

§ 416.1147a

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

§ 416.1140(a)(2). The member of the couple in the medical institution cannot receive more than the reduced benefit described in § 416.414(b)(3)(i).

(2) If one of you is subject to the presumed value rule and the other in the institution is eligible for one of the benefits payable under § 416.212, we compute the benefits as a couple at the rate specified under § 416.412. However, if the one in the institution remains in the institution after the period benefits based on § 416.212 can be paid, we will compute benefits as if each member of the couple were separately eligible as described in paragraph (d)(1) of this section.

[60 FR 16375, Mar. 30, 1995, as amended at 61 FR 10279, Mar. 13, 1996]

§ 416.1147a Income rules in change-of-status situations involving in-kind support and maintenance.

(a) *General.* This section explains the rules for determining countable income, including in-kind support and maintenance, when eligible individuals become an eligible couple or when an eligible couple becomes eligible individuals. Generally, under retrospective monthly accounting, income in a prior month, including in-kind support and maintenance, affects benefit amounts for a current month. The prior month may be the first or second month prior to the current month (as explained in § 416.420(a)) and the rules in this section apply when a change-of-status becomes effective between the prior month and the current month.

(b) *Eligible individuals become an eligible couple.* If you and your spouse have been eligible individuals and become an eligible couple, we combine the earned and unearned income each of you had as an eligible individual in the prior month. If either or both of you received in-kind support and maintenance, we include its value as income. This may be one-third of the Federal benefit rate that applied in the prior month for one or both of you who lived in the household of another. It may be the presumed maximum value (one-third of the Federal benefit rate plus \$20 as explained in § 416.1140) for one or both of you as appropriate. It may also be a combination of the two if each of you received income in one of these forms.

We also include income deemed to either or both of you in the prior month.

(c) *Eligible couple becomes one or two eligible individuals.* If you are an eligible individual in the current month but were a member of an eligible couple in the prior month, we determine your countable income in the prior month separately from that of your spouse. We determine the value of any in-kind support and maintenance you and your spouse received in the prior month using the rules contained in § 416.1147. For example, if both of you lived in the household of another and the one-third reduction applied, each of you would have income equal to one-sixth of the Federal benefit rate for a couple. Also, for example, if you received in-kind support and maintenance and the presumed maximum value applied, you would have income equal to one-sixth of the Federal benefit rate for a couple, plus \$10. We divide any other income you had as an eligible couple according to who owned the income. If ownership of jointly owned income cannot be determined, we allocate one-half of it to you.

[50 FR 48575, Nov. 26, 1985]

§ 416.1148 If you have both in-kind support and maintenance and income that is deemed to you.

(a) *The one-third reduction and deeming of income.* If you live in the household of your spouse, parent, essential person, or sponsor whose income can be deemed to you, or the household of a parent whose income is not deemed to you because of the provisions of § 416.1165(i), the one-third reduction does not apply to you. The rules on deeming income are in §§ 416.1160 through 416.1169. However, if you live in another person's household as described in § 416.1131, and someone whose income can be deemed to you lives in the same household, we must apply both the one-third reduction and the deeming rules to you.

(b) *The presumed value rule and deeming of income.* (1) If you live in the same household with someone whose income can be deemed to you (§§ 416.1160 through 416.1169), or with a parent whose income is not deemed to you because of the provisions of § 416.1165(i),

any food, clothing, or shelter that person provides is not income to you. However, if you receive any food, clothing, or shelter from another source, it is income and we value it under the presumed value rule (§416.1140). We also apply the deeming rules.

(2) If you are a child under age 18 who lives in the same household with an ineligible parent whose income may be deemed to you, and you are temporarily absent from the household to attend school (§416.1167(b)), any food, clothing, or shelter you receive at school is income to you unless your parent purchases it. Unless otherwise excluded, we value this income under the presumed value rule (§416.1140). We also apply the deeming rules to you (§416.1165).

[60 FR 361, Jan. 4, 1995]

TEMPORARY ABSENCE

§416.1149 What is a temporary absence from your living arrangement.

(a) *General.* A temporary absence may be due to employment, hospitalization, vacations, or visits. The length of time an absence can be temporary varies depending on the reason for your absence. For purposes of valuing in-kind support and maintenance under §§416.1130 through 416.1148, we apply the rules in this section. In general, we will find a temporary absence from your permanent living arrangement if you (or you and your eligible spouse)—

(1) Become a resident of a public institution, or a public or private medical care facility where you otherwise would be subject to the reduced benefit rate described in §416.414, and you are eligible for the benefits payable under §416.212; or

(2) Were in your permanent living arrangement for at least 1 full calendar month prior to the absence and intend to, and do, return to your permanent living arrangement in the same calendar month in which you (or you and your spouse) leave, or in the next month.

(b) *Rules we apply during a temporary absence.* During a temporary absence, we continue to value your support and maintenance the same way that we did

in your permanent living arrangement. For example, if the one-third reduction applies in your permanent living arrangement, we continue to apply the same rule during a temporary absence. However, if you receive in-kind support and maintenance only during a temporary absence we do not count it since you are still responsible for maintaining your permanent quarters during the absence.

(c) *Rules for temporary absence in certain circumstances.* (1)(i) If you enter a medical care facility where you are eligible for the reduced benefits payable under §416.414 for full months in the facility, and you are not eligible for either benefit payable under §416.212 (and you have not received such benefits during your current period of confinement) and you intend to return to your prior living arrangement, we consider this a temporary absence regardless of the length of your stay in the facility. We use the rules that apply to your permanent living arrangement to value any food, clothing, or shelter you receive during the month (for which reduced benefits under §416.414 are not payable) you enter or leave the facility. During any full calendar month you are in the medical care facility, you cannot receive more than the Federal benefit rate described in §416.414(b)(1). We do not consider food or shelter provided during a medical confinement to be income.

(ii) If you enter a medical care facility and you are eligible for either benefit payable under §416.212, we also consider this a temporary absence from your permanent living arrangement. We use the rules that apply to your permanent living arrangement to value any food, clothing, or shelter you receive during the month you enter the facility and throughout the period you are eligible for these benefits. We consider your absence to be temporary through the last month benefits under §416.212 are paid unless you are discharged from the facility in the following month. In that case, we consider your absence to be temporary through the date of discharge.

(2)(i) Generally, if you are a child under age 22, you are temporarily absent while you are away at school, regardless of how long you are away, if