

## Social Security Administration

## § 410.672

(e) The Administration will rescind as obsolete a Social Security Acquiescence Ruling and apply its interpretation of the Social Security Act or regulations by publishing a notice in the FEDERAL REGISTER when any of the following events occurs:

(1) The Supreme Court overrules or limits a circuit court holding that was the basis of an Acquiescence Ruling;

(2) A circuit court overrules or limits itself on an issue that was the basis of an Acquiescence Ruling;

(3) A Federal law is enacted that removes the basis for the holding in a decision of a circuit court that was the subject of an Acquiescence Ruling; or

(4) The Administration subsequently clarifies, modifies or revokes the regulation or ruling that was the subject of a circuit court holding that the Administration determined conflicts with its interpretation of the Social Security Act or regulations, or it subsequently publishes a new regulation(s) addressing an issue(s) not previously included in its regulations when that issue(s) was the subject of a circuit court holding that conflicted with its interpretation of the Social Security Act or regulations and that holding was not compelled by the statute or Constitution.

[55 FR 1019, Jan. 11, 1990, as amended at 62 FR 38453, July 18, 1997]

### **§ 410.671 Revision for error or other reason; time limitation generally.**

(a) *Initial, revised or reconsidered determination.* Except as otherwise provided in § 410.675, an initial, revised or reconsidered determination (see §§ 410.610 and 410.627) may be revised by the appropriate component of the Administration having jurisdiction over the proceedings (§ 410.601), on its own motion or upon the petition of any party for a reason, and within the time period, prescribed in § 410.672.

(b) *Decision or revised decision of an Administrative Law Judge or the Appeals Council.* Either upon the motion of the Administrative Law Judge or the Appeals Council, as the case may be, or upon the petition of any party to a hearing, except as otherwise provided in § 410.675, any decision of an Administrative Law Judge provided for in § 410.654 or any revised decision may be revised by such Administrative Law

Judge, or by another Administrative Law Judge if the Administrative Law Judge who issued the decision is unavailable, or by the Appeals Council for a reason and within the time period prescribed in § 410.672. Any decision of the Appeals Council provided for in § 410.665 or any revised decision of the Appeals Council, may be revised by the Appeals Council for a reason and within the time period prescribed in § 410.672. For the purpose of this paragraph (b), an Administrative Law Judge shall be considered to be unavailable if among other circumstances, such hearing examiner has died, terminated his employment, is on leave of absence, has had a transfer of official station, or is unable to conduct a hearing because of illness.

### **§ 410.672 Reopening initial, revised or reconsidered determinations of the Administration and decisions of an Administrative Law Judge or the Appeals Council; finality of determinations and decisions.**

An initial, revised or reconsidered determination of the Administration or a decision, or revised decision of an Administrative Law Judge or of the Appeals Council which is otherwise final under § 410.621, § 410.629, § 410.655, or § 410.666 may be reopened:

(a) Within 12 months from the date of the notice of the initial determination (see § 410.620), to the party to such determination, or

(b) After such 12-month period, but within 4 years after the date of the notice of the initial determination (see § 410.620) to the party to such determination, upon a finding of good cause for reopening such determination or decision, or

(c) At any time, when:

(1) Such initial, revised, or reconsidered determination or decision was procured by fraud or similar fault of the claimant or some other person; or

(2) An adverse claim has been filed; or

(3) An individual previously determined to be dead, and on whose account entitlement of a party was established, is later found to be alive; or

(4) The death of the individual on whose account a party's claim was denied for lack of proof of death is established—

## § 410.673

(i) By reason of an unexplained absence from his or her residence for a period of 7 years (see § 410.240(g)(2)); or

(ii) By location or identification of his or her body; or

(5) Such initial, revised, or reconsidered determination or decision is unfavorable, in whole or in part, to the party thereto but only for the purpose of correcting clerical error or error on the face of the evidence on which such determination or decision was based.

[36 FR 23760, Dec. 14, 1971, as amended at 49 FR 46370, Nov. 26, 1984]

### § 410.673 Good cause for reopening a determination or decision.

*Good cause* shall be deemed to exist where:

(a) New and material evidence is furnished after notice to the party to the initial determination;

(b) A clerical error has been made in the computation of benefits;

(c) There is an error as to such determination or decision on the face of the evidence on which such determination or decision is based.

### § 410.674 Finality of suspension of benefit payments for entire taxable year because of earnings.

Notwithstanding the provisions in § 410.672, a suspension of benefit payments for an entire taxable year because of earnings therein, may be reopened only within the time period and subject to the conditions provided in section 203(b)(1)(B) of the Social Security Act.

### § 410.675 Time limitation for revising finding suspending benefit payments for entire taxable year because of earnings.

No determination of the Administration or decision of an Administrative Law Judge or the Appeals Council shall be revised after the expiration of the normal period for requesting reconsideration, hearing or review, with respect to such determination or decision (see §§ 410.624, 410.631, 410.661, and 410.666) to correct a finding which suspends benefit payments for an entire taxable year because of earnings therein, unless the correction of such finding is permitted under section 203(h)(1)(B) of the Social Security Act.

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

### § 410.675a Late completion of timely investigation.

The Administration may revise a determination or decision after the applicable time period in § 410.672(a) or § 410.672(b) expires if the Administration begins an investigation to determine whether to revise the determination or decision before the applicable time period expires. The Administration may begin the investigation based either on a request by the party or an action by the Administration. The investigation is a process of gathering facts after a determination or decision has been reopened to determine if a revision of the determination or decision is applicable.

(a) If the Administration has diligently pursued the investigation to its conclusion, the Administration may revise the determination or decision. The revision may be favorable or unfavorable to the party. *Diligently pursued* means that in light of the facts and circumstances of a particular case, the necessary action was undertaken and carried out as promptly as the circumstances permitted. Diligent pursuit will be presumed to have been met if the Administration concludes the investigation and if necessary, revises the determination or decision within 6 months from the date the Administration begins the investigation.

(b) If the Administration has not diligently pursued the investigation to its conclusion, the administration will revise the determination or decision if a revision is applicable and if it will be favorable to the party. The Administration will not revise the determination or decision if it will be unfavorable to the party.

[49 FR 46370, Nov. 26, 1984]

### § 410.676 Notice of revision.

(a) When any determination or decision is revised, as provided in § 410.671 or § 410.675, notice of such revision shall be mailed to the parties to such determination or decision at their last known addresses. The notice of revision which is mailed to the parties shall state the basis for the revised decision.