

§410.216

20 CFR Ch. III (4-1-01 Edition)

§410.216 “Good cause” for delayed filing of proof of support.

(a) *What constitutes “good cause.”* *Good cause* may be found for failure to file proof of support within the 2-year period where the parent, brother, or sister establishes to the satisfaction of the Administration that such failure to file was due to:

(1) Circumstances beyond the individual’s control, such as extended illness, mental or physical incapacity, or communication difficulties; or

(2) Incorrect or incomplete information furnished the individual by the Administration; or

(3) Efforts by the individual to secure supporting evidence without a realization that such evidence could be submitted after filing proof of support; or

(4) Unusual or unavoidable circumstances, the nature of which demonstrate that the individual could not reasonably be expected to have been aware of the need to file timely the proof of support.

(b) *What does not constitute “good cause.”* *Good cause* for failure to file timely such proof of support does not exist when there is evidence of record in the Administration that the individual was informed that he should file within the initial 2-year period and he failed to do so through negligence or intent not to file.

[37 FR 20637, Sept. 30, 1972]

§410.219 Filing a claim under State workmen’s compensation law; when filing such claim shall be considered futile.

(a) A claimant for benefits under this part must file a claim under the applicable State workmen’s compensation law prior to a final decision on his claim for benefits under this part (see §410.227(c)) except where the filing of a claim under such applicable State workmen’s compensation law would clearly be futile.

(b) The Administration shall determine that the filing of such a claim would clearly be futile when:

(1) The period within which such a claim may be filed under such law has expired; or

(2) Pneumoconiosis as defined in §410.110(o) is not compensable under such law; or

(3) The maximum amount of compensation or the maximum number of compensation payments allowable under such law has already been paid; or

(4) The claimant does not meet one or more conditions of eligibility for workmen’s compensation payments under applicable State law; or

(5) In any other situation the claimant establishes to the satisfaction of the Administration that the filing of a claim on account of pneumoconiosis would result as a matter of law in a denial of his claim for compensation under such law.

(c) To be considered to have complied with the statutory requirement for filing a claim under the applicable State workmen’s compensation law, a claimant for benefits under this part must diligently prosecute such State claim.

(d) Where, but for the failure to file a claim under the applicable State workmen’s compensation law, an individual’s claim for benefits under this part would be allowed, the Administration shall notify the individual in writing of the need to file such State claim as a prerequisite to such allowance. Such claim, when filed within 30 days of the date such notice is mailed to the individual, will be considered to have been filed timely.

(e) Where, on the other hand, a claim has not been filed under the applicable State workmen’s compensation law, and the Administration determines that a claim for benefits under this part would be disallowed even if such a State claim were filed, the Administration shall make such determination as may be necessary for the adjudication of the individual’s claim for benefits under this part pursuant to §410.610.

[36 FR 23752, Dec. 14, 1971; 36 FR 24214, Dec. 22, 1971. Redesignated at 37 FR 20636, Sept. 30, 1972]

§410.220 Claim for benefits; definitions.

For purposes of this part:

(a) *Claim defined.* The term *claim* means a writing asserting a right to benefits by an individual, or by a proper party on his behalf as defined in §410.222, which writing is filed with the Administration in accordance with the regulations in this subpart.