

§ 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.

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§ 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.

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(b) Where a determination of the Administration is revised under paragraph (a) of this section, the notice of revision shall inform the parties of their right to a hearing as provided in § 410.678.

(c)(1) Where an Administrative Law Judge or the Appeals Council proposes to revise a decision under paragraph (a) of this section and the revision would be based on evidence theretofore not included in the record on which the decision proposed to be revised was based, the parties shall be given notice of the proposal of the Administrative Law Judge or the Appeals Council, as the case may be, to revise such decision, and unless hearing is waived, a hearing with respect to such proposed revision shall be granted as provided in this subpart F.

(2) If a revised decision is appropriate, such decision shall be rendered by the Administrative Law Judge or the Appeals Council, as the case may be, on the basis of the entire record, including the additional evidence. If the decision is revised by an Administrative Law Judge, any party thereto may request review by the Appeals Council (§§ 410.660 and 410.661) or the Appeals Council may review the decision on its own motion (§ 410.662).

§ 410.677 Effect of revised determination.

The revision of a determination or decision shall be final and binding upon all parties thereto unless a party authorized to do so (see § 410.676) files a written request for a hearing with respect to a revised determination in accordance with § 410.678 or a revised decision is reviewed by the Appeals Council as provided in this subpart F, or such revised determination or decision is further revised in accordance with § 410.672.

§ 410.678 Time and place of requesting hearing on revised determination.

The request for hearing shall be made in writing and filed at an office of the Social Security Administration, or with a presiding officer, or the Appeals Council, within 60 days after the date of receipt of notice of the revised determination. Upon the filing of such a request, a hearing with respect to such

revision shall be held (see §§ 410.631 through 410.653) and a decision made in accordance with the provisions of § 410.654. For purposes of this section, the date of receipt of notice of the revised determination shall be presumed to be 5 days after the date of such notice, unless there is a reasonable showing to the contrary.

[41 FR 47918, Nov. 1, 1976]

§ 410.679 Finality of findings with respect to other claims for benefits based on the disability or death of a miner.

Findings of fact made in a determination or decision in a claim by one party for benefits may be revised in determining or deciding another claim for benefits based on the disability or death of the same miner, even though such findings may not be revised in the former claim because of the provisions of § 410.672.

§ 410.680 Imposition of reductions.

The imposition of reductions constitutes an initial determination with respect to each month for which a reduction is imposed. A finding that a reduction is not to be imposed is an initial determination for each month with respect to which the circumstances upon which such finding was based remain unchanged. The suspension of benefits, pending a determination as to the applicability of a reduction equivalent to the amount of a deduction because of excess earnings under section 203(b) of the Social Security Act shall not, however, constitute an initial determination (see § 410.615(a)).

§ 410.681 Change of ruling or legal precedent.

Good cause shall be deemed not to exist where the sole basis for reopening the determination or decision is a change of legal interpretation or administrative ruling upon which such determination or decision was made.

§ 410.682 General applicability.

The provisions of §§ 410.672, 410.673, and 410.679 to 410.681, inclusive, shall be applicable notwithstanding any provisions to the contrary in this subpart F.