposes for which allotted shall be available for reallocation from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in carrying out such purposes for sums in excess of those previously allotted to them under subsection (a) of this section, and (2) will be able to use such excess amounts during such fiscal year. Such reallocations shall be made on the basis of the need for additional funds in carrying out such purposes, after taking into consideration the population under the age of twenty-one, and the per capita income of each such State as compared with the population under the age of twenty-one, and the per capita income of all such States with respect to which such a determination by the Secretary has been made. Any amount so reallocated to a State shall be deemed part of its allotment under subsection (a) of this section. (Aug. 14, 1935, ch. 531, title V, § 527, as added July 25, 1962, Pub. L. 87-543, title I, § 102(c) (2), 76 Stat. 183.)

EFFECTIVE DATE

Section applicable in the case of fiscal years beginning after June 30, 1962, see section 202(b) of Pub. L. 87-543, set out as a note under section 722 of this title.

§ 728. "Child-welfare services" defined.

For purposes of sections 721—728 of this title, the term "child-welfare services" means public social services which supplement, or substitute for, parental care and supervision for the purpose of (1) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children, (2) protecting and caring for homeless, dependent, or neglected children, (3) protecting and promoting the welfare of children of working mothers, and (4) otherwise

protecting and promoting the welfare of children, including the strengthening of their own homes where possible or, where needed, the provision of adequate care of children away from their homes in foster family homes or day-care or other child-care facilities. (Aug. 14, 1935, ch. 531, title V, § 528, as added July 25, 1962, Pub. L. 87-543, title I, § 102(d) (2), 76 Stat. 184.)

EFFECTIVE DATE

Section applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter or developed as provided in sections 721—728 of this title, as the case may be, made after June 30, 1962, see section 202(c) of Pub. L. 87-543, set out as a note under section 606 of this title.

MATERNITY AND INFANT CARE PROJECTS AND RESEARCH PROJECTS

§ 729. Maternity and infant care projects.

(a) Appropriations.

In order to help reduce the incidence of mental retardation caused by complications associated with childbearing, there are authorized to be appropriated \$5,000,000 for the fiscal year ending June 30, 1964, \$15,000,000 for the fiscal year ending June 30, 1965, and \$30,000,000 for each of the next three fiscal years, for grants to assist in meeting the cost of projects as provided in this section.

(b) State health agencies; limitation on payments; scope of projects; health hazards; low-income families; other reasons for lack of health care.

From the sums appropriated pursuant to subsection (a) of this section, the Secretary is authorized to make grants to the State health agency of any State and, with the consent of such agency in the case of a project in which such agency is unable or unwilling to participate, to the health agency of any political subdivision of the State, to pay not to exceed 75 per centum of the cost (exclusive of general agency overhead) of any project for the provision of necessary health care to prospective mothers (including, after childbirth, health care to mothers and their infants) who have or are likely to have conditions associated with childbearing which increase the hazards to the health of the mothers or their infants (including those which may cause physical or mental defects in the infants) and whom the State or local health agency determines will not receive necessary health care because they are from low-income families or for other reasons beyond their control.

(c) Payments to States; adjustments; advances or reimbursement; installments; conditions.

Payment of grants under this section may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine. (Aug. 14, 1935, ch. 531, title V, § 531, as added Oct. 24, 1963, Pub. L. 88-156, § 4, 77 Stat. 274.)

CODIFICATION

A prior section 531 of Act Aug. 14, 1935, which appropriated funds for vocational rehabilitation, was classified to section 45b of Title 29, Labor, and was omitted from the Code as superseded by section 31 of Title 29.

§ 729a. Research projects relating to maternal and child health services and crippled children's services.

(a) Appropriations.

There are authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1964, such sums, not exceeding \$8,000,000 for any fiscal year, as the Congress may determine to enable the Secretary to make grants to or jointly financed cooperative arrangements with public or other nonprofit institutions of higher learning, and public or other nonprofit agencies and organizations engaged in research or in maternal and child health or crippled children's programs, and contracts with public or nonprofit private agencies and organizations engaged in research or in such programs, for research projects relating to maternal and child health services or crippled children's services which show promise of substantial contribution to the advancement thereof.

(b) Payments to eligible institutions, agencies and organizations; adjustments; advance or reimbursement; installments; conditions.

Payments of grants or under contracts or cooperative arrangements under this section may be made (after necessary adjustment, in the case of grants, on account of previously made underpayments or overpayments) in advance or by way of reimbursements, and in such installments and on such conditions, as the Secretary may determine. (Aug. 14, 1935, ch. 531, title V, § 532, as added Oct. 24, 1963, Pub. L. 88-156, § 4, 77 Stat. 274.)

ADMINISTRATION

§ 731. Appropriation for administration.

(a) Executed.

(b) The Administrator shall make such studies and investigations as will promote the efficient administration of sections 701—703, 704, 705, 711—715, 721—729a, and 731 of this title.

(c) Repealed. Aug. 28, 1950, ch. 809, title IV, § 402 (a), 64 Stat. 558.

(Aug. 14, 1935, ch. 531, title V, § 541, 49 Stat. 634; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, § 401 (b) (8), 60 Stat. 986; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (e), title IV, § 402 (a), 64 Stat. 558.)

CODIFICATION

Subsec. (a) authorized an appropriation of \$1,000,000 for the Federal Security Agency for the fiscal year ending June 30, 1947, and has been omitted as executed.

AMENDMENTS

1946—Subsec. (a). Act Aug. 10, 1946, provided for an appropriation for the fiscal year ending June 30, 1947.

EFFECTIVE DATE OF 1946 AMENDMENT

Effective date and allotments for fiscal year 1947, see notes under section 701 of this title.

REPEALS

Subsec. (c) related to full account of the administration of this subchapter in annual report to Congress, and was repealed by act Aug. 28, 1950, § 402 (a).

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan

No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Children's Bureau", "Chief of Children's Bureau", and "Secretary of Labor" wherever appearing by act Aug. 28, 1950, § 361 (e).

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 701 of this title.

SUBCHAPTER VI.—PUBLIC HEALTH WORK

§§ 801—803. Repealed. July 1, 1944, ch. 373, title IX, § 913, 58 Stat. 714.

Section 801, acts Aug. 14, 1935, ch. 531, title VI, § 601, 49 Stat. 634; Aug. 10, 1939, ch. 666, title V, § 509, 53 Stat. 1381, which provided appropriations for the purpose of assisting States and subdivisions in maintaining adequate public health services, is now covered by section 246 of this title.

Section 802, act Aug. 14, 1935, ch. 531, title VI, § 602, 49 Stat. 634, which provided for allotments to States by Surgeon General, is now covered by section 246 of this title.

Section 803, act Aug. 14, 1935, ch. 531, title VI, § 603, 49 Stat. 635, which provided appropriations for investigation of diseases by Service, is now covered by section 246 of this title.

RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed these sections, was renumbered 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, 713 by act Feb. 28, 1943, ch. 83, § 9 (b), 62 Stat. 47, 813 by act July 30, 1956, ch. 779, § 3 (b), 70 Stat. 720, and 913 by Pub. L. 88-581, § 4 (b), Sept. 4, 1964, 78 Stat. 919.

SUBCHAPTER VII.—ADMINISTRATION

AMENDMENTS

1950—Act Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (f), 64 Stat. 558, substituted "Administration" for "Social Security Board" as the subchapter heading.

§ 901. Commissioner for Social Security; appointment; duties.

CODIFICATION

Section, act Aug. 14, 1935, ch. 531, title VII, § 701, 49 Stat. 635; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; act Aug. 28, 1950, ch. 809, title IV, § 401 (a), 64 Stat. 558, which provided for a Commissioner for Social Security in the Federal Security Agency, was omitted because of the abolition of that office by section 8 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. Section 4 of 1953 Reorg. Plan No. 1 established the office of Commissioner of Social Security in the Department of Health, Education, and Welfare.

§ 901a. Repealed. Aug. 28, 1950, ch. 809, title IV, § 401 (b), 64 Stat. 558.

Section, act Aug. 10, 1939, ch. 666, title IX, § 908, 53 Stat. 1402, placed the Social Security Board under the direction and supervision of the Federal Security Administrator.

§ 902. Duties of Secretary of Health, Education, and Welfare and the Secretary of Labor.

The Secretary of Health, Education, and Welfare and the Secretary of Labor, respectively, shall perform the duties imposed upon them by this chapter. The Secretary of Health, Education, and Welfare shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security through social insurance, and as to legislation and matters on administrative policy concerning old-age pensions and related subjects. The Secretary of Labor shall also

have the duty of studying and making recommendations as to legislation and matters of administrative policy concerning unemployment compensation, accident compensation and related subjects. (Aug. 14, 1935, ch. 531, title VII, § 702, 49 Stat. 636; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1949 Reorg. Plan No. II, § 1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (c), (d), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

CODIFICATION

Provisions relating to the Secretary of Labor were inserted in view of 1950 Reorg. Plan No. 19, which transferred the Bureau of Employees' Compensation from the Federal Security Agency to the Department of Labor and the functions of the Federal Security Administrator with respect to the Bureau and to employees' compensation, including workmen's compensation, to the Secretary of Labor. See transfer of functions notes below.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950.

The Bureau of Employees' Compensation of the Federal Security Agency, together with its functions, was transferred to the Department of Labor to be administered under the direction and supervision of the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, set out as a note under section 1332-15 of Title 5, Executive Departments and Government Officers and Employees.

The Bureau of Employment Security of the Federal Security Agency, together with its functions, was transferred to the Department of Labor, to be administered by the Secretary of Labor, by section 1 of 1949 Reorg. Plan No. II, set out as a note under section 1332-15 of Title 5.

"Administrator" was substituted for "Board" by 1946 Reorg. Plan No. 2, set out in note under section 1332-16 of Title 5, Executive Departments and Government Officers and Employees, which abolished the Social Security Board and transferred its functions and those of its chairman to the Federal Security Administrator to be performed by him or under his direction and control by such officers and employees of the Federal Security Agency as he designates. For transfer of personnel, property, records, and funds, see section 12 of 1946 Reorg. Plan No. 2.

Social Security Board and its functions were consolidated with other agencies under Federal Security Agency by 1939 Reorg. Plan No. I, §§ 201-203, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424, set out in note under section 1332 of Title 5, Executive Departments and Government Officers and Employees. See sections 208-211 of that plan for provisions relating to transfer of records, property, funds, and personnel.

SOCIAL SECURITY ADMINISTRATION; COMMISSIONER FOR SOCIAL SECURITY

Federal Security Agency Order 57, July 16, 1946, 11 F.R. 7943, provided:

"1. The Commissioner for Social Security shall have and perform, under the general supervision and direction of the Administrator, all duties, powers and functions transferred by Reorganization Plan No. 2 of 1946 [set out as a note under section 1332-16 of Title 5] to the Administrator from the Social Security Board, the Chairman of the Social Security Board, the Secretary of Labor, the

Chief of the Children's Bureau and the Children's Bureau, except that:

"a. The Administrator shall serve as member of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund. During the absence or disability of the Administrator, the Commissioner for Social Security shall serve as a member of the Board in his stead;

"b. The annual report required to be submitted to the Congress by the Secretary of Labor relating to the administration of title V of the Social Security Act, as amended [sections 701-704, 705, 711-715, 721-729a, and 731 of this title], and other work of the Children's Bureau shall be submitted by the Administrator;

"c. Approval of conferences called by the Children's Bureau and authorization of expenses of attendance at meetings related to the work of the Children's Bureau, to the extent that approval or authorization is required under the Labor Appropriation Act, 1947 [Act July 26, 1946, ch. 672, 60 Stat. 682], shall be given by the Administrator;

"d. All duties, powers, and functions relating to the holding of hearings, the rendition of decisions, and the review of decisions in connection with administrative appeals from determinations made under title II of the Social Security Act, as amended [subchapter II of this chapter], and affecting benefits, lump sums or wage records, including the administration of oaths and affirmations, the issuance of subpoenas, the examination of witnesses and the receipt of evidence, and all duties, powers, and functions relating to judicial review of decisions made upon appeal, which were transferred from the Social Security Board by Reorganization Plan No. 2 of 1946 [set out as a note under section 1332-16 of Title 5] are assigned to the Office of Appeals Council in the Social Security Administration and shall be exercised by the Appeals Council, the members and referees in accordance with applicable rules as from time to time amended by the Commissioner with the approval of the Administrator;

"e. The functions heretofore performed by the Children's Bureau in the Department of Labor shall continue to be performed through the Children's Bureau in the Social Security Administration.

"2. The Commissioner shall perform such duties, powers and functions himself or under his discretion and supervision, through such officers and employees of the Federal Security Agency as he may designate for the purpose and through such bureaus and offices in the Social Security Administration as may be established with the approval of the Administrator. Unless changed by or pursuant to the provisions of this and other agency orders, the various bureaus and offices formerly in the Social Security Board and the Children's Bureau shall continue to perform the same functions, and their heads shall have and exercise the same duties and powers they had and exercised prior to July 16, 1946."

CROSS REFERENCES

Exchange of reports of records of compensation or wages and periods of service with Railroad Retirement Board, see section 228e (k) (3) of Title 45, Railroads.

Special joint report with Railroad Retirement Board as to distribution of financial burden between Federal Old-Age and Survivors Insurance Trust Fund and railroad retirement account, see section 228e (k) (2) of Title 45.

§ 903. Expenses of Secretary; appointment and compensation of officers and employees.

The Secretary is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures, as may be necessary for carrying out his functions under this chapter. Appointments of attorneys and experts may be made without regard to the civil-service laws. (Aug. 14, 1935, ch. 531, title VII, § 703, 49 Stat. 636; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (c), (d), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

REFERENCES IN TEXT

The civil-service laws referred to in the text, are classified generally to Title 5, Executive Departments and Government Officers and Employees.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950.

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

Social Security Board and its functions were consolidated with other agencies under Federal Security Agency, see note under section 902 of this title.

§ 904. Annual report to Congress.

The Secretary shall make a full report to Congress, at the beginning of each regular session, of the administration of the functions with which he is charged under this chapter. In addition to the number of copies of such report authorized by other law to be printed, there is authorized to be printed not more than five thousand copies of such report for use by the Secretary for distribution to Members of Congress and to State and other public or private agencies or organizations participating in or concerned with the social security program. (Aug. 14, 1935, ch. 531, title VII, § 704, 49 Stat. 636; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title IV, § 402 (b), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

AMENDMENTS

1950—Act Aug. 28, 1950, substituted "Administrator" for "Board" in first sentence and added second sentence.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

Social Security Board and its functions were consolidated with other agencies under Federal Security Agency, see note under section 902 of this title.

§ 905. Working capital fund; establishment; amount; use; reimbursement.

There is established a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of (1) a central reproduction service; (2) a central visual exhibit service; (3) a central supply service for supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department; (4) a central tabulating service; (5) telephone, mail, and messenger services; (6) a central accounting and payroll serv-

ice; and (7) a central laborers' service: *Provided*, That any stocks of supplies and equipment on hand or on order shall be used to capitalize such fund: *Provided further*, That such fund shall be reimbursed in advance from funds available to bureaus, offices, and agencies for which such centralized services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and depreciation of equipment. (July 5, 1952, ch. 575, title II, § 201, 66 Stat. 369; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Sept. 2, 1960, Pub. L. 86-703, title II, § 201, 74 Stat. 773.)

CODIFICATION

Section was enacted as a part of the Federal Security Agency Appropriation Act, 1953, and not as a part of the Social Security Act which comprises this chapter.

AMENDMENTS

1960—Pub. L. 86-703 made the fund available for the maintenance and operation of a central visual exhibit service, telephone, mail and messenger services, a central accounting and payroll service, and a central laborers' service.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

§ 906. Training grants for public welfare personnel.

(a) In order to assist in increasing the effectiveness and efficiency of administration of public assistance programs by increasing the number of adequately trained public welfare personnel available for work in public assistance programs, there are authorized to be appropriated for the fiscal year ending June 30, 1963, the sum of \$3,500,000, and for each fiscal year thereafter the sum of \$5,000,000.

(b) Such portion of the sums appropriated pursuant to subsection (a) of this section for any fiscal year as the Secretary may determine, but not in excess of \$1,000,000 in the case of the fiscal year ending June 30, 1963, and \$2,000,000 in the case of any fiscal year thereafter, shall be available for carrying out subsection (f) of this section. From the remainder of the sums so appropriated for any fiscal year, the Secretary shall make allotments to the States on the basis of (1) population, (2) relative need for trained public welfare personnel, particularly for personnel to provide self-support and self-care services, and (3) financial need.

(c) From each State's allotment under subsection (b) of this section, the Secretary shall from time to time pay to such State its costs of carrying out the purposes of this section through (1) grants to public or other nonprofit institutions of higher learning for training personnel employed or preparing for employment in public assistance programs, (2) special courses of study or seminars of short duration conducted for such personnel by experts hired on a temporary basis for the purpose, and (3) establishing and maintaining, directly or through grants to such institutions, fellowships or traineeships for

such personnel at such institutions, with such stipends and allowances as may be permitted under regulations of the Secretary.

(d) Payments pursuant to subsection (c) of this section shall be made in advance on the basis of estimates by the Secretary and adjustments may be made in future payments under this section to take account of overpayments or underpayments in amounts previously paid.

(e) The amount of any allotment to a State under subsection (b) of this section for any fiscal year which the State certifies to the Secretary will not be required for carrying out the purposes of this section in such State shall be available for reallocation from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines have need in carrying out such purposes for sums in excess of those previously allotted to them under this section and will be able to use such excess amounts during such fiscal year; such reallocations to be made on the basis provided in subsection (b) of this section for the initial allotments to the States. Any amount so reallocated to a State shall be deemed part of its allotment under such subsection.

(f) (1) The portion of the sums appropriated for any fiscal year which is determined by the Secretary under the first sentence of subsection (b) of this section to be available for carrying out this subsection shall be available to enable him to provide (A) directly or through grants to or contracts with public or nonprofit private institutions of higher learning, for training personnel who are employed or preparing for employment in the administration of public assistance programs, (B) directly or through grants to or contracts with public or nonprofit private agencies or institutions, for special courses of study or seminars of short duration (not in excess of one year) for training of such personnel, and (C) directly or through grants to or contracts with public or nonprofit private institutions of higher learning, for establishing and maintaining fellowships or traineeships for such personnel at such institutions, with such stipends and allowances as may be permitted by the Secretary.

(2) Payments under paragraph (1) may be made in advance on the basis of estimates by the Secretary, or may be made by way of reimbursement, and adjustments may be made in future payments under this subsection to take account of overpayments or underpayments in amounts previously paid.

(3) The Secretary may, to the extent he finds such action to be necessary, prescribe requirements to assure that any individual will repay the amount of his fellowship or traineeship received under this subsection to the extent such individual fails to serve, for the period prescribed by the Secretary, with a State or political subdivision thereof, or with the Federal Government, in connection with administration of any State or local public assistance program. The Secretary may relieve any individual of his obligation to so repay, in whole or in part, whenever and to the extent that requirement of such repayment would, in his judgment, be inequitable or would be contrary to the purposes of any of the public welfare programs established by this chapter. (Aug. 14, 1935, ch. 531, title VII, § 705,

as added Aug. 1, 1956, ch. 836, title III, § 332, 70 Stat. 851, and amended May 8, 1961, Pub. L. 87-31, § 3, 75 Stat. 77; July 25, 1962, Pub. L. 87-543, title I, § 123 (a)—(c), 76 Stat. 192.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-543, § 123(a), substituted "for the fiscal year ending June 30, 1963, the sum of \$3,500,000, and for each fiscal year thereafter the sum of \$5,000,000" for "for the fiscal year ending June 30, 1958, the sum of \$5,000,000, and for each of the five succeeding fiscal years such sums as the Congress may determine."

Subsec. (b). Pub. L. 87-543, § 123(b), required appropriated moneys to be made available for carrying out subsec. (f) of this section.

Subsec. (f). Pub. L. 87-543, § 123(c), added subsec. (f). 1961—Subsec. (a). Pub. L. 87-31, § 3(a), substituted "five" for "four."

Subsec. (c). Pub. L. 87-31, § 3(b), substituted "its costs of carrying out the purposes of this section" for "80 per centum of the total of its expenditures in carrying out the purposes of this section."

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsecs. (a) and (b) and enactment of subsec. (f) of this section by section 123 (a)—(c) of Pub. L. 87-543 applicable in the case of fiscal years beginning after June 30, 1962, see section 202(b) of Pub. L. 87-543, set out as a note under section 722 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 3(b) of Pub. L. 87-31 provided in part that the amendment of subsec. (c) by such section 3(b) shall be effective with respect to payments from allotments from appropriations made for fiscal years beginning after June 30, 1961.

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

SUBCHAPTER VIII.—TAXES WITH RESPECT TO EMPLOYMENT

§§ 1001—1011. Omitted.

CODIFICATION

Sections, act Aug. 14, 1935, ch. 531, title VIII, §§ 801—811, 49 Stat. 636-639, related to taxes with respect to employment. Section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1, which act enacted title 26, I. R. C. 1939, provided that all laws and parts of laws codified into the I. R. C. 1939, to the extent that they related exclusively to internal revenue laws, were repealed. Provisions of I. R. C. 1939 were generally repealed by section 7851 of Title 26, I. R. C. 1954 (act Aug. 16, 1954, ch. 736, 68A Stat. 3). See, also, section 7807 of said Title 26, I. R. C. 1954, respecting rules in effect upon enactment of I. R. C. 1954. The omitted sections were formerly and are now covered by certain sections in Title 26, I. R. C. 1939 and I. R. C. 1954, respectively, as follows:

Omitted sections	I. R. C. 1939	I. R. C. 1954
1001.....	1400.....	3101.
1002.....	1402.....	3502.
1003.....	1401.....	3102 (a), (b), 6205 (a), 6413 (a) (1), (c) (1), (c) (2).
1004.....	1410.....	3111.
1005.....	1411.....	6205 (a), 6413 (a).
1006.....	1421.....	6205 (b), 6413 (b).
1007.....	1420, 1430.....	3122, 3501, 6011 (a), 6071, 6081 (a), 6091 (a), 6302 (b), 6313, 6601 (a), (f) (1).
1608.....	1429.....	7805 (a), (c).
1009.....	1423, 1424.....	6802 (1), 6803 (a) (1), (a) (2), 7509.
1010.....	1425.....	7208 (1), 7209.
1011 (as amended Aug. 10, 1939, ch. 666, title 1X, § 905 (a), 53 Stat. 1400).	1426.....	3121, 7701 (a) (1).

SUBCHAPTER IX.—EMPLOYMENT SECURITY ADMINISTRATIVE FINANCING

1954 AMENDMENT

Act Aug. 5, 1954, ch. 657, § 2, 68 Stat. 668, in amending generally this subchapter, substituted subchapter heading "Employment Security Administrative Financing" for "Tax on Employers of Eight or More."

PRIOR LAW; TAX ON EMPLOYERS OF EIGHT OR MORE

Former subchapter IX, sections 1101—1103, 1105—1110, act Aug. 14, 1935, ch. 531, title IX, §§ 901—903, 905—910, 49 Stat. 639—644, related to taxes on employers of eight or more. Section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1, which act enacted Title 26, I. R. C. 1939, provided that all laws and parts of laws codified into the I. R. C. 1939, to the extent that they related exclusively to internal revenue laws, were repealed. Provisions of I. R. C. 1939 were generally repealed by section 7851 of Title 26, I. R. C. 1954 (act Aug. 16, 1954, ch. 736, 68A Stat. 3). See, also, section 7807 of said Title 26, I. R. C. 1954, respecting rules in effect upon enactment of I. R. C. 1954. Said prior law sections were formerly and are now covered by certain sections in Title 26, I. R. C. 1939 and I. R. C. 1954, respectively, as follows:

Former sections	I. R. C. 1939	I. R. C. 1954
1101.....	1600.....	3301.
1102.....	1601 (a).....	3302.
1103 (as amended 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F. R. 5225, 63 Stat. 1065).	1603.....	3304.
1105.....	1604, 1605, 1610..	3501, 6011 (a), 6065, 6071, 6081 (a), 6091 (b) (1), (2), 6106, 6152 (a) (3), (b), 6161 (a) (1), 6313, 6601 (a), (f) (1).
1106.....	1606.....	3305.
1107 (as amended act June 25, 1939, ch. 690, § 13 (a), 52 Stat. 1110).	1607.....	3306, 7701 (a) (1).
1109.....	1600.....	7805 (a), (c).
1109.....	1601 (b), (c).....	3302.
1110 (as amended 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 20, 1949, 14 F. R. 5225, 63 Stat. 1065).	1602.....	3303.

REPAIR OF 1938 HURRICANE DAMAGE

Act. Aug. 11, 1939, ch. 719, § 1, 53 Stat. 1420, provided that no special security taxes should be collected for work done prior to Jan. 1, 1940, in cleaning up debris and damage caused by the 1938 hurricane.

CREDITS AGAINST SOCIAL SECURITY TAX

Act Aug. 10, 1939, ch. 666, title IX, § 902 (a)—(d), (h), 53 Stat. 1399, provided for a credit against the social security tax of certain contributions made with respect to employment during calendar years 1936, 1937, or 1938. Said act Aug. 10, 1939, was affected by act Sept. 20, 1941, ch. 412, title VII, § 701(c), 55 Stat. 728.

Act May 23, 1938, ch. 289, § 810, 52 Stat. 576, related to credits against Social Security Tax for 1936. It was affected by act Sept. 20, 1941, ch. 412, title VII, § 701(c), 55 Stat. 728, relating to credit against Federal unemployment taxes.

§ 1101. Employment Security Administration Account. **(a) Establishment.**

There is established in the Unemployment Trust Fund an employment security administration account.

(b) Amount credited to the Account; transfer of funds; adjustments; repayment of internal revenue refunds.

(1) There is appropriated to the Unemployment Trust Fund for credit to the employment security

administration account, out of any moneys in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1961, and for each fiscal year thereafter, an amount equal to 100 per centum of the tax (including interest, penalties, and additions to the tax) received during the fiscal year under the Federal Unemployment Tax Act and covered into the Treasury.

(2) The amount appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Unemployment Trust Fund and credited to the employment security administration account. Each such transfer shall be based on estimates made by the Secretary of the Treasury of the amounts received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred, to the extent prior estimates (including estimates for the fiscal year ending June 30, 1960) were in excess of or were less than the amounts required to be transferred.

(3) The Secretary of the Treasury is directed to pay from time to time from the employment security administration account into the Treasury, as repayments to the account for refunding internal revenue collections, amounts equal to all refunds made after June 30, 1960, of amounts received as tax under the Federal Unemployment Tax Act (including interest on such refunds).

(c) Administrative expenditures; necessary expenses; quarterly transfer of funds; adjustments; limitation; estimate of net receipts.

(1) There are authorized to be made available for expenditure out of the employment security administration account for the fiscal year ending June 30, 1964, and for each fiscal year thereafter—

(A) such amounts (not in excess of the limit provided by paragraph (3)) as the Congress may deem appropriate for the purpose of—

(i) assisting the States in the administration of their unemployment compensation laws as provided in subchapter III of this chapter (including administration pursuant to agreements under any Federal unemployment compensation law, except the Temporary Unemployment Compensation Act of 1958, as amended),

(ii) the establishment and maintenance of systems of public employment offices in accordance with sections 49—49c, 49d, 49g, 49h, 49j, and 49k of Title 29, and

(iii) carrying into effect section 2012 of Title 38;

(B) such amounts as the Congress may deem appropriate for the necessary expenses of the Department of Labor for the performance of its functions under—

(i) this subchapter and subchapters III and XII of this chapter,

(ii) the Federal Unemployment Tax Act,

(iii) the provisions of sections 49—49c, 49d, 49g, 49h, 49j, and 49k of Title 29,

(iv) subchapter II of chapter 41 (except section 2012) of Title 38, and

(v) any Federal unemployment compensation law, except the Temporary Unemployment Compensation Act of 1958, as amended.

The term "necessary expenses" as used in this subparagraph (B) shall include the expense of reimbursing a State for salaries and other expenses of employees of such State temporarily assigned or detailed to duty with the Department of Labor and of paying such employees for travel expenses, transportation of household goods, and per diem in lieu of subsistence while away from their regular duty stations in the State, at rates authorized by law for civilian employees of the Federal Government.

(2) The Secretary of the Treasury is directed to pay from the employment security administration account into the Treasury as miscellaneous receipts the amount estimated by him which will be expended during a three-month period by the Treasury Department for the performance of its functions under—

(A) this subchapter and subchapters III and XII of this chapter, including the expenses of banks for servicing unemployment benefit payment and clearing accounts which are offset by the maintenance of balances of Treasury funds with such banks,

(B) the Federal Unemployment Tax Act, and

(C) any Federal unemployment compensation law with respect to which responsibility for administration is vested in the Secretary of Labor. In determining the expenses taken into account under subparagraphs (B) and (C), there shall be excluded any amount attributable to the Temporary Unemployment Compensation Act of 1958, as amended. If it subsequently appears that the estimates under this paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Secretary of the Treasury in future payments.

(3) For purposes of paragraph (1) (A), the limitation on the amount authorized to be made available for any fiscal year is—

(A) in the case of the fiscal year ending June 30, 1964, an amount equal to 95 percent of the amount estimated by the Secretary of the Treasury as the net receipts during such fiscal year under the Federal Unemployment Tax Act, and

(B) in the case of any fiscal year thereafter, an amount equal to 95 percent of the amount estimated and set forth in the Budget of the United States Government for such fiscal year as the net receipts during such year under the Federal Unemployment Tax Act.

Each estimate of net receipts under this paragraph shall be based on a tax rate of 0.4 percent. The Secretary of the Treasury shall report his estimate under subparagraph (A) to the Congress within 30 days after the date of the enactment of this paragraph. Such report shall be printed as a House document.

(d) Additional tax attributable to reduced credits; transfer of funds.

(1) The Secretary of the Treasury is directed to transfer from the employment security administration account—

(A) To the Federal unemployment account, an amount equal to the amount by which—

(i) 100 per centum of the additional tax received under the Federal Unemployment Tax Act with respect to any State by reason of the reduced credits provisions of section 3302(c) (2) or (3) of such Act and covered into the Treasury for the repayment of advances made to the State under section 1321 of this title, exceeds

(ii) the amount transferred to the account of such State pursuant to subparagraph (B) of this paragraph.

Any amount transferred pursuant to this subparagraph shall be credited against, and shall operate to reduce, that balance of advances, made under section 1321 of this title to the State, with respect to which employers paid such additional tax.

(B) To the account (in the Unemployment Trust Fund) of the State with respect to which employers paid such additional tax, an amount equal to the amount by which such additional tax received and covered into the Treasury exceeds that balance of advances, made under section 1321 of this title to the State, with respect to which employers paid such additional tax.

If, for any taxable year, there is with respect to any State both a balance described in section 3302(c) (2) of the Federal Unemployment Tax Act and a balance described in section 3302(c) (3) of such Act, this paragraph shall be applied separately with respect to section 3302(c) (2) (and the balance described therein) and separately with respect to section 3302(c) (3) (and the balance described therein).

(2) The Secretary of the Treasury is directed to transfer from the employment security administration account—

(A) To the general fund of the Treasury, an amount equal to the amount by which—

(i) 100 per centum of the additional tax received under the Federal Unemployment Tax Act with respect to any State by reason of the reduced credit provision of section 1400c of this title, and covered into the Treasury, exceeds

(ii) the amount transferred to the account of such State pursuant to subparagraph (B) of this paragraph.

(B) To the account (in the Unemployment Trust Fund) of the State with respect to which employers paid such additional tax, an amount equal to the amount by which—

(i) such additional tax received and covered into the Treasury, exceeds

(ii) the total amount restorable to the Treasury under section 1400c of this title, as limited by Public Law 85-457.

(3) Transfers under this subsection shall be as of the beginning of the month succeeding the month in which the moneys were credited to the employment security administration account pursuant to subsection (b) (2) of this section.

(e) Revolving fund; appropriations; advances to the Account; repayment; interest.

(1) There is established in the Treasury a revolving fund which shall be available to make the

advances authorized by this subsection. There are authorized to be appropriated, without fiscal year limitation, to such revolving fund such amounts as may be necessary for the purposes of this section.

(2) The Secretary of the Treasury is directed to advance from time to time from the revolving fund to the employment security administration account such amounts as may be necessary for the purposes of this section. If the net balance in the employment security administration account as of the beginning of any fiscal year is \$250,000,000, no advance may be made under this subsection during such fiscal year.

(3) Advances to the employment security administration account made under this subsection shall bear interest until repaid at a rate equal to the average rate of interest (computed as of the end of the calendar month next preceding the date of such advance) borne by all interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest shall be the multiple of one-eighth of 1 per centum next lower than such average rate.

(4) Advances to the employment security administration account made under this subsection, plus interest accrued thereon, shall be repaid by the transfer from time to time, from the employment security administration account to the revolving fund, of such amounts as the Secretary of the Treasury, in consultation with the Secretary of Labor, determines to be available in the employment security administration account for such repayment. Any amount transferred as a repayment under this paragraph shall be credited against, and shall operate to reduce, any balance of advances (plus accrued interest) repayable under this subsection.

(f) Determination of excess in the Account; limitation on account to be retained; net balance.

(1) The Secretary of the Treasury shall determine as of the close of each fiscal year (beginning with the fiscal year ending June 30, 1961) the excess in the employment security administration account.

(2) The excess in the employment security administration account as of the close of any fiscal year is the amount by which the net balance in such account as of such time (after the application of section 1102(b) of this title) exceeds the net balance in the employment security administration account as of the beginning of that fiscal year (including the fiscal year for which the excess is being computed) for which the net balance was higher than as of the beginning of any other such fiscal year.

(3) If the entire amount of the excess determined under paragraph (1) as of the close of any fiscal year is not transferred to the Federal unemployment account, there shall be retained (as of the beginning of the succeeding fiscal year) in the employment security administration account so much of the remainder as does not increase the net balance in such account (as of the beginning of such succeeding fiscal year) above \$250,000,000.

(4) For the purposes of this section, the net balance in the employment security administration

account as of any time is the amount in such account as of such time reduced by the sum of—

(A) the amounts then subject to transfer pursuant to subsection (d), of this section, and

(B) the balance of advances (plus interest accrued thereon) then repayable to the revolving fund established by subsection (e) of this section. The net balance in the employment security administration account as of the beginning of any fiscal year shall be determined after the disposition of the excess in such account as of the close of the preceding fiscal year. (Aug. 14, 1935, ch. 531, title IX, § 901, as added Aug. 5, 1954, ch. 657, § 2, 68 Stat. 668, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 521, 74 Stat. 970; May 8, 1961, Pub. L. 87-31, § 7, 75 Stat. 78; May 29, 1963, Pub. L. 88-31, § 1, 77 Stat. 51.)

REFERENCES IN TEXT

The Federal Unemployment Tax Act, referred to in subsecs. (b) (1), (3), (c) (1)(B)(ii), (2)(B), (3) (A), (B), (d) (1)(A)(i), (2)(A)(i), is classified to chapter 23 of Title 26, Internal Revenue Code.

Section 3302(c) (2) or (3) of such Act, referred to in subsec. (d) (1)(A)(i), and section 3302(c) (2) of the Federal Unemployment Tax Act, section 3302(c) (2) and (3) of such act, referred throughout the concluding paragraph of subsec. (d)(1), are references to section 3302(c) (2) and (3) of Title 26, Internal Revenue Code.

The Temporary Unemployment Compensation Act of 1958, as amended, referred to in subsec. (c)(1) (A)(i), (B)(v) and concluding paragraph of subsec. (c) (2), is classified to chapter 7A of this title.

Within 30 days after the date of enactment of this paragraph, referred to in subsec. (c)(3), means within 30 days after the enactment of Pub. L. 88-31, approved May 29, 1963.

AMENDMENTS

1963—Subsec. (c). Pub. L. 88-31 substituted "June 30, 1964" for "June 30, 1961" in par. (1), "(not in excess of the limit provided by paragraph (3))" for "(not in excess of \$350,000,000 for any fiscal year)" in par. (1) (A), and added par. (3).

1961—Subsec. (c) (1) (B). Pub. L. 87-31 added the provision relating to necessary expenses.

1960—Subsec. (a). Pub. L. 86-778 substituted the provision establishing the employment security administration account for former provision making an appropriation to the Unemployment Trust Fund for fiscal year ending June 30, 1954 and for each fiscal year thereafter, providing for transfer of funds from the general fund in the Treasury to the Unemployment Trust Fund at the close of the fiscal year, and adjustments in the transfers, and requiring the Secretary of the Treasury to consult with the Secretary of Labor with respect to estimates of employment security administrative expenditures.

Subsec. (b). Pub. L. 86-778 substituted provisions crediting the employment security administration with funds, and requiring transfer of funds, adjustments and repayment of internal revenue refunds for former provisions defining the term "employment security administrative expenditures", now incorporated in subsec. (c) (1)(A)(B), (2)(A) of this section.

Subsecs. (c)—(f). Pub. L. 86-778 added subsecs. (c)—(f).

SHORT TITLE OF 1960 AMENDMENTS

Section 501 of Pub. L. 86-778 provided that title V of Pub. L. 86-778, which enacted section 3308 of Title 26, Internal Revenue Code, amended this section and sections 501, 1102—1104, 1301, 1321—1324, 1361—1364, 1367, 1371 and 1400c of this title, sections 3301, 3302, 3305 and 3306 of Title 26, and section 49d of Title 29, Labor, and enacted provisions set out as notes under sections 1301, 1321 and 1362—1364 of this title, under sections 3301, 3304 and 3305 of Title 26, and under section 49d of Title 29, may be cited as the "Employment Security Act of 1960."

SHORT TITLE

Section 1 of act Aug. 5, 1954, provided that: "This Act [enacting sections 1101—1103, 1322, and 1323 of this title, and amending sections 503, 1104, and 1321 of this title and sections 1601, 1603, and 1607 of Title 26, I.R.C. 1939] may be cited as the 'Employment Security Administration Financing Act of 1954'."

INCREASE IN ADMINISTRATIVE EXPENDITURES LIMITATION FOR FISCAL YEAR 1963

Section 4 of Pub. L. 88-31 provided that: "Notwithstanding section 901(c)(1)(A) of the Social Security Act [subsec. (c)(1)(A) of this section], the limitation on the amount authorized to be made available for the fiscal year ending June 30, 1963, for the purposes specified in such section 901(c)(1)(A) [subsec. (c)(1)(A) of this section] is hereby increased to \$407,148,000."

Section 101 of Pub. L. 87-582, title I, Aug. 14, 1962, 76 Stat. 363, provided that: "Notwithstanding section 901(c)(1)(A) of the Social Security Act [subsec. (c)(1)(A) of this section], the limitation on the amount authorized to be made available for the fiscal year ending June 30, 1963, for the purposes specified in such section 901(c)(1)(A) [subsec. (c)(1)(A) of this section] is hereby increased to \$400,000,000."

INCREASE IN ADMINISTRATIVE EXPENDITURES LIMITATION FOR FISCAL YEARS 1961 AND 1962

Section 15 of Pub. L. 87-6, Mar. 24, 1961, 75 Stat. 16, provided that:

"Notwithstanding section 901(c)(1)(A) of the Social Security Act [subsec. (c)(1)(A) of this section], the limitation on the amount authorized to be made available for the fiscal years ending on June 30, 1961, and 1962, for the purposes specified in such section 901(c)(1)(A) [such subsec. (c)(1)(A)] is hereby increased to—

"(1) \$385,000,000 for the fiscal year ending June 30, 1961, and

"(2) \$415,000,000 for the fiscal year ending June 30, 1962."

§ 1102. Transfers between Federal Unemployment Account and Employment Security Administration Account.

(a) Whenever the Secretary of the Treasury determines pursuant to section 1101(f) that there is an excess in the employment security administration account as of the close of any fiscal year, there shall be transferred (as of the beginning of the succeeding fiscal year) to the Federal unemployment account the total amount of such excess or so much thereof as is required to increase the amount in the Federal unemployment account to whichever of the following is the greater:

(1) \$550,000,000, or

(2) The amount (determined by the Secretary of Labor and certified by him to the Secretary of the Treasury) equal to four-tenths of 1 per centum of the total wages subject to contributions under all State unemployment compensation laws for the calendar year ending during the fiscal year for which the excess is determined.

(b) The amount, if any, by which the amount in the Federal unemployment account as of the close of any fiscal year exceeds the greater of the amounts specified in paragraphs (1) and (2) of subsection (a) of this section shall be transferred to the employment security administration account as of the close of such fiscal year. (Aug. 14, 1935, ch. 531, title IX, § 902, as added Aug. 5, 1954, ch. 657, § 2, 68 Stat. 669, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 521, 74 Stat. 974.)

AMENDMENTS

1960—Pub. L. 86-778 substituted provisions for transfers between Federal unemployment account and em-

ployment security administration account for former provisions crediting the Federal unemployment account with funds and defining the term "adjusted balance".

§ 1103. Amounts transferred to State accounts.

(a) Determination and certification by Secretary of Labor.

(1) Except as provided in subsection (b) of this section, whenever, after the application of section 1323 of this title with respect to the excess in the employment security administration account as of the close of any fiscal year, there remains any portion of such excess, the remainder of such excess shall be transferred (as of the beginning of the succeeding fiscal year) to the accounts of the States in the Unemployment Trust Fund.

(2) Each State's share of the funds to be transferred under this subsection as of any July 1—

(A) shall be determined by the Secretary of Labor and certified by him to the Secretary of the Treasury before that date on the basis of reports furnished by the States to the Secretary of Labor before June 1, and

(B) shall bear the same ratio to the total amount to be so transferred as the amount of wages subject to contributions under such State's unemployment compensation law during the preceding calendar year which have been reported to the State before May 1 bears to the total of wages subject to contributions under all State unemployment compensation laws during such calendar year which have been reported to the States before May 1.

(b) Transfer of funds where State is ineligible.

(1) If the Secretary of Labor finds that on July 1 of any fiscal year—

(A) a State is not eligible for certification under section 503 of this title, or

(B) the law of a State is not approvable under section 3304 of Title 26,

then the amount available for transfer to such State's account shall, in lieu of being so transferred, be transferred to the Federal unemployment account as of the beginning of such July 1. If, during the fiscal year beginning on such July 1, the Secretary of Labor finds and certifies to the Secretary of the Treasury that such State is eligible for certification under section 503 of this title, that the law of such State is approvable under such section 3304, or both, the Secretary of the Treasury shall transfer such amount from the Federal unemployment account to the account of such State. If the Secretary of Labor does not so find and certify to the Secretary of the Treasury before the close of such fiscal year then the amount which was available for transfer to such State's account as of July 1 of such fiscal year shall (as of the close of such fiscal year) become unrestricted as to use as part of the Federal unemployment account.

(2) The amount which, but for this paragraph, would be transferred to the account of a State under subsection (a) or paragraph (1) of this subsection shall be reduced (but not below zero) by the balance of advances made to the State under section 1321 of this title. The sum by which such amount is reduced shall—

(A) be transferred to or retained in (as the case may be) the Federal unemployment account, and

(B) be credited against, and operate to reduce—
(i) first, any balance of advances made before September 13, 1960 to the State under section 1321 of this title, and

(ii) second, any balance of advances made on or after September 13, 1960 to the State under section 1321 of this title.

(c) Use of funds.

(1) Except as provided in paragraph (2), amounts transferred to the account of a State pursuant to subsections (a) and (b) of this section shall be used only in the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.

(2) A State may, pursuant to a specific appropriation made by the legislative body of the State, use money withdrawn from its account in the payment of expenses incurred by it for the administration of its unemployment compensation law and public employment offices if and only if—

(A) the purposes and amounts were specified in the law making the appropriation,

(B) the appropriation law did not authorize the obligation of such money after the close of the two-year period which began on the date of enactment of the appropriation law,

(C) the money is withdrawn and the expenses are incurred after such date of enactment, and

(D) the appropriation law limits the total amount which may be obligated during a fiscal year to an amount which does not exceed the amount by which (i) the aggregate of the amounts transferred to the account of such State pursuant to subsections (a) and (b) of this section during such fiscal year and the nine preceding fiscal years, exceeds (ii) the aggregate of the amounts used by the State pursuant to this subsection and charged against the amounts transferred to the account of such State during such ten fiscal years.

For the purposes of subparagraph (D), amounts used by a State during any fiscal year shall be charged against equivalent amounts which were first transferred and which have not previously been so charged; except that no amount obligated for administration during any fiscal year may be charged against any amount transferred during a fiscal year earlier than the ninth preceding fiscal year. (Aug. 14, 1935, ch. 531, title IX, § 903, as added Aug. 5, 1954, ch. 657, § 2, 68 Stat. 670, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 521, 74 Stat. 974; May 29, 1963, Pub. L. 88-31, § 3, 77 Stat. 51.)

AMENDMENTS

1963—Subsec. (c) (2). Pub. L. 88-31 substituted "nine preceding fiscal years" for "four preceding fiscal years", "ten fiscal years" for "five fiscal years" in clause (D), and "ninth preceding fiscal year" for "fourth preceding fiscal year" in the last sentence.

1960—Subsec. (a). Pub. L. 86-778 substituted the provisions of par. (1) for the first sentence of the section which read "So much of any amount transferred to the Unemployment Trust Fund at the close of any fiscal year under section 1101(a) of this title as is not credited to the Federal unemployment account under section 1102 of this title shall be credited (as of the beginning of the

succeeding fiscal year) to the accounts of the States in the Unemployment Trust Fund" and designated existing provisions of the second sentence as par. (2), substituting "transferred" for "credited" therein, and deleting "on or" preceding "before" in subpar. (A).

Subsec. (b). Pub. L. 86-778 redesignated existing provisions as par. (1) and clauses (1) and (2) thereof as subpars. (A) and (B), substituted "section 3304 of Title 26" for "section 1603 of Title 26", in two instances, and "transfer to such States' account", "transferred", and "transfer" for "crediting to such States' account", "credited" and "credit", respectively, except where already reading "shall transfer", and added par. (2).

Subsec. (c). Pub. L. 86-778 substituted "transferred" for "credited", wherever appearing, "obligation" for "expenditure" in par. (2) (B), "obligated" for "so used" in par. (2) (D), and "obligated for administration" for "used" in concluding par., inserted references to subsection (b) in pars. (1) and (2) (D), and deleted "any of" preceding "such five fiscal years" in par. (2) (D).

§ 1104. Unemployment Trust Fund.

(a) Establishment.

There is established in the Treasury of the United States a trust fund to be known as the "Unemployment Trust Fund", hereinafter in this subchapter called the "Fund." The Secretary of the Treasury is authorized and directed to receive and hold in the Fund all moneys deposited therein by a State agency from a State unemployment fund, or by the Railroad Retirement Board to the credit of the railroad unemployment insurance account or the railroad unemployment insurance administration fund, or otherwise deposited in or credited to the Fund or any account therein. Such deposit may be made directly with the Secretary of the Treasury, with any depository designated by him for such purpose, or with any Federal Reserve Bank.

(b) Investments.

It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such issue, borne by all interest-bearing obligations of the United States then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Obligations other than such special obligations may be acquired for the Fund only on such terms as to provide an investment yield not less than the yield which would be required in the case of special obligations if issued to the Fund upon the date of such acquisition. Advances made to the Federal unemployment account pursuant to section 1323 of this title shall not be invested.

(c) Sale or redemption of obligations.

Any obligations acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Treatment of interest and proceeds.

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) Separate book accounts.

The Fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency, the employment security administration account, the Federal unemployment account, the railroad unemployment insurance account, and the railroad unemployment insurance administration fund and shall credit quarterly (on March 31, June 30, September 30, and December 31, of each year) to each account, on the basis of the average daily balance of such account, a proportionate part of the earnings of the Fund for the quarter ending on such date. For the purpose of this subsection, the average daily balance shall be computed—

(1) in the case of any State account, by reducing (but not below zero) the amount in the account by the balance of advances made to the State under section 1321 of this title, and

(2) in the case of the Federal unemployment account—

(A) by adding to the amount in the account the aggregate of the reductions under paragraph (1), and

(B) by subtracting from the sum so obtained the balance of advances made under section 1323 of this title to the account.

(f) Payment to State agencies and Railroad Retirement Board.

The Secretary of the Treasury is authorized and directed to pay out of the Fund to any State agency such amount as it may duly requisition, not exceeding the amount standing to the account of such State agency at the time of such payment. The Secretary of the Treasury is authorized and directed to make such payments out of the railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the payment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment.

(g) Federal Unemployment Account; establishment; appropriations; unemployment administrative expenditures.

There is established in the Unemployment Trust Fund a Federal unemployment account. There is authorized to be appropriated to such Federal unemployment account a sum equal to (1) the excess of taxes collected prior to July 1, 1946, under title IX of this Act or under the Federal Unemployment Tax Act, over the total unemployment administrative expenditures made prior to July 1, 1946, plus (2)

the excess of taxes collected under the Federal Unemployment Tax Act after June 30, 1946, and prior to July 1, 1953, over the unemployment administrative expenditures made after June 30, 1946, and prior to July 1, 1953. As used in this subsection, the term "unemployment administrative expenditures" means expenditures for grants under subchapter III of this chapter, expenditures for the administration of that subchapter by the Social Security Board, the Federal Security Administrator, or the Secretary of Labor, and expenditures for the administration of title IX of this Act, or of the Federal Unemployment Tax Act, by the Department of the Treasury, the Social Security Board, the Federal Security Administrator, or the Secretary of Labor. For the purposes of this subsection, there shall be deducted from the total amount of taxes collected prior to July 1, 1943, under title IX of this Act, the sum of \$40,561,886.43 which was authorized to be appropriated by the Act of August 24, 1937 (50 Stat. 754), and the sum of \$18,451,846 which was authorized to be appropriated by section 361(b) of title 45. (Aug. 14, 1935, ch. 531, title IX, § 904, 49 Stat. 640; June 25, 1938, ch. 680, § 10 (e—g), 52 Stat. 1104, 1105; Oct. 3, 1944, ch. 480, title IV, § 401, 58 Stat. 789; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 6, 1947, ch. 510, § 5(a), 61 Stat. 794; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F.R. 5325, 63 Stat. 1065; Aug. 28, 1950, ch. 809, title IV, § 404(b), 64 Stat. 560; Aug. 5, 1954, ch. 657, § 5(b)—(f), 68 Stat. 673; Sept. 6, 1958, Pub. L. 85-927, pt. II, § 204, 72 Stat. 1782; Sept. 22, 1959, Pub. L. 86-346, title I, § 104(3), 73 Stat. 622; Sept. 13, 1960, Pub. L. 86-778, title V, § 521, 74 Stat. 976.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (b), is classified to sections 745, 752-754b, 757, 757b-758, 760, 764-766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

Title IX of this Act, referred to in subsec. (g), was formerly set out as sections 1101-1103, 1105-1110 of this title. See "Prior Law, Tax on Employers of Eight or More" note set out preceding section 1101 of this title.

Federal Unemployment Tax Act, referred to in subsec. (g), was formerly classified to sections 1600-1611 of Title 26, Internal Revenue Code, 1939. Said sections were repealed by section 7851 of Title 26, I. R. C. 1954, and are now covered by sections 3301-3308 of said Title 26. For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26.

Act of Aug. 24, 1937 (50 Stat. 754), referred to in subsec. (g), is act Aug. 24, 1937, ch. 755, 50 Stat. 754, and is set out as a note below.

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-778 substituted "with any depository designated by him for such purpose, or with any Federal Reserve Bank" for "or with any Federal Reserve bank or member bank of the Federal Reserve System designated by him for such purpose."

Subsec. (b). Pub. L. 86-778 substituted "Second Liberty Bond Act, as amended" and "section 1323" for "section 752 of Title 31" and "section 1322(c)", respectively, and inserted "made" following "Advances."

Subsec. (e). Pub. L. 86-778 provided for the maintenance of a separate book account for the employment security administration account and substituted "balance of advances made to the State under section 1321 of this title" for "aggregate of the outstanding advances under section 1321 of this title from the Federal unemployment account" in par. (1) and "balance of advances made under section 1323 of this title to the account"

for "aggregate of the outstanding advances from the Treasury to the account pursuant to section 1322(c) of this title."

Subsec. (g). Pub. L. 86-778 redesignated former subsec. (h) as (g).

1959—Subsec. (b). Pub. L. 86-346 substituted "on original issue at the issue price" for "on original issue at par."

1958—Subsec. (a). Pub. L. 85-927, § 204(a), inserted "or the railroad unemployment insurance administration fund".

Subsec. (e). Pub. L. 85-927, § 204(b), substituted "the railroad unemployment insurance account, and the railroad unemployment insurance administration fund" for "and the railroad unemployment insurance account".

Subsec. (f). Pub. L. 85-927, § 204(c), substituted "railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the payment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment" for "fund as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the railroad unemployment insurance account at the time of such payment".

1954—Subsec. (a). Act Aug. 5, 1954, § 5(b), substituted "or otherwise deposited in or credited to the Fund or any account therein" for "or deposited pursuant to appropriations to the Federal unemployment account".

Subsec. (b). Act Aug. 5, 1954, § 5(c), added last sentence beginning "Advances to the Federal * * *".

Subsec. (e). Act Aug. 5, 1954, § 5(d) added last sentence beginning "For the purpose of this subsection * * *".

Subsec. (g). Act Aug. 5, 1954, § 5(e), repealed subsec. (g), which authorized Secretary of Treasury to make transfers from Federal unemployment account to account of any State in Unemployment Trust Fund.

Subsec. (h). Act Aug. 5, 1954, § 5(f), substituted a new clause (2) in the second sentence and repealed the third sentence: "Any amounts in the Federal unemployment account on April 1952, and any amounts repaid to such account after such date, shall be covered into the general fund of the Treasury."

1950—Subsec. (h). Act Aug. 28, 1950, substituted "prior to July 1, 1951", for "prior to July 1, 1949", "on July 1, 1951, and ending on December 31, 1951" for "on July 1, 1949, and ending on December 31, 1949" in clause (2) of the second sentence, and "April 1, 1952" for "April 1, 1950" in the third sentence.

1947—Subsec. (h). Act Aug. 6, 1947, amended subsec. (h) generally, and, among other changes, changed the periods for which excess of tax collections over administrative expenditures could be appropriated to the unemployment account, limited authorized appropriations for the unemployment account to the excess collections for the period ending Dec. 31, 1949, provided for amounts in such account on Apr. 1, 1950, and any repayments to the account after such date be covered into the general fund of the Treasury, and provided for an additional deduction of \$18,451,846 from the total amount of taxes collected prior to July 1, 1943.

1944—Subsec. (a). Act Oct. 3, 1944, inserted a comma and "or deposited pursuant to appropriations to the Federal unemployment account" immediately following "unemployment insurance account" in the second sentence.

Subsec. (e). Act Oct. 3, 1944, inserted a comma and "the Federal unemployment account" immediately following "a separate book account for each State agency".

Subsecs. (g), (h). Act Oct. 3, 1944, added subsecs. (g) and (h).

1938—Subsec. (a). Act June 25, 1938, § 10(e), inserted "or by the Railroad Retirement Board to the credit of the railroad unemployment insurance account".

Subsec. (e). Act June 25, 1938, § 10(f), inserted "and the railroad unemployment insurance account".

Subsec. (f). Act June 25, 1938, § 10(g), added the second sentence.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of subsecs. (a), (e), and (f) by Pub. L. 85-927 effective Sept. 6, 1958, except as otherwise indicated, see section 207 (c) of Pub. L. 85-927, set out as a note under section 351 of Title 45, Railroads.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 404 (c) of act Aug. 28, 1950, provided that the amendment of subsec. (h) shall be effective as of January 1, 1950.

TERMINATION DATE

Section 4 of act Aug. 6, 1947, provided: "Section 603 of the War Mobilization and Reconversion Act of 1944 [former section 1651 note of Appendix to Title 50, War and National Defense] (terminating the provisions of such Act [former sections 1651—1678 of Appendix to Title 50] on June 30, 1947) shall not be applicable in the case of the amendments made by title IV of such Act [former sections 1666 and 1667 of Appendix to Title 50] to the Social Security Act [sections 1104 and 1321 of this title]."

TRANSFER OF FUNCTIONS

Functions of the Federal Security Administrator with respect to unemployment compensation and his functions under sections 1600—1611 of Title 26, Internal Revenue Code, were transferred to the Secretary of Labor by 1949 Reorg. Plan No. 2. See note under section 1332-15 of Title 5, Executive Departments and Government Officers and Employees.

Section 1 of 1949 Reorg. Plan No. 2 also provided that the functions transferred by this section shall be performed by the Secretary of Labor or, subject to his direction and control, by such officers, agencies, and employees of the Department of Labor as he shall designate.

Social Security Board was abolished and its functions transferred to Federal Security Administrator by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

PAYMENTS TO STATES

Act Aug. 24, 1937, ch. 755, 50 Stat. 754, provided for payments to States of 90 per cent of proceeds of the unemployment tax collected prior to Jan. 31, 1938, where State had enacted an approved unemployment-compensation law during 1937.

§ 1105. Federal Extended Compensation Account.

(a) Establishment; separate book account; appropriations; transfer and repayment of funds.

There is established in the Unemployment Trust Fund a Federal extended compensation account. For the purposes provided for in section 1104(e) of this title, such account shall be maintained as a separate book account. There are authorized to be appropriated, without fiscal year limitation, such amounts as may be necessary to make the payments of compensation provided by sections 1400m and 1400r of this title and the reimbursements provided by section 1400n of this title. The amounts so appropriated shall be transferred from time to time to the Federal extended compensation account on the basis of estimates by the Secretary of the Treasury after consultation with the Secretary of Labor of the amounts required to make such payments and reimbursements. Amounts so transferred shall be repayable advances (without interest), except to the extent that such amounts are used to make the payments of compensation provided by sections 1400m and 1400r of this title to individuals by reason of the exhaustion of their rights to unemployment compensation under sections 1361—1364 and 1366—1371 of this title. Such repayable advances shall be repaid by transfers, from the Federal extended compensation account to the general fund of the Treasury, at such times as the amount in the Federal extended compensation account is determined by the Secretary of the Treasury, in consultation with the Secretary of Labor, to be adequate for such purpose.

(b) Transfers to the Account.

The Secretary of the Treasury shall transfer (as of the close of each month in the calendar years 1963 and 1964), from the employment security administration account to the Federal extended compensation account established by subsection (a) of this section, an amount determined by him to be equal to 50 percent (with respect to the calendar year 1963), or $\frac{5}{13}$ (with respect to the calendar year 1964), of the amount by which—

- (1) transfers to the employment security administration account pursuant to section 1101(b)
- (2) of this title during such month, exceed

(2) payments during such month from the employment security administration account pursuant to section 1101 (b) (3) and (d) of this title.

If for any such month the payments referred to in paragraph (2) exceed the transfers referred to in paragraph (1), proper adjustments shall be made in the amounts subsequently transferred.

(c) Transfers to State accounts; determination and certification by Secretary of Labor.

(1) The Secretary of the Treasury shall transfer (as of December 31, 1963), from the Federal extended compensation account to the accounts of the States in the Unemployment Trust Fund, the balance in the Federal extended compensation account as of such date. Such balance shall be determined by deducting from the amount in the account on December 31, 1963, the amount of the outstanding advances made to such account pursuant to subsection (a) of this section.

(2) Each State's share of the balance to be transferred under this subsection—

(A) shall be determined by the Secretary of Labor and certified by him to the Secretary of the Treasury before that date on the basis of reports furnished by the States to the Secretary of Labor before December 1, 1963, and

(B) shall bear the same ratio to the balance in such account as of December 31, 1963, as (i) the amount of wages subject to contributions under such State's unemployment compensation law during 1961 and 1962 which have been reported to the State before May 1, 1963, bears to (ii) the total of wages subject to contributions under all State unemployment compensation laws during 1961 and 1962 which have been reported to the States before May 1, 1963.

(d) Termination of Account.

Except as provided by subsection (c) of this section, no transfer to or from the Federal extended compensation account shall be made after December 31, 1964. (Aug. 14, 1935, ch. 531, title IX, § 905, as added Mar. 24, 1961, Pub. L. 87-6, § 13, 75 Stat. 14, and amended May 29, 1963, Pub. L. 88-31, § 2(c), 77 Stat. 51.)

AMENDMENTS

1963—Subsec. (b). Pub. L. 88-31 inserted "(with respect to the calendar year 1963), or $\frac{5}{13}$ (with respect to the calendar year 1964),".

SUBCHAPTER X.—GRANTS TO STATES FOR AID TO THE BLIND**§ 1201. Appropriations.**

For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals who are blind and of encouraging each State, as far as practicable under such conditions, to furnish rehabilitation and other services to help such individuals attain or retain capability for self-support or self-care, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid to the blind. (Aug. 14, 1935, ch. 531, title, X, § 1001, 49 Stat. 645; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(b), 64 Stat. 558; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 313(a), 70 Stat. 849; July 25, 1962, Pub. L. 87-543, title I, § 104(c) (3), 76 Stat. 186.)

AMENDMENTS

1962—Pub. L. 87-543 inserted "to furnish rehabilitation and other services" preceding "to help such individuals" and "or retain capability for" following "attain."

1956—Act Aug. 1, 1956, restated the purpose to include assistance to individuals to attain self-support or self-care.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Federal Security Administrator" was substituted for "Social Security Board" by act Aug. 28, 1950.

Identical change was effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

§ 1202. State plans for aid to blind.

(a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to the blind is denied or is not acted upon with reasonable promptness; (5) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the

proper and efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 302 of this title or aid to families with dependent children under the State plan approved under section 602 of this title; (8) provide that the State agency shall, in determining need, take into consideration any other income and resources of the individual claiming aid to the blind, as well as any expenses reasonably attributable to the earning of any such income, except that, in making such determination, the State agency (A) shall disregard the first \$85 per month of earned income, plus one-half of earned income in excess of \$85 per month, (B) shall, for a period not in excess of twelve months, and may, for a period not in excess of thirty-six months, disregard such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan; (9) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to the blind; (10) provide that, in determining whether an individual is blind there shall be an examination by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (11) effective July 1, 1951, provide that all individuals wishing to make application for aid to the blind shall have opportunity to do so, and that aid to the blind shall be furnished with reasonable promptness to all eligible individuals; (12) effective July 1, 1953, provide, if the plan includes payments to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions; and (13) provide a description of the services (if any) which the State agency makes available to applicants for and recipients of aid to the blind to help them attain self-support or self-care, including a description of the steps taken to assure, in the provisions of such services, maximum utilization of other agencies providing similar or related services.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

(2) Any citizenship requirement which excludes any citizen of the United States.

In the case of any State (other than Puerto Rico and the Virgin Islands) which did not have on January 1, 1949, a State plan for aid to the blind approved under this subchapter, the Secretary shall approve a plan of such State for aid to the blind for purposes of this subchapter, even though it does not meet the requirements of clause (8) of subsection (a) of this section, if it meets all other requirements of this subchapter for an approved plan for aid to the blind; but payments under section 1203 of this title shall be made, in the case of any such plan, only with respect to expenditures thereunder which would be included as expenditures for the purposes of section 1203 of this title under a plan approved under this section without regard to the provisions of this sentence. (Aug. 14, 1935, ch. 531, title X, § 1002, 49 Stat. 645; Aug. 10, 1939, ch. 666, title VII, § 701, 53 Stat. 1397; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 4, § 341 (a—e), pt. 6, § 361 (c), (d), 64 Stat. 553, 558; 1953 Reorg. Plan No. 1, § 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 313(b), 70 Stat. 849; Sept. 13, 1960, Pub. L. 86-778, title VII, § 710, 74 Stat. 997; July 25, 1962, Pub. L. 87-543, title I, §§ 104(a)(3)(H), 106(a)(2), 136(a), 154, 76 Stat. 185, 188, 197, 206; Oct. 13, 1964, Pub. L. 88-650, § 5(a), 78 Stat. 1078.)

AMENDMENTS

1964—Subsec. (a)(8). Pub. L. 88-650 permitted the State agency, for a period not in excess of thirty-six months to disregard such additional amounts of other income and resources.

1962—Subsec. (a)(7). Pub. L. 87-543, § 104(a)(3)(H), substituted "aid to families with dependent children" for "aid to dependent children."

Subsec. (a)(8). Pub. L. 87-543, §§106(a)(2), 154, inserted the words, "as well as any expenses reasonably attributable to the earning of any such income", and amended the exception provision by eliminating "either (i) the first \$50 per month of earned income, or" following "disregard", redesignating clause (ii) as subpar. (A) and adding subpar. (B).

Subsec. (b). Pub. L. 87-543, § 136(a), provided for approval of certain plans of States, without an approved plan on Jan. 1, 1949, meeting all but income and resources requirements, and payment of certain expenditures under such plans.

1960—Subsec. (a)(8). Pub. L. 86-778, § 710(b), eliminated provision that required the State agency to disregard, alternatively, the first \$50 per month of earned income in considering claimant's income and resources in determining need.

Pub. L. 86-778, § 710(a), inserted provision that required the State agency to disregard, alternatively, the first \$85 per month of earned income plus one-half of earned income in excess of \$85 per month in considering claimant's income and resources in determining need.

1956—Subsec. (a)(B). Act Aug. 1, 1956, added cl. (13).

1950—Subsec. (a)(4). Act Aug. 28, 1950, § 341(a), substituted "provide for * * * with reasonable promptness" for "provide for granting to any individual, whose claim for aid is denied, an opportunity for a fair hearing before such State agency".

Subsec. (a)(7). Act Aug. 28, 1950, § 341(b), added "or aid to * * * of this title".

Subsec. (a)(8). Act Aug. 28, 1950, § 341(c)(1), (d), added exception clause, and struck out "and" preceding subsec. (a)(9).

Subsec. (a)(9). Act Aug. 28, 1950, § 341(d), substituted a comma for a period at the end thereof.

Subsec. (a)(10)—(12). Act Aug. 28, 1950, § 341(d), added cls. (10)—(12).

1939—Subsec. (a)(5). Act Aug. 10, 1939, § 701(a), inserted after "methods of administration" the phrase

"(including after January 1, 1940 * * * no authority with respect)", and "proper" before "and efficient operation of the plan".

Subsec. (a) (8), (9). Act Aug. 10, 1939, § 701(b), added cls. (8) and (9).

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (a) (8) of this section by section 106 of Pub. L. 87-543 effective July 1, 1963, see section 202(a) of Pub. L. 87-543, set out as a note under section 302 of this title.

Section 154 of Pub. L. 87-543 provided in part that the amendment of the exception provision of subsec. (a) (8) of this section by section 154 shall be effective July 1, 1963.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 710(a) of Pub. L. 86-778 provided that the amendment of subsec. (a) (8) of this section by section 710(a) of Pub. L. 86-778 shall be effective for the period beginning with the first day of the calendar quarter which begins after September 13, 1960, and ending with the close of June 30, 1962.

Section 710(b) of Pub. L. 86-778 provided in part that the amendment of subsec. (a) (8) of this section by section 710(b) of Pub. L. 86-778 shall be effective July 1, 1962.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of this section by act Aug. 1, 1956, effective July 1, 1957, see section 314 [315] of act Aug. 1, 1956, set out as a note under section 302 of this title.

EFFECTIVE DATE OF 1950 AMENDMENTS

Section 341(f) of act Aug. 28, 1950, provided in part that the amendment of subsection (a) (4) shall take effect July 1, 1951, and the amendments of subssecs. (a) (7) and (a) (9) and the addition of subssecs. (a) (10)—(12) shall become effective Oct. 1, 1950.

SUBSECTION (A) (8) AS EFFECTIVE JULY 1, 1952

Section 341 (c) (2) of act Aug. 28, 1950, provided that effective July 1, 1952, subsection (a) (8) is amended to read as follows: "(8) provide that the State agency shall, in determining need, take into consideration any other income and resources of the individual claiming aid to the blind; except that, in making such determination, the State agency shall disregard the first \$50 per month of earned income;"

EFFECTIVE AND TERMINATION DATE OF 1950 AMENDMENT OF SUBSECTION (A) (8)

Section 341 (c) (1) of act Aug. 28, 1950, provided in part that the amendment of subsection (a) (8) shall be effective for the period beginning Oct. 1, 1950, and ending June 30, 1952.

SUBSEC. (A) (10) AS EFFECTIVE JULY 1, 1952

Section 341 (e) of act Aug. 28, 1950, provided that effective July 1, 1952 subsection (a) (10) is amended to read as follows: "(10) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;"

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, adding cls. (8), (9) to subsec. (a), was made effective July 1, 1941, by section 701(b) of act Aug. 10, 1939. Subsec. (a) (5) was also amended by section 701(a) of act Aug. 10, 1939, but without any special provision regarding its effective date.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950, § 361 (c), (d).

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962, deemed to have been conformed to amendment of subsec. (a) (7) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

PUBLIC ACCESS TO STATE DISBURSEMENT RECORDS

Public access to State records of disbursements of funds and payments under this subchapter, see note under section 302 of this title.

§ 1202a. Repealed. Pub. L. 87-543, title I, § 136(b), July 25, 1962, 76 Stat. 197.

Section, act Aug. 28, 1950, ch. 809, title III, pt. 4, § 344(a), 64 Stat. 554, provided, in the case of any State without a plan for aid to the blind approved on Jan. 1, 1949, for approval of the plan of such a State conforming to all requirements except those relating to determination of need and consideration of resources but conditioned payments to the State meeting the excepted requirement.

EFFECTIVE AND TERMINATION DATES

Section 136(b) of Pub. L. 87-543 also repealed section 344(b) of act Aug. 28, 1950, as amended Sept. 1, 1954, ch. 1206, title III, § 302, 68 Stat. 1097; Apr. 25, 1957, Pub. L. 85-26, 71 Stat. 27; Aug. 28, 1958, Pub. L. 85-840, title V, § 509, 72 Stat. 1051; Sept. 13, 1960, Pub. L. 86-778, title VII, § 706, 74 Stat. 995, which provided that this section should become effective Oct. 1, 1950 and terminate June 30, 1964.

§ 1203. Payment to States; computation of amounts.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $\frac{29}{35}$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$35 multiplied by the total number of recipients of aid to the blind for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the blind in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the blind in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of \$70 multiplied by the total number of such recipients of aid to the blind for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half

of the total of the sums expended during such quarter as aid to the blind under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds \$37.50 multiplied by the total number of recipients of aid to the blind for such month; and

(3) in the case of any State whose State plan approved under section 1202 of this title meets the requirements of subsection (c)(1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are prescribed pursuant to subsection (c)(1) of this section and are provided (in accordance with the next sentence) to applicants for or recipients of aid to the blind to help them attain or retain capability for self-support or self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c)(1) of this section, and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of aid to the blind, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid to the blind, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraphs (A) and (B) shall include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this subchapter shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on

under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) subject to limitations prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(4) in the case of any State whose State plan approved under section 1202 of this title does not meet the requirements of subsection (c)(1) of this section, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (3) and provided in accordance with the provisions of such paragraph.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a) of this section, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of blind individuals in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which he finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) of this section for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during a prior quarter by the State or any political subdivision thereof with respect to aid to the blind furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter: *Provided*, That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department, and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c)(1) In order for a State to qualify for payments under paragraph (3) of subsection (a) of this section, its State plan approved under section 1202 of this title must provide that the State agency shall make available to applicants for or recipients of aid to the blind at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (3) of subsection (a) of this section until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (3) of subsection (a) of this section but shall instead be made, subject to the other provisions of this subchapter, under paragraph (4)

of such subsection. (Aug. 14, 1935, ch. 531, title X, § 1003, 49 Stat. 646; Aug. 10, 1939, ch. 666, title VII, § 702, 53 Stat. 1397; 1940 Reorg. Plan No. III, § 1(a)-(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title V, § 503, 60 Stat. 992; June 14, 1948, ch. 468, § 3(c), 62 Stat. 439; Aug. 28, 1950, ch. 809, title III, pt. 4, § 342-(a), pt. 6, § 361 (c), (d), 64 Stat. 553, 558; July 18, 1952, ch. 945, § 8(c), 66 Stat. 779; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title III, § 303(a), 68 Stat. 1097; Aug. 1, 1956, ch. 836, title III, §§ 303, 313(c), 343, 70 Stat. 847, 849, 853; Aug. 28, 1958, Pub. L. 85-840, title V, § 503, 72 Stat. 1049; June 30, 1961, Pub. L. 87-64, title III, § 303(b), 75 Stat. 143; July 25, 1962, Pub. L. 87-543, title I, §§ 101 (a)(3), (b)(3), 132(b), 76 Stat. 176, 180, 195.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (a)(3) (D), (E), is classified to sections 31-42 of Title 29, Labor.

Such Act, referred to in subsec. (a)(3) (D) (i), (ii), refers to the Vocational Rehabilitation Act.

AMENDMENTS

1962—Subsec. (a)(1). Pub. L. 87-543, § 132(b), substituted “ $2\frac{2}{5}$ ” and “\$35” for “four-fifths” and “\$31”, respectively, in subpar. (A) and “\$70” for “\$66” in subpar. (B).

Subsec. (a)(2). Pub. L. 87-543, § 132(b), substituted “\$37.50” for “\$35.50.”

Subsec. (a)(3). Pub. L. 87-543, § 101 (a)(3), (b)(3) (A), inserted in the opening provisions “whose State plan approved under section 1202 of this title meets the requirements of subsection (c)(1) of this section” followed “any State”, and substituted provisions which increased the Federal share of expenses of administration of State public assistance plans by providing quarterly payments of the sum of 75 per centum of the quarterly expenses for certain prescribed services to help attain and retain capability for self-support or self-care, services likely to prevent or reduce dependency, and services appropriate for individuals who were or are likely to become applicants for or recipients of aid to the blind and request such services, and training of State or local public assistance personnel administering such plans and one-half of other administrative expenses for other services, permitted State health or vocational rehabilitation or other appropriate State agencies to furnish such services, except vocational rehabilitation services, and required the determination of the portion of expenses covered by the 75 and 50 per centum provisions in accordance with methods and procedures permitted by the Secretary for former provisions requiring quarterly payments of one-half of quarterly expenses of administration of State plans, including staff services of State or local public assistance agencies to applicants for and recipients of aid to the blind to help them attain self-support or self-care.

Subsec. (a)(4). Pub. L. 87-543, § 101(b)(3) (B), added subsec. (a)(4).

Subsec. (c). Pub. L. 87-543, § 101(b)(3) (C), added subsec. (c).

1961—Subsec. (a). Pub. L. 87-64 substituted “\$31” for “\$30” and “\$66” for “\$65” in cl. (1), and “\$35.50” for “\$35” in cl. (2).

1958—Subsec. (a). Pub. L. 85-840 increased the payments to the States to four-fifths of the first \$30 of the average monthly payment per recipient including assistance in the form of money payments and in the form of medical or any other type of remedial care, plus the Federal percentage of the amount by which the expenditures exceed the maximum which may be counted under cl. (A), but excluding that part of the average monthly payment per recipient in excess of \$65, increased the average monthly payment to Puerto Rico and the Virgin Islands from \$30 to \$35, excluded Guam from the provisions which

authorize an average monthly payment of \$65 and included Guam within the provisions which authorize an average monthly payment of \$35, and permitted the counting of individuals with respect to whom expenditures were made as old-age assistance in the form of medical or any other type of remedial care in determining the total number of recipients.

1956—Subsec. (a). Act Aug. 1, 1956, § 303, substituted "during such quarter as aid to the blind in the form of money payments under the State plan" for "during such quarter as aid to the blind under the State plan" in cls. (1) and (2), "who received aid to the blind in the form of money payments for such month" for "who received aid to the blind for such month" in par. (a) of cl. (1), and inserted cl. (4).

Act Aug. 1, 1956, § 313(c), eliminated ", which shall be used exclusively as aid to the blind," following "the Virgin Islands, an amount" in cls. (1) and (2), and substituted "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of aid to the blind to help them attain self-support or self-care" for "which amount shall be used for paying the costs of administering the State plan or for aid to the blind, or both, and for no other purpose" in cl. (3).

Act Aug. 1, 1956, § 343, substituted "October 1, 1956" for "October 1, 1952", eliminated ", which shall be used exclusively as aid to the blind," following "the Virgin Islands, an amount" in cls. (1) and (2), substituted "\$60" for "\$55," "the product of \$30" for "the product of \$25", "Secretary of Health, Education, and Welfare" for "Secretary", and "including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of aid to the blind to help them attain self-support or self-care" for "which amount shall be used for paying the costs of administering the State plan or for aid to the blind, or both, and for no other purpose".

1954—Subsec. (b) (1). Act Sept. 1, 1954, § 303(a), substituted "the State's proportionate share" for "one-half."

1952—Subsec. (a). Act July 18, 1952, increased the Federal share of the State's average monthly payment to four-fifths of the first \$25 plus one-half of the remainder within individual maximums of \$55, and changed formulas for computing the Federal share of public assistance for Puerto Rico and the Virgin Islands.

1950—Subsec. (a). Act Aug. 28, 1950, provided a new method of computation of the Federal portion of aid to the blind.

1948—Subsec. (a). Act June 14, 1948, substituted "\$50" for "\$45" and "\$20" for "\$15".

1946—Subsec. (a). Act Aug. 10, 1946, § 503(a), increased the maximum monthly State expenditure to which the Federal government will contribute from \$40 to \$45 and increased the Federal contribution for aid to the blind from one-half the State's expenditure to two-thirds such expenditure up to \$15 monthly per individual plus one-half the State's expenditure over \$15.

Subsec. (b). Act Aug. 10, 1946, § 503(b), substituted "the State's proportionate share" for "one-half" in par. (1).

1939—Act Aug. 10, 1939, amended section generally.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (a) (1), (2) of this section by section 132(b) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Sept. 30, 1962, see section 202(d) of Pub. L. 87-543, set out as a note under section 303 of this title.

Amendment of subsec. (a) (3) of this section by section 101(a) (3) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Aug. 31, 1962, and addition of subsecs. (a) (4) and (c) and amendment of subsec. (a) (3) of this section by section 101(b) (3) (A)—(C) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X or XIV of this chapter, as the case may be, made after June 30, 1963, see section 202(f) of Pub. L. 87-543, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of subsec. (a) of this section by Pub. L. 87-64 applicable only in the case of expenditures made after Sept. 30, 1961, and before July 1, 1962, under a State plan approved under subchapters I, X, or XIV of this chapter, see section 303(e) of Pub. L. 87-64, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment of this section by Pub. L. 85-840, see section 512 of Pub. L. 85-840, set out as a note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1956 AMENDMENT

Amendment of subsec. (a) of this section by section 343 of act Aug. 1, 1956, effective only for the period beginning Oct. 1, 1956, and ending with the close of June 30, 1959, see section 345 of act Aug. 1, 1956, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of this section by section 303 of act Aug. 1, 1956, effective July 1, 1957, see section 305 of act Aug. 1, 1956, set out as a note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT

Amendment of subsec. (a) effective for the period beginning Oct. 1, 1952 and ending Sept. 30, 1954, see note set out under section 303 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 342 (b) of act Aug. 28, 1950, provided that the amendment of subsec. (a) shall take effect as of Oct. 1, 1950.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 3 (d) of act June 14, 1948, provided that the amendment of subsec. (a) of this section by section 3 (b) of act June 14, 1948, shall become effective on Oct. 1, 1948.

EFFECTIVE AND TERMINATION DATE OF 1946 AMENDMENT

Amendment of section by section 503 of act Aug. 10, 1946, effective only for the period beginning Oct. 1, 1946, and ending with the close of June 30, 1950, see paraphrase of section 504 of act Aug. 10, 1946, as amended by act Aug. 6, 1947, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 702 of act Aug. 10, 1939.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950, § 361 (c), (d).

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

Division of Disbursement and certain other offices and agencies and their functions were consolidated into Fiscal Service of Treasury Department by 1940 Reorg. Plan No. III, set out in note under section 133t of Title 5, Executive Departments and Government Officers and Employees.

ELECTION OF PAYMENTS UNDER COMBINED STATE PLAN RATHER THAN SEPARATE PLANS

Payments to States under combined State plan under subchapter XVI of this chapter as precluding payment under State plan conforming to this subchapter, see section 141(b) of Pub. L. 87-543, set out as a note under section 1383 of this title.

CROSS REFERENCES

Navajo and Hopi Indians, additional Federal contributions in connection with rehabilitation program, see section 639 of Title 25, Indians.

§ 1204. Operation of State plans.

In the case of any State plan for aid to the blind which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence or citizenship requirement prohibited by section 1202 (b) of this title, or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1202 of this title to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State. (Aug. 14, 1935, ch. 531, title X, § 1004, 49 Stat. 646; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361 (c), (d), 64 Stat. 558; 1953 Reorg. Plan. No. 1, § 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board", and "he", "him", or "his" for "it" or "its" wherever appearing by act Aug. 28, 1950.

Identical changes were effected by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

§ 1205. Appropriation.

CODIFICATION

Section, act Aug. 14, 1935, ch. 531, title X, § 1005, 49 Stat. 647, made available \$30,000 for the fiscal year ending June 30, 1936, for expenses in administering sections 1201-1204 of this title.

§ 1206. "Aid to the blind" defined.

For the purposes of this subchapter, the term "aid to the blind" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, blind individuals who are needy, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual

(a) who is a patient in an institution for tuberculosis or mental diseases, or (b) who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof. (Aug. 14, 1935, ch. 531, title X, § 1006, 49 Stat. 647; Aug. 10, 1939, ch. 666, title VII, § 703, 53 Stat. 1398; Aug. 28, 1950, ch. 809, title III, pt. 4, § 343 (a), 64 Stat. 554; July 25, 1962, Pub. L. 87-548, title I, § 156(c), 76 Stat. 207.)

AMENDMENTS

1962—Pub. L. 87-543 inserted "(if provided in or after the third month before the month in which the recipient makes application for aid)" preceding "medical care."

1950—Act Aug. 28, 1950, redefined term "aid to the blind".

1939—Act Aug. 10, 1939, redefined term "aid to the blind" to include those individuals who are needy.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of section by section 156(e) of Pub. L. 87-543 applicable in the case of applications made after Sept. 30, 1962, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, see section 156(e) of Pub. L. 87-543, set out as a note under section 306 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 343 (b) of act Aug. 28, 1950, provided that: "The amendment made by subsection (a) [to this section] shall take effect October 1, 1950, except that the exclusion of money payments to needy individuals described in clause (a) or (b) of section 1006 of the Social Security Act as so amended [clause (a) or (b) of this section] shall, in the case of any of such individuals who are not patients in a public institution, be effective July 1, 1952."

SUBCHAPTER XI.—GENERAL PROVISIONS

§ 1301. Definitions.

(a) When used in this chapter—

(1) The term "State", except where otherwise provided, includes the District of Columbia and the Commonwealth of Puerto Rico, and when used in subchapters I, IV, V, VII, X, XI, XIV, and XVI of this chapter includes the Virgin Islands and Guam.

(2) The term "United States" when used in a geographical sense means, except where otherwise provided, the States.

(3) The term "person" means an individual, a trust or estate, a partnership or a corporation.

(4) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(5) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(6) The term "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(7) The terms "physician" and "medical care" and "hospitalization" include osteopathic practitioners or the services of osteopathic practitioners and hospitals within the scope of their practice as defined by State law.

(8) (A) The "Federal percentage" for any State (other than Puerto Rico, the Virgin Islands, and Guam) shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the square of the per capita income of such State bears to the square of the per capita

income of the United States; except that the Federal percentage shall in no case be less than 50 per centum or more than 65 per centum.

(B) The Federal percentage for each State (other than Puerto Rico, the Virgin Islands, and Guam) shall be promulgated by the Secretary between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the eight quarters in the period beginning July 1 next succeeding such promulgation: *Provided*, That the Secretary shall promulgate such percentages as soon as possible after August 28, 1958, which promulgation shall be conclusive for each of the eleven quarters in the period beginning October 1, 1958, and ending with the close of June 30, 1961.

(C) The term "United States" means (but only for purposes of subparagraphs (A) and (B) of this paragraph) the fifty States and the District of Columbia.

(D) Promulgations made before satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska shall prescribe a Federal percentage for Alaska of 50 per centum and, for purposes of such promulgations, Alaska shall not be included as part of the "United States". Promulgations made thereafter but before per capita income data for Alaska for a full three-year period are available from the Department of Commerce shall be based on satisfactory data available therefrom for Alaska for such one full year or, when such data are available for a two-year period, for such two years.

(b) The terms "includes" and "including" when used in a definition contained in this chapter shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(c) Whenever under this chapter or any Act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for the purposes of this chapter the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

(d) Nothing in this chapter shall be construed as authorizing any Federal official, agent, or representative, in carrying out any of the provisions of this chapter, to take charge of any child over the objection of either of the parents of such child, or of the person standing in loco parentis to such child. (Aug. 14, 1935, ch. 531, title XI, § 1101, 49 Stat. 647; Aug. 10, 1939, ch. 666, title VIII, § 801, 53 Stat. 1398; Aug. 10, 1946, ch. 951, title IV, § 401 (a), 60 Stat. 986; June 14, 1948, ch. 468, § 2 (a), 62 Stat. 438; Aug. 28, 1950, ch. 809, title IV, § 403 (a) (1), (2), (b), 64 Stat. 559; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Aug. 16, 1956, ch. 836, title III, § 333, 70 Stat. 852; Aug. 28, 1958, Pub. L. 85-840, title V, §§ 505, 506, 72 Stat. 1050,

1051; June 25, 1959, Pub. L. 86-70, § 32 (a), (d), 73 Stat. 149; July 12, 1960, Pub. L. 86-624, § 30 (a), (d), 74 Stat. 419, 420; Sept. 13, 1960, Pub. L. 86-778, title V, § 541, 74 Stat. 985; July 25, 1962, Pub. L. 87-543, title I, § 153, 76 Stat. 206.)

AMENDMENTS

1962—Subsec. (a) (1). Pub. L. 87-543, § 153(a), included in the enumeration subchapters XI and XVI of this chapter.

Subsec. (a) (2). Pub. L. 87-543, § 153(b), deleted ", the District of Columbia, and the Commonwealth of Puerto Rico" following "the States,".

1960—Subsec. (a) (1). Pub. L. 86-778 substituted "The term 'State', except where otherwise provided, includes the District of Columbia and the Commonwealth of Puerto Rico" for "The term 'State' includes Hawaii, and the District of Columbia", and "includes the Virgin Islands and Guam" for "includes Puerto Rico, the Virgin Islands, and Guam."

Pub. L. 86-624, § 30(d) (1), eliminated words "Hawaii, and" preceding "the District of Columbia."

Subsec. (a) (2). Pub. L. 86-778 substituted "means, except where otherwise provided, the States, the District of Columbia, and the Commonwealth of Puerto Rico" for "means the States, Hawaii, and the District of Columbia."

Pub. L. 86-624, § 30(d) (2), eliminated ", Hawaii," preceding "and the District of Columbia."

Subsec. (a) (8) (A). Pub. L. 86-624, § 30(a) (1), (2), substituted "per capita income of the United States" for "per capita income of the continental United States (including Alaska)", and eliminated provisions which prescribed the Federal percentage for Hawaii as 50 per centum.

Subsec. (a) (8) (B). Pub. L. 86-624, § 30(a) (1), substituted "United States" for "continental United States (including Alaska)".

Subsec. (a) (8) (C), (D). Pub. L. 86-624, § 30(a) (3), added pars. (C) and (D).

1959—Subsec. (a) (1). Pub. L. 86-70, § 32(d) (1), substituted "Hawaii and" for "Alaska, Hawaii, and."

Subsec. (a) (2). Pub. L. 86-70, § 32(d) (2), eliminated "Alaska," preceding "Hawaii."

Subsec. (a) (8). Pub. L. 86-70, § 32(a), substituted "(including Alaska)" for "(excluding Alaska)" in two instances, and "50 per centum for Hawaii" for "50 per centum for Alaska and Hawaii."

1958—Subsec. (a) (1). Pub. L. 85-840, § 506, included Guam within the definition of "State" when used in subchapters I, IV, V, VII, X, and XIV of this chapter.

Subsec. (a) (8). Pub. L. 85-840, § 505, added par. (8).

1956—Subsec. (a) (1). Act Aug. 1, 1956, inserted reference to subchapter VII of this chapter.

1950—Subsec. (a) (1). Act Aug. 28, 1950, § 403(a) (1), redefined the term "State".

Subsec. (a) (6). Act Aug. 28, 1950, § 403(a) (2), defined "Administrator".

Subsec. (a) (7). Act Aug. 28, 1950, § 403(b), added par. (7).

1948—Subsec. (a) (6). Act June 14, 1948, provided for the application of the usual common-law rules in determining whether a person is an employee.

1948—Subsec. (a) (1). Act Aug. 10, 1946, omitted exception of section 45b of title 29 and added the Virgin Islands.

1939—Subsec. (a) (1). Act Aug. 10, 1939, redefined the term "State".

EFFECTIVE DATE OF 1960 AMENDMENTS

Section 541 of Pub. L. 86-778 provided in part that the amendment of subsec. (a) (1) and (2) of this section by Pub. L. 86-778 shall be effective on and after Jan. 1, 1961.

Amendment of subsec. (a) (1), (2) of this section by Pub. L. 86-624 effective on Aug. 21, 1959, see section 47(f) of Pub. L. 86-624, set out as a note under section 645 of Title 20, Education.

Amendment of subsec. (a) (8) (A) by Pub. L. 86-624, § 30(a) (1), which substituted "United States" for "continental United States (including Alaska)", and amendment of subsec. (a) (3) (B), and subsecs. (a) (8) (C),

(D), applicable in the case of promulgations or computations of Federal shares, allotment percentages, allotment ratios, and Federal percentages, as the case may be, made after Aug. 21, 1959, see section 47(a) of Pub. L. 86-624, set out as a note under section 442 of Title 20, Education.

Section 47(b) of Pub. L. 86-624 provided that: "The amendments made by paragraph (2) of section 30(a) [which eliminated provisions in subsec. (a) (8) (A) prescribing the Federal percentage for Hawaii] shall be effective with the beginning of the calendar quarter in which this Act is enacted. The Secretary of Health, Education, and Welfare shall, as soon as possible after enactment of this Act [July 12, 1960], promulgate a Federal percentage for Hawaii determined in accordance with the provisions of subparagraph (B) of section 1101(a) (8) of the Social Security Act [subsec. (a) (8) (B) of this section], such promulgation to be effective for the period beginning with the beginning of the calendar quarter in which this Act is enacted and ending with the close of June 30, 1961."

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of subsecs. (a) (1) and (a) (2) of this section by Pub. L. 86-70 effective on Jan. 3, 1959, see section 47(d) of Pub. L. 86-70, set out as a note under section 151 of Title 20, Education.

Amendment of subsec. (a) (8) of this section by Pub. L. 86-70 applicable in the case of promulgations of Federal shares, allotment percentages, allotment ratios, and Federal percentages, as the case may be, made after satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska, see section 47(a) of Pub. L. 86-70, set out as a note under section 442 of Title 20, Education.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendments of subsec. (a) (1), (8) by Pub. L. 85-840, see section 512 of Pub. L. 85-840, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 403 (a) (3) of act Aug. 28, 1950, provided that: "The amendment made by paragraph (1) of this subsection [amendment of subsec. (a) (1) of this section] shall take effect October 1, 1950, and the amendment made by paragraph (2) of this subsection [amendment of subsec. (a) (6) of this section], insofar as it repeals the definition of 'employee', shall be effective only with respect to services performed after 1950."

Section 403 (b) of act Aug. 28, 1950, provided in part that subsection (a) (7) shall be effective as of October 1, 1950.

EFFECTIVE DATE OF 1946 AMENDMENT

Section 401 (a) of act Aug. 10, 1946, provided that the amendment to subsec. (a) (1) of this section shall be effective Jan. 1, 1947.

EFFECTIVE DATE OF 1939 AMENDMENT

Amendment of section by act Aug. 10, 1939, was made effective Jan. 1, 1940, by section 801 of act Aug. 10, 1939.

EFFECTIVE DATE; WAGE CREDITS

Section 2 (b) of act June 14, 1948, provided that: "The amendment made by subsection (a) [of section 2 of act June 14, 1948] shall have the same effect as if included in the Social Security Act [this chapter] on August 14, 1935, the date of its enactment, but shall not have the effect of voiding any (1) wage credits reported to the Bureau of Internal Revenue with respect to services performed prior to the enactment of this Act [June 14, 1948] or (2) wage credits with respect to services performed prior to the close of the first calendar quarter which begins after the date of the enactment of this Act [June 14, 1948] in the case of individuals who have attained age sixty-five or who have died, prior to the close of such quarter, and with respect to whom prior to the date of enactment of this Act [June 14, 1948] wage credits were established which would not have been established had the amendment made by subsection (a) been in effect on and after August 14, 1935."

REPEALS

The provisions of subsecs. (a) (1), (3), [former] (6), (c) of this section were incorporated into sections 1426

(d)—(f), 1427, 1607 (i)—(k), and 1608 of Title 26, I. R. C. 1939 by act Feb. 10, 1939, c. 2, 53 Stat. 1. Section 4 of the act of Feb. 10, 1939, provided that all laws and parts of laws codified into the I. R. C. 1939, to the extent that they related exclusively to internal revenue, were repealed.

Provisions of I. R. C. 1939 were generally repealed by section 7851 of Title 26, I. R. C. 1954 (Act Aug. 16, 1954, c. 736, 68A Stat. 3). See, also, section 7807 of said Title 26, I. R. C. 1954, respecting rules in effect upon enactment of I. R. C. 1954. Said repealed sections are now covered by sections 3121 (d), (e), 3123, 3306 (i), (j), 3307, 7701 (a) (1) of Title 26, I. R. C. 1954.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the Office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

REPORTS BY FEDERAL SECURITY ADMINISTRATOR TO CONGRESS; APPROPRIATION

Section 2 (c) of act June 14, 1948, provided that:

"(c) (1) The Federal Security Administrator is directed to estimate and report to the Congress at the earliest practicable date (A) the total amount paid as benefits under title II of the Social Security Act [subchapter II of this chapter] which would not have been paid had the amendment made by subsection (a) [of section 2 of act June 14, 1948] been in effect on and after August 14, 1935, and (B) the total amount of such payments which the Administrator estimates will hereafter be paid by virtue of the provisions of subsection (b) [set out as a note under this section].

"(2) There is hereby authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund a sum equal to the aggregate of the amounts reported to the Congress under paragraph (1) [of this note]."

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

CROSS REFERENCES

Aid to the blind, see section 1206 of this title.

Aid to the permanently and totally disabled, see section 1355 of this title.

Employment security administrative expenses, see section 1101 of this title.

Governor, see section 1324 of this title.

Unemployment administrative expenses, see section 1104(g) of this title.

§ 1301-1. Definition of Administrator.

CODIFICATION

Section, act Aug. 10, 1946, ch. 951, title II, § 202, 60 Stat. 981, which was enacted as a part of the Social Security Act Amendments of 1946 and not as a part of the Social Security Act which comprises this chapter, and which defined the term "Administrator" as used in certain sections of this chapter is now covered by section 1301 of this title.

§ 1301a. Bureau of Old-Age and Survivors' Insurance employees; travel expenses.

Employees of the Bureau of Old-Age and Survivors' Insurance when engaged in the investigation of claims or the furnishing or securing of information concerning claims or wage records under subchapter II of this chapter, may be reimbursed for official travel performed by them in privately owned automobiles within the corporate limits of their official stations at a rate not to exceed 3 cents per mile. (June 26, 1940, ch. 428, title II, 54 Stat. 588.)

CODIFICATION

Section was enacted as a part of the Deficiency Appropriation Act, 1940, and not as a part of the Social Security Act which comprises this chapter.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

SIMILAR PROVISIONS

Similar provisions were contained in act Aug. 9, 1939, ch. 633, title I, § 1, 53 Stat. 1304.

§ 1302. Rules and regulations.

The Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, respectively, shall make and publish such rules and regulations, not inconsistent with this chapter, as may be necessary to the efficient administration of the functions with which each is charged under this chapter. (Aug. 14, 1935, ch. 531, title XI, § 1102, 49 Stat. 647; 1946 Reorg. Plan No. 2, §§ 1, 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095; 1949 Reorg. Plan No. II, § 1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Aug. 28, 1950, ch. 809, title IV, § 403(c), 64 Stat. 559; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

CODIFICATION

Provisions relating to the Secretary of Labor were inserted in view of 1950 Reorg. Plan No. 19, which transferred the Bureau of Employees' Compensation from the Federal Security Agency to the Department of Labor and the functions of the Federal Security Administrator with respect to the Bureau and to employees' compensation, including workmen's compensation, to the Secretary of Labor. See transfer of functions notes below.

REPEALS

The provisions of this section were incorporated into sections 1429 and 1609 of Title 26, I. R. C. 1939, by act Feb. 10, 1939, ch. 2, 53 Stat. 1. Section 4 of the act of Feb. 10, 1939, provided that all laws and parts of laws codified into the I. R. C. 1939, to the extent that they related exclusively to internal revenue, were repealed. Provisions of I. R. C. 1939 were generally repealed by section 7851 of Title 26, I. R. C. 1954. See also, section 7807 of said Title 26, I. R. C. 1954, respecting rules in effect upon enactment of I. R. C. 1954. The repealed sections are now covered by section 7805 (a), (c) of Title 26, I. R. C. 1954.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board" by act Aug. 28, 1950.

The Bureau of Employees' Compensation of the Federal Security Agency, together with its functions, was transferred to the Department of Labor to be administered under the direction and supervision of the Secretary of Labor by section 1 of 1950 Reorg. Plan No.

19, set out as a note under section 1332-15 of Title 5, Executive Departments and Governmental Officers and Employees.

The Bureau of Employment Security of the Federal Security Agency, together with its functions, was transferred to the Department of Labor, to be administered by the Secretary of Labor, by section 1 of 1949 Reorg. Plan No. II, set out as a note under section 1332-15 of Title 5.

"Federal Security Administrator" was substituted for "Secretary of Labor" and "Social Security Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

§ 1303. Separability of provisions.

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances shall not be affected thereby. (Aug. 14, 1935, ch. 531, title XI, § 1103, 49 Stat. 648.)

§ 1304. Reservation of right to amend or repeal.

The right to alter, amend, or repeal any provision of this chapter is reserved to the Congress. (Aug. 14, 1935, ch. 531, title XI, § 1104, 49 Stat. 648.)

§ 1305. Short title of chapter.

This chapter may be cited as the "Social Security Act". (Aug. 14, 1935, ch. 531, title XI, § 1105, 49 Stat. 648.)

§ 1306. Disclosure of information in possession of Department of Health, Education, and Welfare or Department of Labor; compliance with requests for information and services.

(a) No disclosure of any return or portion of a return (including information returns and other written statements) filed with the Commissioner of Internal Revenue under Title VIII of the Social Security Act or under subchapter E of chapter 1 or subchapter A of chapter 9 of Title 26, or under regulations made under authority thereof, which have been transmitted to the Secretary of Health, Education, and Welfare or to the Secretary of Labor, as the case may be, by the Commissioner of Internal Revenue, or of any file, record, report or other paper, or any information, obtained at any time by the Secretary of Health, Education, and Welfare, or the Secretary of Labor, or by any officer or employee of the Department of Health, Education, and Welfare or the Department of Labor in the course of discharging their respective duties under this chapter, and no disclosure of any such file, record, report or other paper, or information, obtained at any time by any person from the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be, or from any officer or employee of the Department of Health, Education, and Welfare or the Department of Labor shall be made except as the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be, may by regulations prescribe. Any person who shall violate any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both.

(b) Requests for information, disclosure of which is authorized by regulations prescribed pursuant to subsection (a) of this section, and requests for services, may, subject to such limitations as may be prescribed by the Secretary of Health, Education,

and Welfare or the Secretary of Labor, as the case may be, to avoid undue interference with their respective functions under this chapter, be complied with if the agency, person, or organization making the request agrees to pay for the information or services requested in such amount, if any (not exceeding the cost of furnishing the information or services), as may be determined by the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be. Payments for information or services furnished pursuant to this section shall be made in advance or by way of reimbursement, as may be requested by the Secretary of Health, Education, and Welfare or the Secretary of Labor, as the case may be, and shall be deposited in the Treasury as a special deposit to be used to reimburse the appropriations (including authorizations to make expenditures from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund) for the unit or units of the Department of Health, Education, and Welfare or the Department of Labor, as the case may be, which furnished the information or services. (Aug. 14, 1935, ch. 531, title XI, § 1106, as added Aug. 10, 1939, ch. 666, title VIII, § 802, 53 Stat. 1398, and amended 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1949 Reorg. Plan No. II, § 1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065; 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1271; Aug. 28, 1950, ch. 809, title IV, § 403(d), 64 Stat. 559; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 28, 1958, Pub. L. 85-840, title VII, § 701, 72 Stat. 1055.)

REFERENCES IN TEXT

Title VIII of the Social Security Act, referred to in subsec. (a), was formerly classified to sections 1001-1011 of this title. For disposition of those sections, see Codification Note thereunder.

Subchapter E of chapter 1 and subchapter A of chapter 9 of Title 26, referred to in subsec. (a), were references to provisions classified to sections 480-482 and 1400-1432, respectively of the Internal Revenue Code, 1939. Said provisions were repealed by section 7851 of Title 26, I. R. C. 1954. For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said Title 26. For disposition of said repealed provisions in Title 26, I. R. C. 1954, see Distribution Tables.

CODIFICATION

Provisions relating to the Department of Labor and the Secretary of Labor were inserted in view of 1950 Reorg. Plan No. 19, which transferred the Bureau of Employees' Compensation from the Federal Security Agency to the Department of Labor and the functions of the Federal Security Administrator with respect to the Bureau and to employees' compensation, including workmen's compensation, to the Secretary of Labor. See transfer of functions notes below.

AMENDMENTS

1958—Subsec. (b). Pub. L. 85-840 authorized compliance with requests for services if the agency, person, or organization making the request agrees to pay for the services.

1950—Act Aug. 28, 1950, designated existing provisions as subsec. (a), substituted "under subchapter E of chapter 1 or subchapter A of chapter 9 of Title 26" for "the Federal Insurance Contributions Act," reflected the transfer of functions from the Social Security Board to the Federal Security Administrator and the Federal Security Agency, and added subsection (b).

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

The Bureau of Employees' Compensation of the Federal Security Agency, together with its functions, was transferred to the Department of Labor to be administered under the direction and supervision of the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, set out as a note under section 1332-15 of Title 5, Executive Departments and Government Officers and Employees.

The Bureau of Employment Security of the Federal Security Agency, together with its functions, was transferred to the Department of Labor, to be administered by the Secretary of Labor, by section 1 of 1949 Reorg. Plan No. II, set out as a note under section 1332-15 of Title 5. "Administrator" was substituted for "Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

§ 1307. Penalty for fraud.

(a) Whoever, with the intent to defraud any person, shall make or cause to be made any false representation concerning the requirements of this chapter, subchapter E of chapter 1 or subchapters A, C, or E of chapter 9 of Title 26, or of any rules or regulations issued thereunder, knowing such representations to be false, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both.

(b) Whoever, with the intent to elicit information as to the date of birth, employment, wages, or benefits of any individual (1) falsely represents to the Secretary that he is such individual, or the wife, husband, widow, widower, former wife divorced, child, or parent of such individual, or the duly authorized agent of such individual, or of the wife, husband, widow, widower, former wife divorced, child, or parent of such individual, or (2) falsely represents to any person that he is an employee or agent of the United States, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both. (Aug. 14, 1935, ch. 531, title XI, § 1107, as added Aug. 10, 1939, ch. 666, title VIII, § 802, 53 Stat. 1398, and amended 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 28, 1950, ch. 809, title IV, § 403 (e), (f), 64 Stat. 560; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.)

REFERENCES IN TEXT

Subchapter E of chapter 1 and subchapter A, C, or E of chapter 9 of Title 26, referred to in subsec. (a), were references to provisions classified to sections 480-482, 1400-1432, 1600-1611, and 1630-1636, respectively of the Internal Revenue Code, 1939. Said provisions were repealed by section 7851 of Title 26, I. R. C. 1954. For provision deeming a reference in other laws to a provision of I. R. C. 1939, also as a reference to corresponding provision of I. R. C. 1954, see section 7852 (b) of said

Title 26. For disposition of said repealed provisions in Title 26, I. R. C. 1954, see Distribution Tables.

AMENDMENTS

1950—Subsec. (a). Act Aug. 28, 1950, § 403(e), substituted "subchapter E of chapter 1 or subchapters A, C, or E of chapter 9 of Title 26," for "the Federal Insurance Contributions Act, or the Federal Unemployment Tax Act."

Subsec. (b). Act Aug. 28, 1950, § 403(b), substituted "Administrator" for "Board" and "wife, husband, widow, widower, former wife divorced, child, or parent" for "wife, parent, or child" wherever appearing.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

"Administrator" was substituted for "Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

§ 1308. Limitation on payments to Puerto Rico, the Virgin Islands, and Guam.

The total amount certified by the Secretary of Health, Education, and Welfare under subchapters I (other than section 303(a)(3) thereof), IV, X, XIV, and XVI (other than section 1383(a)(3) thereof) of this chapter for payment to Puerto Rico with respect to any fiscal year shall not exceed \$9,800,000, of which \$625,000 may be used only for payments certified with respect to section 303(a)(2)(B) or 1383(a)(2)(B) of this title; of the total amount certified by the Secretary under such subchapters for payments to the Virgin Islands with respect to any fiscal year shall not exceed \$330,000, of which \$18,750 may be used only for payments certified with respect to section 303(a)(2)(B) or 1383(a)(2)(B) of this title; and the total amount certified by the Secretary under such subchapters for payment to Guam with respect to any fiscal year shall not exceed \$450,000 of which \$25,000 may be used only for payments certified with respect to section 303(a)(2)(B) or 1383(a)(2)(B) of this title. Notwithstanding the provisions of sections 702(a)(2), 712(a)(2), 722(a), and 727(a) of this title, and until such time as the Congress may by appropriation or other law otherwise provide, the Secretary shall, in lieu of the initial (or, in the case of section 727(a) of this title, the minimum) allotment specified in such sections, allot such smaller amounts to Guam as he may deem appropriate. (Aug. 14, 1935, ch. 531, title XI, § 1108, as added Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(g), 64 Stat. 558, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 351(c), 70 Stat. 855; Aug. 28, 1958, Pub. L. 85-840, title V, §§ 507, 508, 72 Stat. 1051; Sept. 13, 1960, Pub. L. 86-778, title VI, § 602, 74 Stat. 992; July 25, 1962, Pub. L. 87-543, title I, § 151, 76 Stat. 206.)

AMENDMENTS

1962—Pub. L. 87-543 substituted "\$9,800,000", "\$330,000", "\$450,000", and "initial (or, in the case of section 727(a) of this title, the minimum) allotment" for "\$9,500,000", "\$320,000", "\$430,000", and "\$60,000, \$60,000 \$60,000, respectively," and inserted references to subchapter "XVI (other than section 1383(a)(3) thereof)" of this chapter, section 1383(a)(2) in three instances and section 727(a) following section 722(a).

1961—Pub. L. 87-64, title III, § 303(d), 75 Stat. 143, substituted "\$9,500,000", "\$320,000", and "\$430,000" for "\$9,425,000", "\$318,750", and "\$425,000", respectively. See Repeals note hereunder.

Pub. L. 87-31, § 6, May 8, 1961, 75 Stat. 78, increased the grant to Puerto Rico for fiscal year ending June 30, 1961, from \$9,000,000 to \$9,075,000 and for fiscal year ending June 30, 1962, to \$9,425,000; the grants to Virgin Islands and Guam from \$315,000 and \$420,000 to \$318,750 and \$425,000, respectively; and payments under section 303(a)(2)(B) of this title to Puerto Rico, Virgin Islands and Guam from \$500,000, \$15,000 and \$20,000 to \$625,000, \$18,750 and \$25,000, respectively. See, also, Limitation on Payments note hereunder.

1960—Pub. L. 86-778 substituted "\$9,000,000, of which \$500,000 may be used only for payments certified with respect to section 303(a)(2)(B) of this title" for "\$8,500,000", "\$315,000, of which \$15,000 may be used only for payments certified in respect to section 303(a)(2)(B) of this title" for "\$300,000", "\$420,000, of which \$20,000 may be used only for payments certified in respect to section 303(a)(2)(B) of this title" for "\$400,000", and "subchapters I (other than section 303(a)(3) thereof)" for "subchapters I."

1958—Pub. L. 85-840, §§ 507, 508, amended section. Section 507 (a) substituted "\$8,500,000" for "\$5,312,500" and "\$300,000" for "\$200,000", and limited the total amount certified for payment to Guam with respect to any fiscal year to not more than \$400,000. Section 507 (b) amended catchline to include Guam. Section 508 inserted provisions requiring the Secretary, in lieu of the allotments specified in sections 702 (a) (2), 712 (a) (2) and 722 (a) of this title, to allot such smaller amounts as he may deem appropriate to Guam, notwithstanding the provisions of such sections and until such time as the Congress may by appropriation or other law otherwise provide.

1956—Act Aug. 1, 1956, substituted "\$5,312,500" for "\$4,250,000", and "\$200,000" for "\$160,000".

EFFECTIVE DATE OF 1962 AMENDMENT

Section 151 of Pub. L. 87-543 provided in part that the amendment of this section by Pub. L. 87-543 shall be effective for fiscal years ending after June 30, 1962.

EFFECTIVE DATE OF 1961 AMENDMENTS

Section 132(d) of Pub. L. 87-543 repealed section 303(d) of Pub. L. 87-64, title III, June 30, 1961, 75 Stat. 143, which had provided that the amendment of this section by section 303(d) of Pub. L. 87-64 shall be effective only for fiscal year ending June 30, 1962, and section 6 of Pub. L. 87-31, May 8, 1961, 75 Stat. 78, which had provided that the amendment of this section by section 6(b) of Pub. L. 87-31 shall be effective for fiscal years ending after June 30, 1961. Such repeal applicable in the case of fiscal years beginning after June 30, 1962, see section 202(b) of Pub. L. 87-543, set out as a note under section 722 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of section by Pub. L. 86-778 effective with respect to fiscal years ending after 1960, see section 604 of Pub. L. 86-778, set out as a note under section 301 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendments of this section made by sections 507 and 508 of Pub. L. 85-840, see section 512 of Pub. L. 85-840, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of this section by act Aug. 1, 1956, effective with respect to the fiscal year ending June 30, 1957, and all succeeding fiscal years, see section 351 (d) of act Aug. 1, 1956, set out as a note under section 603 of this title.

REPEALS: EFFECTIVE DATE

Section 132(d) of Pub. L. 87-543 repealed section 6 of Pub. L. 87-31, May 8, 1961, 75 Stat. 78, and section 303(d) of Pub. L. 87-64, title III, June 30, 1961, 75 Stat. 143, formerly credited to this section. Such repeal applicable in the case of fiscal years beginning after June 30, 1962, see section 202(b) of Pub. L. 87-543, set out as a note under section 722 of this title.

LIMITATIONS ON PAYMENTS: EFFECTIVE DATE

Section 132(d) of Pub. L. 87-543 repealed section 6(a) of Pub. L. 87-31, May 8, 1961, 75 Stat. 78, which had limited payments to Puerto Rico not to exceed \$9,075,000 for fiscal year ending June 30, 1961, \$9,425,000 for fiscal year ending June 30, 1962; and \$9,125,000 for fiscal years ending after June 30, 1962. Such repeal applicable in the case of fiscal years beginning after June 30, 1962, see section 202(b) of Pub. L. 87-543, set out as a note under section 722 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

DEFINITION OF "SECRETARY"

"Secretary" as used in amendments to this chapter made by Pub. L. 85-840 means the Secretary of Health, Education, and Welfare, see section 702 of Pub. L. 85-840, set out as a note under section 402 of this title.

§ 1309. Earned income of blind recipients.

Notwithstanding the provisions of sections 302(a) (10) (A), 602(a) (7), 1202(a) (8), 1352(a) (8), and 1382(a) (14) of this title, a State plan approved under subchapter I, IV, X, XIV, or XVI of this chapter may until June 30, 1954, and thereafter shall provide that where earned income has been disregarded in determining the need of an individual receiving aid to the blind under a State plan approved under subchapter X of this chapter, the earned income so disregarded (but not in excess of the amount specified in section 1202(a) (8) of this title) shall not be taken into consideration in determining the need of any other individual for assistance under a State plan approved under subchapter I, IV, X, XIV, or XVI of this chapter. (Aug. 14, 1935, ch. 531, title XI, § 1109, as added July 18, 1952, ch. 945, § 7, 66 Stat. 778, and amended July 25, 1962, Pub. L. 87-543, title I, § 141(c), 76 Stat. 205.)

AMENDMENTS

1962—Pub. L. 87-543 substituted reference to section 302(a) (10) (A) for 302(a) (7) and inserted references to section 1382(a) (14) and subchapter XVI.

§ 1310. Cooperative research or demonstration projects.

(a) There are authorized to be appropriated for the fiscal year ending June 30, 1957, \$5,000,000 and for each fiscal year thereafter such sums as the Congress may determine for (1) making grants to States and public and other nonprofit organizations and agencies for paying part of the cost of research or demonstration projects such as those relating to the prevention and reduction of dependency, or which will aid in effecting coordination of planning between private and public welfare agencies or which will help improve the administration and effectiveness of programs carried on or assisted under this chapter and programs related thereto, and (2) making contracts or jointly financed cooperative arrangements with States and public and other nonprofit organizations and agencies for the conduct of research or demonstration projects relating to such matters.

(b) No contract or jointly financed cooperative arrangement shall be entered into, and no grant

shall be made, under subsection (a) of this section, until the Secretary obtains the advice and recommendations of specialists who are competent to evaluate the proposed projects as to soundness of their design, the possibilities of securing productive results, the adequacy of resources to conduct the proposed research or demonstrations, and their relationship to other similar research or demonstrations already completed or in process.

(c) Grants and payments under contracts or cooperative arrangements under subsection (a) of this section may be made either in advance or by way of reimbursement, as may be determined by the Secretary; and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purposes of this section. (Aug. 14, 1935, ch. 531, title XI, § 1110, as added Aug. 1, 1956, ch. 836, title III, § 331, 70 Stat. 850.)

DEFINITION OF "SECRETARY"

Secretary as used in this section means the Secretary of Health, Education, and Welfare, see section 119 of act Aug. 1, 1956, set out as a note under section 416 of this title.

§ 1311. Public assistance payments to legal representatives.

For purposes of subchapters I, IV, X, XIV, and XVI of this chapter, payments on behalf of an individual, made to another person who has been judicially appointed, under the law of the State in which such individual resides, as legal representative of such individual for the purpose of receiving and managing such payments (whether or not he is such individual's legal representative for other purposes), shall be regarded as money payments to such individual. (Aug. 14, 1935, ch. 531, title XI, § 1111, as added Aug. 28, 1958, Pub. L. 85-840, title V, § 511(a), 72 Stat. 1051, and amended July 25, 1962, Pub. L. 87-543, title I, § 141(d), 76 Stat. 205.)

AMENDMENTS

1962—Pub. L. 87-543 inserted reference to subchapter XVI.

EFFECTIVE DATE

Section 511 (b) of Pub. L. 85-840 provided that: "The amendment made by subsection (a) [adding this section] shall be applicable in the case of payments to legal representatives by any State made after June 30, 1958; and to such payments by any State made after December 31, 1955, and prior to July 1, 1958, if certifications for payment to such State have been made by the Secretary of Health, Education, and Welfare with respect thereto, or such State has presented to the Secretary a claim (and such other data as the Secretary may require) with respect thereto, prior to July 1, 1959."

§ 1312. Medical care guides and reports for public assistance and medical assistance for the aged.

In order to assist the States to extend the scope and content, and improve the quality, of medical care and medical services for which payments are made to or on behalf of needy and low-income individuals under this chapter and in order to promote better public understanding about medical care and medical assistance for needy and low-income individuals, the Secretary shall develop and revise from time to time guides or recommended standards as to the level, content, and quality of medical care and medical services for the use of the States in evaluating and improving their public assistance

medical care programs and their programs of medical assistance for the aged; shall secure periodic reports from the States on items included in, and the quantity of, medical care and medical services for which expenditures under such programs are made; and shall from time to time publish data secured from these reports and other information necessary to carry out the purposes of this section. (Aug. 14, 1935, ch. 531, title XI, § 1112, as added Sept. 13, 1960, Pub. L. 86-778, title VII, § 705, 74 Stat. 995.)

§ 1313. Assistance for United States citizens returned from foreign countries.

(a) Authorization; reimbursement; utilization of facilities of public or private agencies and organizations.

(1) The Secretary is authorized to provide temporary assistance to citizens of the United States and to dependents of citizens of the United States, if they (A) are identified by the Department of State as having returned, or been brought, from a foreign country to the United States because of the destitution of the citizen of the United States or the illness of such citizen or any of his dependents or because of war, threat of war, invasion, or similar crisis, and (B) are without available resources.

(2) Except in such cases or classes of cases as are set forth in regulations of the Secretary, provision shall be made for reimbursement to the United States by the recipients of the temporary assistance to cover the cost thereof.

(3) The Secretary may provide assistance under paragraph (1) directly or through utilization of the services and facilities of appropriate public or private agencies and organizations, in accordance with agreements providing for payment, in advance or by way of reimbursement, as may be determined by the Secretary, of the cost thereof. Such cost shall be determined by such statistical, sampling, or other method as may be provided in the agreement.

(b) Plans and arrangements for assistance; consultations.

The Secretary is authorized to develop plans and make arrangements for provision of temporary assistance within the United States to individuals specified in subsection (a)(1) of this section. Such plans shall be developed and such arrangements shall be made after consultation with the Secretary of State, the Attorney General, and the Secretary of Defense. To the extent feasible, assistance provided under subsection (a) of this section shall be provided in accordance with the plans developed pursuant to this subsection, as modified from time to time by the Secretary.

(c) Definition of temporary assistance.

For purposes of this section, the term "temporary assistance" means money payments, medical care, temporary billeting, transportation, and other goods and services necessary for the health or welfare of individuals (including guidance, counseling, and other welfare services) furnished to them within the United States upon their arrival in the United States and for such period after their arrival as may be provided in regulations of the Secretary.

(d) Termination date.

No temporary assistance may be provided under this section after June 30, 1967. (Aug. 14, 1935, ch.

531, title XI, § 1113, as added June 30, 1961, Pub. L. 87-64, title III, § 302, 75 Stat. 142, and amended July 25, 1962, Pub. L. 87-543, title I, § 133, 76 Stat. 196; June 30, 1964, Pub. L. 88-347, 78 Stat. 236.)

AMENDMENTS

1964—Subsec. (d). Pub. L. 88-347 extended termination date from June 30, 1964 to June 30, 1967.

1962—Subsec. (d). Pub. L. 87-543 extended termination date from June 30, 1962, to June 30, 1964.

§ 1314. Public advisory groups.

(a) Advisory Council on Public Welfare; appointment and functions of initial Council.

The Secretary shall, during 1964, appoint an Advisory Council on Public Welfare for the purpose of reviewing the administration of the public assistance and child welfare services programs for which funds are appropriated pursuant to this chapter and making recommendations for improvement of such administration, and reviewing the status of and making recommendations with respect to the public assistance programs for which funds are so appropriated, especially in relation to the old-age, survivors, and disability insurance program, with respect to the fiscal capacities of the States and the Federal Government, and with respect to any other matters bearing on the amount and proportion of the Federal and State shares in the public assistance and child welfare services programs.

(b) Membership and representation of interests on initial Council.

The Council shall be appointed by the Secretary without regard to the civil-service laws and shall consist of twelve persons who shall, to the extent possible, be representatives of employers and employees in equal numbers, representatives of State or Federal agencies concerned with the administration or financing of the public assistance and child welfare services programs, representatives of non-profit private organizations concerned with social welfare programs, other persons with special knowledge, experience, or qualifications with respect to such programs, and members of the public.

(c) Technical and other assistance for initial Council; availability of data.

The Council is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out such functions.

(d) Termination of initial Council's existence on submission of report.

The Council shall make a report of its findings and recommendations (including recommendations for changes in the provisions of this chapter) to the Secretary, such report to be submitted not later than July 1, 1966, after which date such Council shall cease to exist.

(e) Succeeding Councils; appointment; functions; membership; representation of interests; assistance and data; termination.

The Secretary shall also from time to time thereafter appoint an Advisory Council on Public Welfare, with the same functions and constituted in the same

manner as prescribed for the Advisory Council in the preceding subsections of this section. Each Council so appointed shall report its findings and recommendations, as prescribed in subsection (d) of this section, not later than July 1 of the second year after the year in which it is appointed, after which date such Council shall cease to exist.

(f) **Advisory committees; functions; reports by Secretary.**

The Secretary may also appoint, without regard to the civil-service laws, such advisory committees as he may deem advisable to advise and consult with him in carrying out any of his functions under this chapter. The Secretary shall report to the Congress annually on the number of such committees and on the membership and activities of each such committee.

(g) **Compensation and travel expenses.**

Members of the Council or of any advisory committee appointed under this section who are not regular full-time employees of the United States shall, while serving on business of the Council or any such committee, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding \$75 per day, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 73b-2 of Title 5 for persons in Government service employed intermittently.

(h) **Exemption from conflict-of-interest laws of members of Council or advisory committees; exceptions.**

(1) Any member of the Council or any advisory committee appointed under this chapter, who is not a regular full-time employee of the United States, is exempted with respect to such appointment, from the operation of sections 281, 283, and 1914 of Title 18 and section 99 of title 5, except as otherwise specified in paragraph (2) of this subsection.

(2) The exemption granted by paragraph (1) shall not extend—

(A) to the receipt or payment of salary in connection with the appointee's Government service from any source other than the employer of the appointee at the time of his appointment, or

(B) during the period of such appointment, to the prosecution or participation in the prosecution, by any person so appointed, of any claim against the Government involving any matter with which such person, during such period, is or was directly connected by reason of such appointment.

(Aug. 14, 1935, ch. 531, title XI, § 1114, as added July 25, 1962, Pub. L. 87-543, title I, § 121, 76 Stat. 190.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsecs. (b) and (f), are classified generally to Title 5, Executive Departments and Government Officers and Employees.

§ 1315. Demonstration projects; waiver of State plan requirements; costs regarded as State plan expenditures; availability of appropriations.

In the case of any experimental, pilot, or demonstration project which, in the judgment of the

Secretary, is likely to assist in promoting the objectives of subchapter I, IV, X, XIV, or XVI of this chapter in a State or States—

(a) the Secretary may waive compliance with any of the requirements of section 302, 602, 1202, 1352, or 1382 of this title, as the case may be, to the extent and for the period he finds necessary to enable such State or States to carry out such project, and

(b) costs of such project which would not otherwise be included as expenditures under section 303, 603, 1203, 1353, or 1383 of this title as the case may be, and which are not included as part of the costs of projects under section 1310 of this title, shall, to the extent and for the period prescribed by the Secretary, be regarded as expenditures under the State plan or plans approved under such subchapter, or for administration of such State plan or plans, as may be appropriate. In addition, not to exceed \$2,000,000 of the aggregate amount appropriated for payments to States under such subchapters for any fiscal year ending prior to July 1, 1967, shall be available, under such terms and conditions as the Secretary may establish, for payments to States to cover so much of the cost of such projects as is not covered by payments under such subchapters and is not included as part of the cost of projects for purposes of section 1310 of this title. (Aug. 14, 1935, ch. 531, title XI, § 1115, as added July 25, 1962, Pub. L. 87-543, title I, § 122, 76 Stat. 192.)

SUBCHAPTER XII.—ADVANCES TO STATE UNEMPLOYMENT FUNDS

§ 1321. Eligibility requirements for transfer of funds; reimbursement by State; application; certification; limitation.

(a) (1) Advances shall be made to the States from the Federal unemployment account in the Unemployment Trust Fund as provided in this section, and shall be repayable, without interest, in the manner provided in sections 1101(d) (1), 1103(b) (2), and 1322 of this title. An advance to a State for the payment of compensation in any month may be made if—

(A) the Governor of the State applies therefor no earlier than the first day of the preceding month, and

(B) he furnishes to the Secretary of Labor his estimate of the amount of an advance which will be required by the State for the payment of compensation in such month.

(2) In the case of any application for an advance under this section to any State for any month, the Secretary of Labor shall—

(A) determine the amount (if any) which he finds will be required by such State for the payment of compensation in such month, and

(B) certify to the Secretary of the Treasury the amount (not greater than the amount estimated by the Governor of the State) determined under subparagraph (A).

The aggregate of the amounts certified by the Secretary of Labor with respect to any month shall not exceed the amount which the Secretary of the Treasury reports to the Secretary of Labor is avail-

able in the Federal unemployment account for advances with respect to such month.

(3) For purposes of this subsection—

(A) an application for an advance shall be made on such forms, and shall contain such information and data (fiscal and otherwise) concerning the operation and administration of the State unemployment compensation law, as the Secretary of Labor deems necessary or relevant to the performance of his duties under this subchapter,

(B) the amount required by any State for the payment of compensation in any month shall be determined with due allowance for contingencies and taking into account all other amounts that will be available in the State's unemployment fund for the payment of compensation in such month, and

(C) the term "compensation" means cash benefits payable to individuals with respect to their unemployment, exclusive of expenses of administration.

(b) The Secretary of the Treasury shall, prior to audit or settlement by the General Accounting Office, transfer from the Federal unemployment account to the account of the State in the Unemployment Trust Fund the amount certified under subsection (a) of this section by the Secretary of Labor (but not exceeding that portion of the balance in the Federal unemployment account at the time of the transfer which is not restricted as to use pursuant to section 1103(b)(1) of this title. (Aug. 14, 1935, ch. 531, title XII, § 1201, as added Oct. 3, 1944, ch. 480, title IV, § 402, 58 Stat. 790, and amended 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 6, 1947, ch. 510, § 5(b), 61 Stat. 794; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F.R. 5225, 63 Stat. 1065; Aug. 28, 1950, ch. 809, title IV, § 404(a), 64 Stat. 560; Aug. 5, 1954, ch. 657, § 3, 68 Stat. 671; Sept. 13, 1960, Pub. L. 86-778, title V, § 522(a), 74 Stat. 978.)

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-778 substituted provisions relating to advances on a monthly basis upon application of the Governor and the furnishing of an estimate of amount of requisite advance and determination and certification by the Secretary of Labor of the requisite amount limited to a sum which is available in the Federal unemployment account for advances for the month for former provisions relating to advances on a quarterly basis upon application of the Governor for a specified amount not to exceed the highest total compensation paid out under the unemployment compensation law of the State during any one of the four calendar quarters preceding the quarter in which the application is made, where the balance in the unemployment fund of the State in the Unemployment Trust Fund at the close of Sept. 30, 1953, or the last day in any ensuing calendar quarter is less than the total compensation paid out under the unemployment compensation law of the State during the twelve-month period at the close of such day; incorporated former provisions of subsec. (b), relating to repayment of advances, in par. (1), adding thereto provision for repayment under section 1103(b)(2) of this title, and provisions formerly designated as clauses (A) and (B) in par. (3) (A) and (C); and added par. (3) (B).

Subsec. (b). Pub. L. 86-778 eliminated provision for repayment of advances which is now incorporated in subsec. (a)(1) in the reference to repayment under sections 1101(d)(1) and 1322 of this title.

1954—Act Aug. 5, 1954, amended section generally to provide that: (1) the first condition of eligibility for an advance is that the balance in the State unemployment fund at the close of a calendar quarter be less than the total of cash payments made by the State to individuals during the 12-month period which ends with such quarter; (2) the Governor of the State must apply for an advance during the quarter following the quarter specified in paragraph (1) of this section; and (3) the total amount certified for any one application may not exceed the amount paid out by the State for cash benefits in that particular quarter.

1950—Subsec. (a). Act Aug. 28, 1950, substituted "January 1, 1952" for "January 1, 1950".

1947—Subsec. (a). Act Aug. 6, 1947, changed "June 30, 1945" to "June 30, 1947", and "July 1, 1947" to "January 1, 1950".

EFFECTIVE DATE OF 1950 AMENDMENT

Section 404 (c) of act Aug. 28, 1950, provided that the amendment of subsec. (a) shall be effective Jan. 1, 1950.

TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of Labor and functions of all agencies and employees of such Department were, with the exception of the functions vested by the Administrative Procedure Act (section 1001 et seq. of Title 5, Executive Departments and Government Officers and Employees) in hearing examiners employed by such Department, transferred to the Secretary of Labor, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies and employees, by 1950 Reorg. Plan No. 6, §§ 1, 2, 15 F. R. 3174, 64 Stat. 1263, set out in note under section 611 of Title 5, Executive Departments and Government Officers and Employees.

Functions of the Federal Security Administrator with respect to unemployment compensation were transferred to the Secretary of Labor by 1949 Reorg. Plan No. 2, § 1. See note set out under section 1332-15 of Title 5.

Section 1 of 1949 Reorg. Plan No. 2 also provides that the functions transferred by this section shall be performed by the Secretary of Labor, or subject to his direction and control, by such officers, agencies, and employees of the Department of Labor, as he shall designate.

"Federal Security Administrator" was substituted for "Social Security Board" by 1946 Reorg. Plan No. 2. See note under section 902 of this title.

TERMINATION DATE

Section 4 of act Aug. 6, 1947, provided: "Section 603 of the War Mobilization and Reconversion Act of 1944 [former section 1651 note of Appendix to Title 50] (terminating the provisions of such Act [former sections 1651-1678 of Appendix to Title 50] on June 30, 1947) shall not be applicable in the case of the amendments made by title IV of such Act [former sections 1666 and 1667 of Appendix to Title 50] to the Social Security Act [sections 1104 and 1321 of this title]."

APPLICATIONS FOR TRANSFER OF FUNDS UNDER FORMER PROVISIONS OF SECTION 1321(a); LIMITATIONS

Section 522(b) of Pub. L. 86-778 provided that:

"(1) No amount shall be transferred on or after the date of the enactment of this Act [Sept. 13, 1960] from the Federal unemployment account to the account of any State in the Unemployment Trust Fund pursuant to any application made under section 1201(a) of the Social Security Act [subsec. (a) of this section] as in effect before such date; except that, if—

"(A) some but not all of an amount certified by the Secretary of Labor to the Secretary of the Treasury for transfer to the account of any State was transferred to such account before such date, and

"(B) the Governor of such State, after the date of the enactment of this Act [Sept. 13, 1960], requests the Secretary of the Treasury to transfer all or any part of the remainder to such account,

the Secretary of the Treasury shall, prior to audit or settlement by the General Accounting Office, transfer from the Federal unemployment account to the account of such State in the Unemployment Trust Fund the amount so requested or (if smaller) the amount available in the Federal unemployment account at the time of the

transfer. No such amount shall be transferred under this paragraph after the one-year period beginning on the date of the enactment of this Act [Sept. 13, 1960].

"(2) For purposes of section 3302(c) of the Federal Unemployment Tax Act [section 3302(c) of Title 26] and titles IX and XII of the Social Security Act [subchapter IX and XII of this chapter], if any amount is transferred pursuant to paragraph (1) to the unemployment account of any State, such amount shall be treated as an advance made before the date of the enactment of this Act [Sept. 13, 1960]."

ADVANCES TO ALASKA

Act June 1, 1955, ch. 118, 69 Stat. 81, provided: "That the Governor of Alaska is authorized and empowered, notwithstanding any provision of the Organic Act of Alaska [section 21 et seq., of Title 48, Territories and Insular Possessions], or any other Act of Congress, or any of the Territorial laws, to the contrary, to obtain from the Federal Unemployment Fund, established pursuant to the 'Employment Security Administrative Financing Act of 1954' (Public Law 567, Eighty-third Congress, approved August 5, 1954) [amending sections 503, 1101—1104, and 1321—1323 of this title, and sections 1601, 1603, and 1607 of Title 26, Internal Revenue Code of 1939], and subject to the conditions in said Act, such advances as the Territory of Alaska may qualify for and as may be necessary to obtain for the payment of unemployment compensation benefits to claimants entitled thereto under the Alaska employment security law: *Provided*, That the general fund of the Territory of Alaska from which advances have been made for the payment of unemployment compensation benefits shall be reimbursed from advances made through the Governor of Alaska from the Federal Unemployment Fund."

§ 1322. Repayment by State; certification; transfer.

The Governor of any State may at any time request that funds be transferred from the account of such State to the Federal unemployment account in repayment of part or all of that balance of advances, made to such State under section 1321 of this title, specified in the request. The Secretary of Labor shall certify to the Secretary of the Treasury the amount and balance specified in the request; and the Secretary of the Treasury shall promptly transfer such amount in reduction of such balance. (Aug. 14, 1935, ch. 531, title XII, § 1202, as added Aug. 5, 1954, ch. 657, § 3, 68 Stat. 672, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 522(a), 74 Stat. 979.)

AMENDMENTS

1960—Pub. L. 86-778 designated provisions constituting subsec. (a) as entire section, substituted "that balance of advances, made to such State under section 1321 of this title, specified in the request" for "any remaining balance of advances made to such State under section 1321 of this title" and added "in reduction of such balance" and omitted subsecs. (b) and (c) pertaining to appropriations and repayable advances which are now incorporated in sections 1101(d) (1) and 1323 of this title.

§ 1323. Repayable advances to Federal Unemployment Account.

There are authorized to be appropriated to the Federal unemployment account, as repayable advances (without interest), such sums as may be necessary to carry out the purposes of this subchapter. Whenever, after the application of section 1101(f) (3) of this title with respect to the excess in the employment security administration account as of the close of any fiscal year, there remains any portion of such excess, so much of such remainder as does not exceed the balance of advances made pursuant to this section shall be transferred to the general fund of the Treasury and shall be credited against, and shall operate to reduce,

such balance of advances. (Aug. 14, 1935, ch. 531, title XII, § 1203, as added Aug. 5, 1954, ch. 657, § 3, 68 Stat. 672, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 522(a), 74 Stat. 979.)

AMENDMENTS

1960—Pub. L. 86-778 substituted provisions relating to repayable advances to the Federal unemployment account for former provision defining "Governor" and now incorporated in section 1324 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising the first sentence of this section were contained in former section 1322(c), act Aug. 14, 1935, ch. 531, title XII, § 1202(c), as added Aug. 5, 1954, ch. 657, § 3, 68 Stat. 672, prior to amendment by Pub. L. 86-778.

§ 1324. Definition.

When used in this subchapter, the term "Governor" includes the Commissioners of the District of Columbia. (Aug. 14, 1935, ch. 531, title XII, § 1204, as added Sept. 13, 1960, Pub. L. 86-778, title V, § 522(a), 74 Stat. 979.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 1323, act Aug. 14, 1935, ch. 531, title XII, § 1203, as added Aug. 5, 1954, ch. 657, § 3, 68 Stat. 672, prior to amendment by Pub. L. 86-778.

SUBCHAPTER XIII.—RECONVERSION UNEMPLOYMENT BENEFITS FOR SEAMEN

§§ 1331—1336. Omitted.

CODIFICATION

Sections 1331—1336 expired upon the termination of the reconversion period beginning with fifth Sunday after Aug. 10, 1946, and ending June 30, 1950, for claiming benefits for Federal maritime service performed prior to July 1, 1949, in accordance with definitions contained in former section 1332 of this title.

Section 1331, act Aug. 14, 1935, ch. 531, title XIII, § 1301, as added Aug. 10, 1946, ch. 951, title III, § 306, 60 Stat. 982, and amended 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F. R. 5225, 63 Stat. 1065, provided for the administration of this chapter by the Secretary of Labor.

Section 1332, act Aug. 14, 1935, ch. 531, title XIII, § 1302, as added Aug. 10, 1946, ch. 951, title III, § 306, 60 Stat. 982, and amended July 16, 1949, ch. 342, §§ 1—3, 63 Stat. 445, defined the terms "reconversion period", "compensation", "Federal maritime service", and "Federal maritime wages".

Sections 1333—1336, act Aug. 14, 1935, ch. 531, title XIII, §§ 1303—1306, as added Aug. 10, 1946, ch. 951, title III, § 306, 60 Stat. 982, and amended 1949 Reorg. Plan No. 2, § 1, eff. Aug. 19, 1949, 14 F. R. 5225, 63 Stat. 1065, related to compensation for seamen, agreements with States, payments in absence of agreement, wage information, determination of wages; administration, review of determinations, reports; payments to States, use and return of funds, certifying and disbursing officers; and penalties, respectively.

SUBCHAPTER XIV.—GRANTS TO STATES FOR AID TO THE PERMANENTLY AND TOTALLY DISABLED

§ 1351. Appropriations.

For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals eighteen years of age and older who are permanently and totally disabled and of encouraging each State, as far as practicable under such conditions, to furnish rehabilitation and other services to help

such individuals attain or retain capability for self-support or self-care, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for aid to the permanently and totally disabled. (Aug. 14, 1935, ch. 531, title XIV, § 1401, as added Aug. 28, 1950, ch. 809, title III, pt. 5, § 351, 64 Stat. 555, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 314(a), 70 Stat. 849; July 25, 1962, Pub. L. 87-543, title I, § 104(c)(4), 76 Stat. 186.)

AMENDMENTS

1962—Pub. L. 87-543 inserted "to furnish rehabilitation and other services" preceding "to help such individuals" and "or retain capability for" following "attain."

1956—Act Aug. 1, 1956, restated purpose to include assistance to individuals to attain self-support of self-care.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

§ 1352. State plans for aid to the permanently and totally disabled.

(a) A State plan for aid to the permanently and totally disabled must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to the permanently and totally disabled is denied or is not acted upon with reasonable promptness; (5) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 302 of this title, aid to families with dependent children under the State plan approved under section 602 of this title, or aid to the blind under the State plan approved under section 1202 of this title;

(8) provide that the State agency shall, in determining need, take into consideration any other income and resources of an individual claiming aid to the permanently and totally disabled, as well as any expenses reasonably attributable to the earning of any such income; (9) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to the permanently and totally disabled; (10) provide that all individuals wishing to make application for aid to the permanently and totally disabled shall have opportunity to do so, and that aid to the permanently and totally disabled shall be furnished with reasonable promptness to all eligible individuals; (11) effective July 1, 1953, provide, if the plan includes payments to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions; and (12) provide a description of the services (if any) which the State agency makes available to applicants for and recipients of aid to the permanently and totally disabled to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for aid to the permanently and totally disabled under the plan—

(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid to the permanently and totally disabled and has resided therein continuously for one year immediately preceding the application;

(2) Any citizenship requirement which excludes any citizen of the United States.

(Aug. 14, 1935, ch. 531, title XIV, § 1402, as added Aug. 28, 1950, ch. 809, title III, pt. 5, § 351, 64 Stat. 555, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, § 314(b), 70 Stat. 850; July 25, 1962, Pub. L. 87-543, title I, §§ 104(a)(3)(I), 106(a)(3), 76 Stat. 185, 188.)

AMENDMENTS

1962—Subsec. (a)(7). Pub. L. 87-543, § 104(a)(3)(I), substituted "aid to families with dependent children" for "aid to dependent children."

Subsec. (a)(8). Pub. L. 87-543, § 106(a)(3), inserted the words "as well as any expenses reasonably attributable to the earning of any such income."

1956—Subsec. (a). Act Aug. 1, 1956, added clause (12).

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (a)(8) of this section by section 106 of Pub. L. 87-543 effective July 1, 1963, see section 202(a) of Pub. L. 87-543, set out as a note under section 302 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of this section by act Aug. 1, 1956, effective July 1, 1957, see section 314 [315] of act Aug. 1, 1956, set out as a note under section 302 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

STATE PLANS IN EFFECT JULY 25, 1962: AUTOMATIC CONFORMITY TO AMENDMENTS

State plans in effect July 25, 1962 deemed to have been conformed to amendment of subsec. (a) (7) of this section by section 104(a) of Pub. L. 87-543, see section 104(b) of Pub. L. 87-543, set out as a note under section 601 of this title.

PUBLIC ACCESS TO STATE DISBURSEMENT RECORDS

Public access to State records of disbursements of funds and payments under this subchapter, see note under section 302 of this title.

§ 1353. Payments to States; computation of amounts.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the permanently and totally disabled, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $\frac{2}{35}$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$35 multiplied by the total number of recipients of aid to the permanently and totally disabled for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the permanently and totally disabled in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the permanently and totally disabled in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of \$70 multiplied by the total number of such recipients of aid to the permanently and totally disabled for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof not counting so much of any expenditure with respect to any month as exceeds \$37.50 multiplied by the

total number of recipients of aid to the permanently and totally disabled for such month; and

(3) in the case of any State whose State plan approved under section 1352 of this title meets the requirements of subsection (c) (1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures are for—

(i) services which are prescribed pursuant to subsection (c) (1) of this section and are provided (in accordance with the next sentence) to applicants for or recipients of aid to the permanently and totally disabled to help them attain or retain capability for self-support or self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c) (1) of this section, and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of aid to the permanently and totally disabled, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid to the permanently and totally disabled, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraphs (A) and (B) shall include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this subchapter shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (1) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and

willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) subject to limitations prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(4) in the case of any State whose State plan approved under section 1352 of this title does not meet the requirements of subsection (c) (1) of this section, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (3) and provided in accordance with the provisions of such paragraph.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a) of this section, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of subsection (a) of this section, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of permanently and totally disabled individuals in the State, and (C) such other investigation as the administrator may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secre-

tary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which he finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) of this subsection for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during a prior quarter by the State or any political subdivision thereof with respect to aid to the permanently and totally disabled furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter: *Provided*, That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department, and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c) (1) In order for a State to qualify for payments under paragraph (3) of subsection (a) of this section, its State plan approved under section 1352 of this title must provide that the State agency shall make available to applicants for or recipients of aid to the permanently and totally disabled at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (3) of subsection (a) of this section until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (3) of subsection (a) of this section but shall instead be made subject to the other provisions of this subchapter, under paragraph (4) of such subsection. (Aug. 14, 1935, ch. 531, title XIV, § 1403, as added Aug. 28, 1950, ch. 809, title III, pt. 5,

§ 351, 64 Stat. 555, and amended July 18, 1952, ch. 945, § 8(d), 66 Stat. 779; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, §§ 304, 314(c), 344, 70 Stat. 847, 850, 854; Aug. 28, 1958, Pub. L. 85-840, title V, § 504, 72 Stat. 1049; June 30, 1961, Pub. L. 87-64, title III, § 303(c), 75 Stat. 143; July 25, 1962, Pub. L. 87-543, title I, §§ 101 (a) (4), (b) (4), 132(c), 76 Stat. 178, 181, 195.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (a) (3) (D), (E), is classified to sections 31-42 of Title 29, Labor.

Such Act, referred to in subsec. (a) (3) (D) (i), (ii), refers to the Vocational Rehabilitation Act.

AMENDMENTS

1962—Subsec. (a) (1). Pub. L. 87-543, § 132(c), substituted “ $\frac{2}{5}$ ” and “\$35” for “four-fifths” and “\$31”, respectively, in subpar. (A) and “\$70” for “\$66” in subpar. (B).

Subsec. (a) (2). Pub. L. 87-543, § 132(c), substituted “\$37.50” for “\$35.50.”

Subsec. (a) (3). Pub. L. 87-543, § 101 (a) (4), (b) (4) (A), inserted in the opening provisions “whose State plan approved under section 1352 of this title meets the requirements of subsection (c) (1) of this section” following “any State”, and substituted provisions which increased the Federal share of expenses of administration of State public assistance plans by providing quarterly payments of the sum of 75 per centum of the quarterly expenses for certain prescribed services to help attain and retain capability for self-support or self-care, services likely to prevent or reduce dependency, and services appropriate for individuals who were or are likely to become applicants for or recipients of aid to the permanently and totally disabled and request such services, and training of State or local public assistance personnel administering such plans and one-half of other administrative expenses for other services, permitted State health or vocational rehabilitation or other appropriate State agencies to furnish such services, except vocational rehabilitation services, and required the determination of the portion of expenses covered by the 75 and 50 per centum provisions in accordance with methods and procedures permitted by the Secretary, for former provisions requiring quarterly payments of one-half of quarterly expenses of administration of State plans, including staff services of State or local public assistance agencies to applicants for and recipients of aid to the permanently and totally disabled to help them attain self-support or self-care.

Subsec. (a) (4). Pub. L. 87-543, § 101(b) (4) (B), added subsec. (a) (4).

Subsec. (c). Pub. L. 87-543, § 101(b) (4) (C), added subsec. (c).

1961—Subsec. (a). Pub. L. 87-64 substituted “\$31” for “\$30” and “\$66” for “\$65” in cl. (1), and “\$35.50” for “\$36” in cl. (2).

1958—Subsec. (a). Pub. L. 85-840, increased the payments to the States to four-fifths of the first \$30 of the average monthly payment per recipient, including assistance in the form of money payments and in the form of medical or any other type of remedial care, plus the Federal percentage of the amount by which the expenditures exceed the maximum which may be counted under cl. (A), but excluding that part of the average monthly payment per recipient in excess of \$65, increased the average monthly payment to Puerto Rico and the Virgin Islands from \$30 to \$35, excluded Guam from the provisions which authorize an average monthly payment of \$65 and included Guam within the provisions which authorize an average monthly payment of \$35, and permitted the counting of individuals with respect to whom expenditures were made as old-age assistance in the form of medical or any other type of remedial care in determining the total number of recipients.

1956—Subsec. (a). Act Aug. 1, 1956, § 304, substituted “during such quarter as aid to the permanently and

totally disabled in the form of money payments under the State plan” for “during such quarter as aid to the permanently and totally disabled under the State plan” in cls. (1) and (2), “who received aid to the permanently and totally disabled in the form of money payments for each month” for “who received aid to the permanently and totally disabled for such month” in par. (a) of cl. (1), and inserted cl. (4).

Act Aug. 1, 1956, § 314(c), eliminated “, which shall be used exclusively as aid to the permanently and totally disabled,” following “the Virgin Islands, an amount” in cls. (1) and (2), and substituted “including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of such aid to help them attain self-support or self-care” for “which amount shall be used for paying the costs of administering the State plan or for aid to the permanently and totally disabled or both, and for no other purpose” in cl. (3).

Act Aug. 1, 1956, § 344, substituted “October 1, 1956” for “October 1, 1952”, eliminated “, which shall be used exclusively as aid to the permanently and totally disabled,” following “the Virgin Islands, an amount” in cls. (1) and (2), and substituted “\$60” for “\$55”, “the product of \$30” for “the product of \$25”, “Secretary of Health, Education, and Welfare” for “Secretary”, and “including services which are provided by the staff of the State agency (or of the local agency administering the State plan in the political subdivision) to applicants for and recipients of such aid to help them attain self-support or self-care” for “which amount shall be used for paying the costs of administering the State plan or for aid to the permanently and totally disabled, or both, and for no other purpose”.

1952—Subsec. (a). Act July 18, 1952, increased the Federal share of the State's average monthly payment to four-fifths of the first \$25 plus one-half of the remainder within individual maximums of \$55, and changed formulas for computing the Federal share of public assistance for Puerto Rico and the Virgin Islands.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (a) (1), (2) of this section by section 132(c) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Sept. 30, 1962, see section 202(d) of Pub. L. 87-543, set out as a note under section 303 of this title.

Amendment of subsec. (a) (3) of this section by section 101(a) (4) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Aug. 31, 1962, and addition of subsecs. (a) (4) and (c) and amendment of subsec. (a) (3) of this section by section 101(b) (4) (A)—(C) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after June 30, 1963, see section 202(f) of Pub. L. 87-543, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of subsec. (a) of this section by Pub. L. 87-64 applicable only in the case of expenditures made after Sept. 30, 1961, and before July 1, 1962, under a State plan approved under subchapters I, X, or XIV of this chapter, see section 303(e) of Pub. L. 87-64, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment of this section by Pub. L. 85-840, see section 512 of Pub. L. 85-840, set out as a note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1956 AMENDMENT

Amendment of subsec. (a) of this section by section 344 of act Aug. 1, 1956, effective only for the period beginning Oct. 1, 1956, and ending with the close of June 30, 1959, see section 345 of such act Aug. 1, 1956, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment of this section by section 304 of act Aug. 1, 1956, effective July 1, 1957, see section 305 of act Aug. 1, 1956, set out as a note under section 303 of this title.

EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT

Amendment of subsec. (a) effective for the period beginning Oct. 1, 1952, and ending Sept. 30, 1954, see note set out under section 303 of this title.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the Office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

ELECTION OF PAYMENTS UNDER COMBINED STATE PLAN RATHER THAN SEPARATE PLANS

Payments to States under combined State plan under subchapter XVI or this chapter as precluding payment under State plan conforming to this subchapter, see section 141(b) of Pub. L. 87-543, set out as a note under section 1383 of this title.

§ 1354. Operation of State plans.

In the case of any State plan for aid to the permanently and totally disabled which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence or citizenship requirement prohibited by section 1352 (b) of this title, or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1352 (a) of this title to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State until he is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State. (Aug. 14, 1935, ch. 531, title XIV, § 1404, as added Aug. 28, 1950, ch. 809, title III, pt. 5, § 351, 64 Stat. 555, and amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

§ 1355. Definitions.

For the purposes of this subchapter, the term "aid to the permanently and totally disabled" means

money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of, or any type of remedial care recognized under State law in behalf of, needy individuals eighteen years of age or older who are permanently and totally disabled, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual (a) who is a patient in an institution for tuberculosis or mental diseases, or (b) who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof. (Aug. 14, 1935, ch. 531, title XIV, § 1405, as added Aug. 28, 1950, ch. 809, title III, pt. 5, § 351, 64 Stat. 555, and amended July 25, 1962, Pub. L. 87-543, title I, § 156(d), 76 Stat. 207.)

AMENDMENTS

1962—Pub. L. 87-543 inserted "(If provided in or after the third month before the month in which the recipient makes application for aid)" preceding "medical care."

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of section by section 156(d) of Pub. L. 87-543 applicable in the case of applications made after Sept. 30, 1962, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, see section 156(e) of Pub. L. 87-543, set out as a note under section 306 of this title.

SUBCHAPTER XV.—UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES**§ 1361. Definitions.**

When used in this subchapter—

(a) The term "Federal service" means any service performed after 1952 in the employ of the United States or any instrumentality thereof which is wholly or partially owned by the United States, except that the term does not include service (other than service to which section 1371 of this title applies) performed—

(1) by an elective officer in the executive or legislative branch of the Government of the United States;

(2) as a member of the Armed Forces of the United States;

(3) by foreign service personnel for whom special separation allowances are provided by the Foreign Service Act of 1946;

(4) prior to January 1, 1955, for the Bonneville Power Administrator if such service constitutes employment under section 1607 (m) of Title 26, Internal Revenue Code of 1939;

(5) outside the United States by an individual who is not a citizen of the United States;

(6) by any individual as an employee who is excluded by Executive order from the operation of the Civil Service Retirement Act of 1930 because he is paid on a contract or fee basis;

(7) by any individual as an employee receiving nominal compensation of \$12 or less per annum;

(8) in a hospital, home, or other institution of the United States by a patient or inmate thereof;

(9) by any individual as an employee included under section 1052 of Title 5 (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government);

(10) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(11) by any individual as an employee who is employed under a Federal relief program to relieve him from unemployment;

(12) as a member of a State, county, or community committee under the Production and Marketing Administration or of any other board, council, committee, or other similar body, unless such board, council, committee, or other body is composed exclusively of individuals otherwise in the full-time employ of the United States; or

(13) by an officer or a member of the crew on or in connection with an American vessel (A) owned by or bareboat chartered to the United States and (B) whose business is conducted by a general agent of the Secretary of Commerce, if contributions on account of such service are required to be made to an unemployment fund under a State unemployment compensation law pursuant to section 1606 (g) of Title 26, Internal Revenue Code of 1939, or section 3305 (g) of Title 26, Internal Revenue Code of 1954.

For the purpose of paragraph (5) of this subsection, the term "United States" when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(b) The term "Federal wages" means all remuneration for Federal service, including cash allowances and remuneration in any medium other than cash.

(c) The term "Federal employee" means an individual who has performed Federal service.

(d) The term "compensation" means cash benefits payable to individuals with respect to their unemployment (including any portion thereof payable with respect to dependents).

(e) The term "benefit year" means the benefit year as defined in the applicable State unemployment compensation law; except that, if such State law does not define a benefit year, then such term means the period prescribed in the agreement under this title with such State or, in the absence of an agreement, the period prescribed by the Secretary.

(f) The term "Secretary" means the Secretary of Labor. (Aug. 14, 1935, ch. 531, title XV, § 1501, as added Sept. 1, 1954, ch. 1212, § 4 (a), 68 Stat. 1130, and amended Aug. 28, 1958, Pub. L. 85-848, § 2, 72 Stat. 1087; July 12, 1960, Pub. L. 86-624, § 30(g), 74 Stat. 420; Sept. 13, 1960, Pub. L. 86-778, title V, §§ 531(e), 542(d), 74 Stat. 984, 986.)

REFERENCES IN TEXT

The Foreign Service Act of 1946, referred to in subsec. (a) (3), is classified to chapter 14 of Title 22, Foreign Relations and Intercourse.

The Civil Service Retirement Act of 1930, referred to in subsec. (a) (6), is classified to chapter 30 of Title 5, Executive Departments and Government Officers and Employees.

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-778 substituted "wholly or partially owned by the United States" for "wholly owned by the United States" in the opening provisions, and eliminated the words "Alaska" and "Hawaii" from the definition of "United States" in the last sentence.

Pub. L. 86-624 eliminated "Alaska, Hawaii," preceding "the District of Columbia" in the definition of the term "United States."

1956—Subsec. (a). Pub. L. 85-848 substituted "does not include service (other than service to which section 1371 of this title applies)" for "shall not include service".

TRANSFER OF FUNCTIONS

Functions of Production and Marketing Administration, created by Secretary of Agriculture's Memorandum No. 1118, Aug. 18, 1945, were transferred to other units of the Department of Agriculture by Secretary's Department Reorganization Memorandum No. 1320, Supp. 4, Nov. 2, 1953.

CROSS REFERENCE

Area redevelopment program retraining subsistence payments as alternative benefits, see section 2514 of this title.

§ 1362. Compensation for Federal employees under State agreements.

(a) Authority of Secretary.

The Secretary is authorized on behalf of the United States to enter into an agreement with any State, or with the agency administering the unemployment compensation law of such State, under which such State agency (1) will make, as agent of the United States, payments of compensation, on the basis provided in subsection (b) of this section, to Federal employees, and (2) will otherwise cooperate with the Secretary and with other State agencies in making payments of compensation under this subchapter.

(b) Provisions of agreements.

(1) Except as provided in paragraph (2), any such agreement shall provide that compensation shall be paid by the State to any Federal employee, with respect to unemployment after December 31, 1954, in the same amount, on the same terms, and subject to the same conditions as the compensation which would be payable to such employee under the unemployment compensation law of the State if the Federal service and Federal wages of such employee assigned to such State under section 1364 of this title had been included as employment and wages under such law.

(2) In the case of the Commonwealth of Puerto Rico, the agreement shall provide that compensation will be paid by the Commonwealth of Puerto Rico to any Federal employee whose Federal service and Federal wages are assigned under section 1364 of this title to such Commonwealth, with respect to unemployment after December 31, 1960 (but only in the case of weeks of unemployment beginning before January 1, 1966), in the same amount, on the same terms, and subject to the same conditions as the compensation which would be payable to such employee under the unemployment compensation law of the District of Columbia if such employee's Federal service and Federal wages had been included as employment and wages under such law, except that if such employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for any compensation during the benefit year under such law, then payments of compensation under this subsection shall be made only on the basis of his Federal service and Federal wages. In applying this paragraph or subsection (b) of section 1363 of this title, as the case may be, employ-

ment and wages under the unemployment compensation law of the Commonwealth of Puerto Rico shall not be combined with Federal service or Federal wages.

(c) Determination by State agency.

Any determination by a State agency with respect to entitlement to compensation pursuant to an agreement under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in such manner and to such extent.

(d) Amendment or termination of agreement.

Each agreement shall provide the terms and conditions upon which the agreement may be amended or terminated. (Aug. 14, 1935, ch. 531, title XV, § 1502, as added Sept. 1, 1954, ch. 1212, § 4 (a), 68 Stat. 1131, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 542(b) (1) (A), 74 Stat. 985.)

AMENDMENTS

1960—Subsec. (b). Pub. L. 86-778 designated existing provisions as par. (1), substituted therein "Except as provided in paragraph (2), any" for "Any", and added par. (2).

EFFECTIVE DATE OF 1960 AMENDMENT

Section 542(b) (1) of Pub. L. 86-778 provided in part that the amendment of subsec. (b) of this section and subsecs. (a) and (b) of section 1363 of this title shall be effective on and after Jan. 1, 1961 (but only in the case of weeks of unemployment beginning before Jan. 1, 1966).

§ 1363. Compensation for Federal employees in absence of State agreement.

(a) Payments by Secretary.

In the case of a Federal employee whose Federal service and Federal wages are assigned under section 1364 of this title to a State which does not have an agreement under this subchapter with the Secretary, the Secretary, in accordance with regulations prescribed by him, shall, upon the filing by such employee of a claim for compensation under this subsection, make payments of compensation to him with respect to unemployment after December 31, 1954, in the same amounts, on the same terms, and subject to the same conditions as would be paid to him under the unemployment compensation law of such State if such employee's Federal service and Federal wages had been included as employment and wages under such law, except that if such employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for any compensation during the benefit year under the law of such State, then payments of compensation under this subsection shall be made only on the basis of his Federal service and Federal wages. For the purposes of this subsection, the term "State" does not include the Commonwealth of Puerto Rico.

(b) Employees assigned to Puerto Rico and Virgin Islands.

In the case of a Federal employee whose Federal service and Federal wages are assigned under section 1364 of this title to Puerto Rico or the Virgin Islands, the Secretary, in accordance with regulations prescribed by him, shall, upon the filing by such employee of a claim for compensation under this subsection, make payments of compensation to him

with respect to unemployment after December 31, 1954, in the same amounts, on the same terms, and subject to the same conditions as would be paid to him under the unemployment compensation law of the District of Columbia if such employee's Federal service and Federal wages had been included as employment and wages under such law, except that if such employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for any compensation during the benefit year under such law, then payments of compensation under this subsection shall be made only on the basis of his Federal service and Federal wages. This subsection shall apply in respect of the Commonwealth of Puerto Rico only if such Commonwealth does not have an agreement under this subchapter with the Secretary.

(c) Hearings for denied claims.

Any Federal employee whose claim for compensation under subsection (a) or (b) of this section has been denied shall be entitled to a fair hearing in accordance with regulations prescribed by the Secretary. Any final determination by the Secretary with respect to entitlement to compensation under this section shall be subject to review by the courts in the same manner and to the same extent as is provided in section 405 (g) of this title with respect to final decisions of the Secretary of Health, Education, and Welfare under subchapter II of this chapter.

(d) Utilization of Virgin Islands agency.

The Secretary may utilize for the purposes of this section the personnel and facilities of the agency in the Virgin Islands cooperating with the United States Employment Service under sections 49-49c, 49d, and 49e-49k of Title 29, and may delegate to officials of such agency any authority granted to him by this section whenever the Secretary determines such delegation to be necessary in carrying out the purposes of this subchapter. For the purpose of payments made to such agency under sections 49-49c, 49d, and 49e-49k of Title 29, the furnishing of such personnel and facilities shall be deemed to be a part of the administration of the public employment offices of such agency. (Aug. 14, 1935, ch. 531, title XV, § 1503, as added Sept. 1, 1954, ch. 1212, § 4 (a), 68 Stat. 1132, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 542 (b) (1) (B), (C), (c) (1), 74 Stat. 986.)

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-778, § 542(b) (1) (B), inserted sentence providing that for the purposes of this subsection the term "State" does not include the Commonwealth of Puerto Rico.

Subsec. (b). Pub. L. 86-778, § 542(b) (1) (C), made subsection applicable in respect of the Commonwealth of Puerto Rico only if such Commonwealth does not have an agreement under this subchapter with the Secretary.

Subsec. (d). Pub. L. 86-778, § 542(c) (1), eliminated provisions which authorized utilization of agencies in Puerto Rico, and substituted "agency" for "agencies" in four instances.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsecs. (a) and (b) of this section by Pub. L. 86-778 effective on and after Jan. 1, 1961 (but only in the case of weeks of unemployment beginning before Jan. 1, 1966), see note set out under section 1362 of this title.

Section 542(c) of Pub. L. 86-778 provided in part that the amendment of subsec. (d) of this section and subsec. (e) of section 1371 of this title shall be effective on and after Jan. 1, 1961.

PAYMENT OF UNEMPLOYMENT COMPENSATION TO FEDERAL EMPLOYEES WHOSE FEDERAL SERVICE AND FEDERAL WAGES ARE ASSIGNED TO PUERTO RICO

Section 542(a)(1) of Pub. L. 86-778 provided that effective with respect to weeks of unemployment beginning after Dec. 31, 1965, subsec. (b) of this section is amended by striking out "Puerto Rico or."

§ 1364. Assignment to State of Federal service and wages.

In accordance with regulations prescribed by the Secretary, the Federal service and Federal wages of an employee shall be assigned to the State in which he had his last official station in Federal service prior to the filing of his first claim for compensation for the benefit year, except that—

(1) if, at the time of the filing of such first claim, he resides in another State in which he performed, after the termination of such Federal service, service covered under the unemployment compensation law of such other State, such Federal service and Federal wages shall be assigned to such other State;

(2) if his last official station in Federal service, prior to the filing of such first claim, was outside the United States, such Federal service and Federal wages shall be assigned to the State where he resides at the time he files such first claim; and

(3) if such first claim is filed while he is residing in Puerto Rico or the Virgin Islands, such Federal service and Federal wages shall be assigned to Puerto Rico or the Virgin Islands.

For the purposes of paragraph (2), the term "United States" does not include the Commonwealth of Puerto Rico. (Aug. 14, 1935, ch. 531, title XV, § 1504, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1133, and amended Sept. 13, 1960, Pub. L. 86-778, title V, § 542(b)(2), 74 Stat. 986.)

AMENDMENTS

1960—Pub. L. 86-778 inserted sentence providing that for the purposes of paragraph (2), the term "United States" does not include the Commonwealth of Puerto Rico.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 542(b)(2) of Pub. L. 86-778 provided in part that the sentence excluding the Commonwealth of Puerto Rico from the definition of the term "United States" for the purposes of par. (2) shall be effective on and after Jan. 1, 1961 (but only in the case of first claims filed before Jan. 1, 1960).

FILING OF CLAIM WHILE RESIDING IN PUERTO RICO

Section 542(a)(2) of Pub. L. 86-778 provided that effective with respect to first claims filed after Dec. 31, 1965, paragraph (3) of this section is amended by striking out "Puerto Rico or" wherever appearing therein.

§ 1365. Accrued annual leave.

For the purposes of this subchapter, in the case of a Federal employee who is performing Federal service at the time of his separation from employment by the United States or any instrumentality thereof, (1) the Federal service of such employee shall be considered as continuing during the period, subsequent to such separation, with respect to which he is considered as having received payment of accumulated and current annual or vacation leave pursuant to any Federal law, and (2) subject to

regulations of the Secretary concerning allocation over the period, such payment shall constitute Federal wages. (Aug. 14, 1935, ch. 531, title XV, § 1505, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1133.)

REPEAL

Pub. L. 86-442, § 1, Apr. 22, 1960, 74 Stat. 81, provided: "That, effective only with respect to benefit years which begin more than thirty days after the date of enactment of this Act [April 22, 1960], section 1505 of the Social Security Act (42 U.S.C. 1365) [this section] is hereby repealed."

§ 1366. Payments to States.

(a) Computation of amount.

Each State shall be entitled to be paid by the United States an amount equal to the additional cost to the State of payments of compensation made under and in accordance with an agreement under this subchapter which would not have been incurred by the State but for the agreement.

(b) Advances or reimbursement; computation.

In making payments pursuant to subsection (a) of this section, there shall be paid to the State, either in advance or by way of reimbursement, as may be determined by the Secretary, such sum as the Secretary estimates the State will be entitled to receive under this subchapter for each calendar month, reduced or increased, as the case may be, by any sum by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made upon the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency.

(c) Certification of amounts.

The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State sums payable to such State under this section. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment to the State in accordance with such certification, from the funds for carrying out the purposes of this subchapter.

(d) Utilization of payments.

All money paid a State under this subchapter shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this subchapter, to the Treasury and credited to current applicable appropriations, funds, or accounts from which payments to States under this subchapter may be made.

(e) Surety bond for certifying officer.

An agreement under this subchapter may require any officer or employee of the State certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in its performance, to give a surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this subchapter.

(f) Liability of certifying officer for payments.

No person designated by the Secretary, or designated pursuant to an agreement under this subchapter, as a certifying officer, shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to the payment of any compensation certified by him under this subchapter.

(g) Same; acts based on vouchers.

No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this subchapter if it was based upon a voucher signed by a certifying officer designated as provided in subsection (f) of this section.

(h) Administration.

For the purpose of payments made to a State under subchapter III of this chapter, administration by the State agency of such State pursuant to an agreement under this subchapter shall be deemed to be a part of the administration of the State unemployment compensation law. (Aug. 14, 1935, ch. 531, title XV, § 1506, as added Sept. 1, 1954, ch. 1212, § 4 (a), 68 Stat. 1133.)

§ 1367. Dissemination of information by both Federal and State agencies.

(a) All Federal departments, agencies, and wholly or partially owned instrumentalities of the United States are directed to make available to State agencies which have agreements under this subchapter or to the Secretary, as the case may be, such information with respect to the Federal service and Federal wages of any Federal employee as the Secretary may find practicable and necessary for the determination of such employee's entitlement to compensation under this subchapter. Such information shall include the findings of the employing agency with respect to—

- (1) whether the employee has performed Federal service,
- (2) the periods of such service,
- (3) the amount of remuneration for such service, and
- (4) the reasons for termination of such service.

The employing agency shall make the findings in such form and manner as the Secretary shall by regulations prescribe (which regulations shall include provision for correction by the employing agency of errors or omissions). Any such findings which have been made in accordance with such regulations shall be final and conclusive for the purposes of sections 1362 (c) and 1363 (c) of this title. This subsection shall not apply with respect to Federal service and Federal wages covered by section 1371 of this title.

(b) The agency administering the unemployment compensation law of any State shall furnish to the Secretary such information as the Secretary may find necessary or appropriate in carrying out the provisions of this subchapter, and such information shall be deemed reports required by the Secretary for the purposes of paragraph (6) of subsection (a) of section 503 of this title. (Aug. 14, 1935, ch. 531, title XV, § 1507, as added Sept. 1, 1954, ch. 1212, § 4 (a), 68 Stat. 1134, and amended Aug. 28, 1958,

Pub. L. 85-848, § 4, 72 Stat. 1089; Sept. 13, 1960, Pub. L. 86-778, title V, § 531(f), 74 Stat. 984.)

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-778 substituted "wholly or partially owned instrumentalities" for "wholly owned instrumentalities."

1958—Subsec. (a). Pub. L. 85-848 added sentence providing "This subsection shall not apply with respect to Federal service and Federal wages covered by section 1371 of this title".

§ 1368. Penalties.

(a) Whoever makes a false statement or representation of a material fact knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase for himself or for any other individual any payment authorized to be paid under this subchapter or under an agreement thereunder shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(b) (1) If a State agency or the Secretary, as the case may be, or a court of competent jurisdiction, finds that any person—

(A) has made, or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or has knowingly failed, or caused another to fail, to disclose a material fact, and

(B) as a result of such action has received any amount as compensation under this subchapter to which he was not entitled, such person shall be liable to repay such amount to the State agency or the Secretary, as the case may be. In lieu of requiring the repayment of any amount under this paragraph, the State agency or the Secretary, as the case may be, may recover such amount by deductions from any compensation payable to such person under this subchapter during the two-year period following the date of the finding. Any such finding by a State agency or the Secretary, as the case may be, may be made only after an opportunity for a fair hearing, subject to such further review as may be appropriate under sections 1362 (c) and 1363 (c) of this title.

(2) Any amount repaid to a State agency under paragraph (1) of this subsection shall be deposited into the fund from which payment was made. Any amount repaid to the Secretary under said paragraph (1) shall be returned to the Treasury and credited to the current applicable appropriation, fund, or account from which payment was made. (Aug. 14, 1935, ch. 531, title XV, § 1508, as added Sept. 1, 1954, ch. 1212, § 4 (a), 68 Stat. 1135.)

§ 1369. Rules and regulations.

The Secretary is authorized to make such rules and regulations as may be necessary to carry out the provisions of this subchapter. The Secretary shall insofar as practicable consult with representatives of the State unemployment compensation agencies before prescribing any rules or regulations which may affect the performance by such agencies of functions pursuant to agreements under this subchapter. (Aug. 14, 1935, ch. 531, title XV, § 1509, as added Sept. 1, 1954, ch. 1212, § 4 (a), 68 Stat. 1135.)

§ 1370. Appropriations.

There are authorized to be appropriated out of any moneys not otherwise appropriated such sums as are necessary to carry out the provisions of this subchapter. (Aug. 14, 1935, ch. 531, title XV, § 1510, as added Sept. 1, 1954, ch. 1212, § 4 (a), 68 Stat. 1135.)

§ 1371. Ex-servicemen's unemployment compensation program.

(a) The provisions of this subchapter, except where inconsistent with the provisions of this section, apply, with respect to weeks of unemployment ending after the sixtieth day after August 28, 1958, to individuals who have had Federal service as defined in subsection (b) of this section.

(b) For the purposes of this section, the term "Federal service" means active service (including active duty for training purposes) in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States if—

(1) such service was continuous for ninety days or more, or was terminated earlier by reason of an actual service-incurred injury or disability; and

(2) with respect to such service, the individual (A) has been discharged or released under conditions other than dishonorable, and (B) was not given a bad conduct discharge, or, if an officer, did not resign for the good of the service. No individual shall be treated as having Federal service within the meaning of the preceding sentence unless he has a period of such service which either begins after January 31, 1955, or terminates after the sixtieth day after August 28, 1958.

(c) For the purposes of this section, the term "Federal wages" means remuneration for the periods of service covered by subsection (b) of this section, computed on the basis of remuneration for the individual's pay grade at the time of his discharge or release from the latest period of such service as specified in the schedule applicable at the time of filing of his first claim for compensation for the benefit year. The Secretary shall issue, from time to time, after consultation with the Secretary of Defense, schedule specifying the remuneration for each pay grade of servicemen covered by this section, which shall reflect representative amounts for appropriate elements of such remuneration (whether in cash or in kind).

(d) (1) Any Federal department or agency shall, when designated by the Secretary, make available to the appropriate State agency or to the Secretary, as the case may be, such information (including findings in the form and manner prescribed by the Secretary by regulation) as the Secretary may find practicable and necessary for the determination of an individual's entitlement to compensation by reason of this section.

(2) Subject to correction of errors and omissions as prescribed by the Secretary by regulation, the following shall be final and conclusive for the purposes of sections 1362 (c) and 1363 (c) of this title:

(A) Any finding by a Federal department or agency, made in accordance with paragraph (1) of this subsection, with respect to (i) whether an individual has met any condition specified in

subsection (b) of this section, (ii) the individual's periods of Federal service as defined in subsection (b), and (iii) the individual's pay grade at the time of his discharge or release from the latest period of such Federal service.

(B) The schedules of remuneration issued by the Secretary under subsection (c) of this section.

(e) Notwithstanding the provisions of section 1364 of this title, all Federal service and Federal wages covered by this section, not previously assigned, shall be assigned to the State, or the Virgin Islands, as the case may be, in which the claimant first files his claim for unemployment compensation after his most recent discharge or release from such Federal service. This assignment shall constitute an assignment under section 1364 of this title for all purposes of this subchapter.

(f) Payments made under section 4(c) of the Armed Forces Leave Act of 1946 at the termination of Federal service covered by this section shall be treated for determining periods of Federal service as payments of annual leave to which section 1365 of this title continues (without regard to its repeal) to apply.

(g) An individual who is eligible to receive a mustering-out payment under chapter 43 of Title 38 shall not be eligible to receive compensation under this subchapter with respect to weeks of unemployment completed within thirty days after his discharge or release if he receives \$100 in such mustering-out payments; within sixty days after his discharge or release if he receives \$200 in such mustering-out payment; or within ninety days after his discharge or release if he receives \$300 in such mustering-out payment.

(h) No payment shall be made by reason of this section to an individual for any period with respect to which he receives an education and training allowance under subsection (a), (b), (c), or (d) of section 1632 of Title 38, a subsistence allowance under chapter 31 of such Title 38 or under part VIII of Veterans Regulation Numbered 1 (a), or an educational assistance allowance under chapter 35 of such Title 38.

(i) Any individual—

(1) who meets the wage and employment requirements for compensation under the law of the State to which his Federal service and Federal wages as defined in this section have been assigned (or, in the case of Puerto Rico or the Virgin Islands, the law of the District of Columbia) but would not meet such requirements except by the use of such Federal service and Federal wages, or

(2) whose weekly benefit amount computed according to the law of such State (or the law of the District of Columbia, as the case may be) is increased by the use of such Federal service and Federal wages, shall not thereafter be entitled to unemployment compensation under the provisions of subchapter I of chapter 41 of Title 38. (Aug. 14, 1935, title XV, § 1511, as added Aug. 28, 1958, Pub. L. 85-848, § 3, 72 Stat. 1087, and amended Sept. 2, 1958, Pub. L. 85-857, § 13(i) (3), 72 Stat. 1265; Apr. 22, 1960, Pub.

L. 86-442, § 2, 74 Stat. 82; Sept. 13, 1960, Pub. L. 86-778, title V, § 542(c) (2), 74 Stat. 986.)

REFERENCES IN TEXT

Section 4(c) of the Armed Forces Leave Act of 1946, referred to in subsec. (f), refers to section 4(c) of act Aug. 9, 1946, ch. 931, as added Aug. 4, 1947, ch. 475, § 1, 61 Stat. 748, and amended July 4, 1956, ch. 682, § 1, 70 Stat. 625, which was repealed by Pub. L. 87-649, § 14, Sept. 7, 1962, 76 Stat. 499, 500, and is now covered by section 501 (b)—(d) of Title 37, Pay and Allowances of the Uniformed Services.

Part VIII of Veterans Regulation Numbered 1(a), referred to in subsec. (h), was repealed by section 14(87) of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1272, eff. Jan. 1, 1959.

AMENDMENTS

1960—Subsec. (e). Pub. L. 86-778 eliminated provisions which authorized assignment of Federal service and Federal wages to Puerto Rico.

Subsec. (f). Pub. L. 86-442 substituted "section 1365 of this title continues (without regard to its repeal) to apply" for "section 1365 of this title applies."

1958—Subsec. (g). Pub. L. 85-857, § 13(i) (3) (A), substituted "chapter 43 of Title 38" for "title V of the Veterans' Readjustment Assistance Act of 1952 (38 U.S.C. 1011 et seq.)."

Subsec. (h). Pub. L. 85-857, § 13(i) (3) (B), substituted "section 1632 of Title 38, a subsistence allowance under chapter 31 of such Title 38 or under part VIII of Veterans Regulation Numbered 1(a), or an educational assistance allowance under chapter 35 of such Title 38" for "section 232 of the Veterans' Readjustment Assistance Act of 1952 (38 U.S.C. 942), a subsistence allowance under part VII or part VIII of Veterans Regulation Numbered 1(a), as amended, or an educational assistance allowance under the War Orphan's Educational Assistance Act of 1956 (38 U.S.C. 1031 et seq.)."

Subsec. (i). Pub. L. 85-857, § 13(i) (3) (C), substituted "subchapter I of chapter 41 of Title 38" for "title IV of the Veterans' Readjustment Assistance Act of 1952 (38 U.S.C. 991 et seq.)."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of subsec. (e) of this section by Pub. L. 86-778 effective on and after Jan. 1, 1961, see note under section 1363 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of section by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as a note preceding Part I of Title 38, Veterans' Benefits.

SHORT TITLE

Section 1 of Pub. L. 85-848 provided that Pub. L. 85-848, which added this section and amended sections 1361(a) and 1367(a) of this title, shall be popularly known as the Ex-Servicemen's Unemployment Compensation Act of 1958.

SUBCHAPTER XVI.—GRANTS TO STATES FOR AID TO THE AGED, BLIND, OR DISABLED, OR FOR SUCH AID AND MEDICAL ASSISTANCE FOR THE AGED

§ 1381. Appropriation.

For the purpose (a) of enabling each State, as far as practicable under the conditions in such State, to furnish financial assistance to needy individuals who are 65 years of age or over, are blind, or are 18 years of age or over and permanently and totally disabled, (b) of enabling each State, as far as practicable under the conditions in such State, to furnish medical assistance on behalf of individuals who are 65 years of age or over and who are not recipients of aid to the aged, blind, or disabled but whose income and resources are insufficient to meet the costs of necessary medical services, and (c) of encouraging each State, as far as practicable under

the conditions in such State, to furnish rehabilitation and other services to help individuals referred to in clause (a) or (b) to attain or retain capability for self-support or self-care, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid to the aged, blind, or disabled, or for aid to the aged, blind, or disabled and medical assistance for the aged. (Aug. 14, 1935, ch. 531, title XVI, § 1601, as added July 25, 1962, Pub. L. 87-543, title I, § 141 (a), 76 Stat. 197.)

§ 1382. State plans for aid to aged, blind, or disabled or for such aid and medical assistance for aged.

(a) Contents.

A State plan for aid to the aged, blind, or disabled, or for aid to the aged, blind, or disabled and medical assistance for the aged, must—

(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid or assistance under the plan is denied or is not acted upon with reasonable promptness;

(5) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan;

(8) provide that all individuals wishing to make application for aid or assistance under the plan shall have opportunity to do so, and that such aid or assistance shall be furnished with reasonable promptness to all eligible individuals;

(9) provide, if the plan includes aid or assistance to or on behalf of individuals in private or public institutions, for the establishment or designation of a State authority or authorities

which shall be responsible for establishing and maintaining standards for such institutions;

(10) provide a description of the services (if any) which the State agency makes available to applicants for or recipients of aid or assistance under the plan to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;

(11) provide that no aid or assistance will be furnished any individual under the plan with respect to any period with respect to which he is receiving assistance under the State plan approved under subchapter I of this chapter or aid under the State plan approved under subchapter IV, X or XIV of this chapter;

(12) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(13) include reasonable standards, consistent with the objectives of this subchapter, for determining eligibility for and the extent of aid or assistance under the plan;

(14) provide that the State agency shall, in determining need for aid to the aged, blind, or disabled, take into consideration any other income and resources of an individual claiming such aid, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination with respect to any individual who is blind, the State agency (A) shall disregard the first \$85 per month of earned income plus one-half of earned income in excess of \$85 per month, and (B) shall, for a period not in excess of twelve months, and may, for a period not in excess of thirty-six months, disregard such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, and in making such determination with respect to any other individual who has attained age 65 and is claiming aid to the aged, blind, or disabled, of the first \$50 per month of earned income the State agency may, after December 31, 1962, disregard not more than the first \$10 thereof plus one-half of the remainder; and

(15) if the State plan includes medical assistance for the aged—

(A) provide for inclusion of some institutional and some noninstitutional care and services;

(B) provide that no enrollment fee, premium, or similar charge will be imposed as a condition of any individual's eligibility for medical assistance for the aged under the plan;

(C) provide for inclusion, to the extent required by regulations prescribed by the Secretary, of provisions (conforming to such regulations) with respect to the furnishing of such assistance to individuals who are residents of the State but are absent therefrom; and

(D) provide that no lien may be imposed against the property of any individual prior to his death on account of medical assistance for the aged paid or to be paid on his behalf under the plan (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual), and that there shall be no adjustment or recovery (except, after the death of such individual and his surviving spouse, if any, from such individual's estate) of any medical assistance for the aged correctly paid on behalf of such individual under the plan.

Notwithstanding paragraph (3), if on January 1, 1962, and on the date on which a State submits its plan for approval under this subchapter, the State agency which administered or supervised the administration of the plan of such State approved under subchapter X of this chapter was different from the State agency which administered or supervised the administration of the plan of such State approved under subchapter I of this chapter and the State agency which administered or supervised the administration of the plan of such State approved under subchapter XIV of this chapter, the State agency which administered or supervised the administration of such plan approved under subchapter X of this chapter may be designated to administer or supervise the administration of portion of the State plan for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) which relates to blind individuals and a separate State agency may be established or designated to administer or supervise the administration of the rest of such plan; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this subchapter.

(b) Approval by Secretary.

The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for aid or assistance under the plan—

(1) an age requirement of more than sixty-five years; or

(2) any residence requirement which (A) in the case of applicants for aid to the aged, blind, or disabled excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for such aid and has resided therein continuously for one year immediately preceding the application, and (B) in the case of applicants for medical assistance for the aged, excludes any individual who resides in the State; or

(3) any citizenship requirement which excludes any citizen of the United States.

In the case of any State to which the provisions of section 344 of the Social Security Act Amendments of 1950 were applicable on January 1, 1962, and to which the sentence of section 1202(b) of this title following paragraph (2) thereof is applicable on the date on which its State plan for aid to the aged,

blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) was submitted for approval under this subchapter, the Secretary shall approve the plan of such State for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged) for purposes of this subchapter, even though it does not meet the requirements of paragraph (14) of subsection (a) of this section, if it meets all other requirements of this subchapter for an approved plan for aid to the aged, blind, or disabled (or for aid to the aged, blind, or disabled and medical assistance for the aged); but payments under section 1383 of this title shall be made, in the case of any such plan, only with respect to expenditures thereunder which would be included as expenditures for the purposes of section 1383 of this title under a plan approved under this section without regard to the provisions of this sentence.

(c) Limitation on number of plans.

Subject to the last sentence of subsection (a) of this section, nothing in this subchapter shall be construed to permit a State to have in effect with respect to any period more than one State plan approved under this subchapter. (Aug. 14, 1935, ch. 531, title XVI, § 1602, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 198, and amended Oct. 13, 1964, Pub. L. 88-650, § 5(b), 78 Stat. 1078.)

REFERENCES IN TEXT

Section 344 of the Social Security Act Amendments of 1950, referred to in subsec. (b), refers to section 344 of act Aug. 28, 1950, ch. 809, title III, pt. 4, 64 Stat. 544, which was repealed by section 136(b) of Pub. L. 87-543.

AMENDMENTS

1964—Subsec. (a)(14). Pub. L. 88-650 permitted the State agency, for a period not in excess of thirty-six months, to disregard such additional amounts of other income and resources.

§ 1383. Payments to States.

(a) From the sums appropriated therefor, the Secretary shall pay to each State which has a plan approved under this subchapter for each quarter, beginning with the quarter commencing October 1, 1962—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the aged, blind, or disabled under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $\frac{2}{5}$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$35 multiplied by the total number of recipients of such aid for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received such aid in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care); plus

(B) the Federal percentage (as defined in section 1301(a)(8) of this title) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of \$70 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month; plus

(C) the larger of the following: (i) the Federal medical percentage (as defined in section 306(c) of this title) of the amount by which such expenditures exceed the maximum which may be counted under clause (B), not counting so much of any expenditure with respect to any month as exceeds (I) the product of \$85 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (II) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of \$70 multiplied by such total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of \$15 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to—

(A) one-half of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds \$37.50 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (I) the product of \$45 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (II) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of \$37.50 multiplied by the total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of \$7.50 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

(3) in the case of any State, an amount equal to the Federal medical percentage (as defined in section 306(c) of this title) of the total amounts expended during such quarter as medical assistance for the aged under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof); and

(4) in the case of any State whose State plan approved under section 1382 of this title meets the requirements of subsection (c) (1) of this section, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are prescribed pursuant to subsection (c) (1) of this section and are provided (in accordance with the next sentence) to applicants for or recipients of aid or assistance under the plan to help them attain or retain capability for self-support or self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c) (1) of this section, and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of aid or assistance under the plan, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of aid or assistance under the plan, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid or assistance; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraphs (A) and (B) shall include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this subchapter shall be available for services defined as vocational rehabilitation services

under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) subject to limitations prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(5) in the case of any State whose State plan approved under section 1382 of this title does not meet the requirements of subsection (c) (1) of this section, an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (4) and provided in accordance with the provisions of such paragraph.

(b) (1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) of this section for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay, in such installments as he may determine, to the State the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to aid or assistance furnished under the State plan, but excluding any amount of such aid or assistance recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased, shall be considered an overpayment to be adjusted under this subsection.

(4) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(c) (1) In order for a State to qualify for payments under paragraph (4) of subsection (a) of this section, its State plan approved under section 1382 of this title must provide that the State agency shall make available to applicants for or recipients of aid to the aged, blind, or disabled under such State plan at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, that—

(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

(B) in the administration of the plan there is a failure to comply substantially with such provision,

the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (4) of subsection (a) of this section until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (4) of subsection (a) of this section but shall instead be made, subject to the other provisions of this subchapter, under paragraph (5) of such subsection. (Aug. 14, 1935, ch. 531, title XVI, § 1603, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 200.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (a) (4) (D), (E), is classified to sections 31—42 of Title 29, Labor.

Such Act, referred to in subsec. (a) (4) (D) (i), (ii), refers to the Vocational Rehabilitation Act.

ELECTION OF PAYMENTS UNDER COMBINED STATE PLAN RATHER THAN SEPARATE PLANS

Section 141(b) of Pub. L. 87-543 provided that: "No payment may be made to a State under title I, X, or XIV of the Social Security Act [subchapter I, X, or XIV of this chapter] for any period for which such State receives any payments under title XVI of such Act [this subchapter] or any period thereafter."

OVERPAYMENT OR UNDERPAYMENT ADJUSTMENTS

Section 141(f) of Pub. L. 87-543 provided that: "In the case of any State which has a State plan approved under title XVI of the Social Security Act [this subchapter], any overpayment or underpayment which the Secretary determines was made to such State under section 3, 1003, or 1403 of such Act [section 303, 1203, or 1353 of this title] with respect to a period before the approval of the plan under such title XVI [this subchapter], and with respect to which adjustment has not been already made under subsection (b) of such section 3, 1003, or 1403 [subsec. (b) of section 303, 1203, or 1353 of this title], shall, for purposes of section 1603(b) of such Act [subsec. (b) of this section], be considered an overpayment or underpayment (as the case may be) made under section 1603 of such Act [this section]."

§ 1384. Operation of State plans.

If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this subchapter, finds—

(1) that the plan has been so changed that it no longer complies with the provisions of section 1382 of this title; or

(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure). (Aug. 14, 1935, ch. 531, title XVI, § 1604, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 204.)

§ 1385. Definitions.

(a) For the purposes of this subchapter, the term "aid to the aged, blind, or disabled" means money payments to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, needy individuals who are 65 years of age or older, are blind, or are 18 years of age or over and permanently and totally disabled, but does not include—

(1) any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an institution for tuberculosis or mental diseases, or

(2) any such payments to any individual who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof, or

(3) any such care in behalf of any individual, who is a patient in a medical institution as a result of a diagnosis that he has tuberculosis or psychosis, with respect to any period after the individual has been a patient in such an institution, as a result of such diagnosis, for forty-two days.

(b) For purposes of this subchapter, the term "medical assistance for the aged" mean payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance) for individuals who are sixty-five years of age or older and who are not recipients of aid to the aged, blind, or disabled but whose income and resources are insufficient to meet all of such cost—

- (1) inpatient hospital services;
- (2) skilled nursing-home services;
- (3) physicians' services;
- (4) outpatient hospital or clinic services;
- (5) home health care services;
- (6) private duty nursing services;
- (7) physical therapy and related services;
- (8) dental services;
- (9) laboratory and X-ray services;
- (10) prescribed drugs, eyeglasses, dentures, and prosthetic devices;
- (11) diagnostic, screening, and preventive services; and
- (12) any other medical care or remedial care recognized under State law;

except that such term does not include any such payments with respect to—

(A) care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an institution for tuberculosis or mental diseases; or

(B) care or services for any individual, who is a patient in a medical institution as a result of a diagnosis of tuberculosis or psychosis, with respect to any period after the individual has been a patient in such an institution, as a result of such diagnosis, for forty-two days.

(Aug. 14, 1935, ch. 531, title XVI, § 1605, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 204.)

SUBCHAPTER XVII.—GRANTS FOR PLANNING COMPREHENSIVE ACTION TO COMBAT MENTAL RETARDATION

§ 1391. Appropriations.

For the purpose of assisting the States (including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa) to plan for and take other steps leading to comprehensive State and community action to combat mental retardation, there is authorized to be appropriated the sum of \$2,200,000. (Aug. 14, 1935, ch. 531, title XVII, § 1701, as added Oct. 24, 1963, Pub. L. 88-156, § 5, 77 Stat. 275.)

SHORT TITLE

Section 1 of Pub. L. 88-156 provided: "That this Act [enacting this subchapter and sections 729 and 729a of this title, amending sections 701, 702 (a), (b), 711 and 712 (a), (b) of this title, and enacting provisions set out as a note under this section] may be cited as the 'Mater-

nal and Child Health and Mental Retardation Planning Amendments of 1963'."

DEFINITION OF "SECRETARY"

Section 6 of Pub. L. 88-156 provided that: "As used in the amendments to the Social Security Act made by this Act [see Short Title note under this section], the term 'Secretary' means the Secretary of Health, Education, and Welfare."

§ 1392. Availability of funds during fiscal years 1964 and 1965; limitation on amount; utilization of grant.

The sums appropriated pursuant to section 1391 of this title shall be available for grants to States by the Secretary during the fiscal year ending June 30, 1964, and the succeeding fiscal year. Any such grant to a State, which shall not exceed 75 per centum of the cost of the planning and related activities involved, may be used by it to determine what action is needed to combat mental retardation in the State and the resources available for this purpose, to develop public awareness of the mental retardation problem and of the need for combating it, to coordinate State and local activities relating to the various aspects of mental retardation and its prevention, treatment, or amelioration, and to plan other activities leading to comprehensive State and community action to combat mental retardation. (Aug. 14, 1935, ch. 531, title XVII, § 1702, as added Oct. 24, 1963, Pub. L. 88-156, § 5, 77 Stat. 275.)

§ 1393. Applications; single State agency designation; essential planning services; plans for expenditure; final activities report and other necessary reports; records; accounting.

In order to be eligible for a grant under section 1392 of this title, a State must submit an application therefor which—

(1) designates or establishes a single State agency, which may be an interdepartmental agency, as the sole agency for carrying out the purposes of this subchapter;

(2) indicates the manner in which provision will be made to assure full consideration of all aspects of services essential to planning for comprehensive State and community action to combat mental retardation, including services in the fields of education, employment, rehabilitation, welfare, health, and the law, and services provided through community programs for and institutions for the mentally retarded;

(3) sets forth its plans for expenditure of such grant, which plans provide reasonable assurance of carrying out the purposes of this subchapter;

(4) provides for submission of a final report of the activities of the State agency in carrying out the purposes of this subchapter, and for submission of such other reports, in such form and containing such information, as the Secretary may from time to time find necessary for carrying out the purposes of this subchapter and for keeping such records and affording such access thereto as he may find necessary to assure the correctness and verification of such reports; and

(5) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the State under this subchapter.

(Aug. 14, 1935, ch. 531, title XVII, § 1703, as added Oct. 24, 1963, Pub. L. 88-156, § 5, 77 Stat. 275.)

§ 1394. Payments to States; adjustments; advances or reimbursement; installments; conditions.

Payment of grants under this subchapter may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine. (Aug. 14, 1935, ch. 531, title XVII, § 1704, as added Oct. 24, 1963, Pub. L. 88-156, § 5, 77 Stat. 276.)

Chapter 7A.—TEMPORARY UNEMPLOYMENT COMPENSATION PROGRAM

SUBCHAPTER I.—INDIVIDUALS WHO HAVE EXHAUSTED THEIR RIGHTS

Sec.

- 1400. Payment of compensation.
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 - (b) Maximum aggregate amount payable.
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Sec.

- 1400r. Veterans and Federal employees.
 - (a) Extension of agreement with State.
 - (b) Employees in Virgin Islands.
 - (c) Review of denial of benefits.
- 1400s. False statements or representations; penalties; recovery of overpayments.
- 1400t. Information from State agencies.
- 1400u. Payments to States.
 - (a) Payment on calendar month basis.
 - (b) Certification to Secretary of Treasury.
 - (c) Use of money paid to a State.
 - (d) Surety bonds.
 - (e) Liability of certifying officers.
 - (f) Liability of disbursing officers.
 - (g) Costs of administration.
- 1400v. Rules and regulations.

SUBCHAPTER I.—INDIVIDUALS WHO HAVE EXHAUSTED THEIR RIGHTS

§ 1400. Payment of compensation.

(a) Eligibility.

(1) Payment of temporary unemployment compensation under sections 1400—1400h of this title shall be made, for any week of unemployment which begins on or after the fifteenth day after June 4, 1958 and before July 1, 1959, to individuals who have, after June 30, 1957 (or after such later date as may be specified pursuant to section 1400a (b) of this title), exhausted (within the meaning prescribed by the Secretary by regulations) all rights under the unemployment compensation laws referred to in paragraph (3) and who have no rights to unemployment compensation with respect to such week under any such law or under any other Federal or State unemployment compensation law. Payment of temporary unemployment compensation under sections 1400—1400k of this title to any individual shall be made only if such individual had exhausted all rights under the unemployment compensation laws referred to in paragraph (3) of this subsection before April 1, 1959, and his first claim under such section was filed before April 1, 1959, in States in which unemployment compensation is paid on the basis of flexible-weeks, before April 5, 1959, in States in which unemployment compensation is paid on the basis of calendar-weeks, and before April 7, 1959, in States in which unemployment compensation is paid on the basis of statutory or payroll weeks.

(2) Except as provided in section 1400b of this title, payment of temporary unemployment compensation under sections 1400—1400k of this title shall be made only pursuant to an agreement entered into under section 1400a of this title and only for weeks of unemployment beginning after the date on which the agreement is entered into.

(3) The unemployment compensation laws referred to in this paragraph are:

- (A) Any unemployment compensation law of a State.
- (B) Title XV of the Social Security Act, as amended.
- (C) Title IV of the Veterans' Readjustment Assistance Act of 1952, as amended.

(b) Maximum aggregate amount payable.

The maximum aggregate amount of temporary unemployment compensation payable to any individual under sections 1400—1400k of this title shall be an amount equal to 50 per centum of the