

**§ 725.511 Use and benefit defined.**

(a) Payments certified to a representative payee shall be considered as having been applied for the use and benefit of the beneficiary when they are used for the beneficiary's current maintenance—*i.e.*, to replace current income lost because of the disability of the beneficiary. Where a beneficiary is receiving care in an institution, current maintenance shall include the customary charges made by the institution and charges made for the current and foreseeable needs of the beneficiary which are not met by the institution.

(b) Payments certified to a representative payee which are not needed for the current maintenance of the beneficiary, except as they may be used under § 725.512, shall be conserved or invested on the beneficiary's behalf. Preferred investments are U.S. savings bonds which shall be purchased in accordance with applicable regulations of the U.S. Treasury Department (31 CFR part 315). Surplus funds may also be invested in accordance with the rules applicable to investment of trust estates by trustees. For example, surplus funds may be deposited in an interest or dividend bearing account in a bank or trust company or in a savings and loan association if the account is either federally insured or is otherwise insured in accordance with State law requirements. Surplus funds deposited in an interest or dividend bearing account in a bank or trust company or in a savings and loan association must be in a form of account which clearly shows that the representative payee has only a fiduciary, and not a personal, interest in the funds. The preferred forms of such accounts are as follows:

Name of beneficiary \_\_\_\_\_  
 by (Name of representative payee) representative payee,  
 or (Name of beneficiary)  
 by (Name of representative payee) trustee,

U.S. savings bonds purchased with surplus funds by a representative payee for an incapacitated adult beneficiary should be registered as follows: (Name of beneficiary) (Social Security No.), for whom (Name of payee) is representative payee for black lung benefits.

**§ 725.512 Support of legally dependent spouse, child, or parent.**

If current maintenance needs of a beneficiary are being reasonably met, a relative or other person to whom payments are certified as representative payee on behalf of the beneficiary may use part of the payments so certified for the support of the legally dependent spouse, a legally dependent child, or a legally dependent parent of the beneficiary.

**§ 725.513 Accountability; transfer.**

(a) The district director may require a representative payee to submit periodic reports including a full accounting of the use of all benefit payments certified to a representative payee. If a requested report or accounting is not submitted within the time allowed, the district director shall terminate the certification of the representative payee and thereafter payments shall be made directly to the beneficiary. A certification which is terminated under this section may be reinstated for good cause, provided that all required reports are supplied to the district director.

(b) A representative payee who has conserved or invested funds from payments under this part shall, upon the direction of the district director, transfer any such funds (including interest) to a successor payee appointed by the district director or, at the option of the district director, shall transfer such funds to the Office for recertification to a successor payee or the beneficiary.

**§ 725.514 Certification to dependent of augmentation portion of benefit.**

(a) If the basic benefit of a miner or of a surviving spouse is augmented because of one or more dependents, and it appears to the district director that the best interests of such dependent would be served thereby, or that the augmented benefit is not being used for the use and benefit (as defined in this subpart) of the augmentee, the district director may certify payment of the amount of such augmentation (to the extent attributable to such dependent) to such dependent directly, or to a legal guardian or a representative payee for the use and benefit of such dependent.

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(b) Any request to the district director to certify separate payment of the amount of an augmentation in accordance with paragraph (a) of this section shall be in writing on such form and in accordance with such instructions as are prescribed by the Office.

(c) The district director shall specify the terms and conditions of any certification authorized under this section and may terminate any such certification where appropriate.

(d) Any payment made under this section, if otherwise valid under the Act, is a complete settlement and satisfaction of all claims, rights, and interests in and to such payment, except that such payment shall not be construed to abridge the rights of any party to recoup any overpayment made.

**§ 725.515 Assignment and exemption from claims of creditors.**

(a) Except as provided by the Act and this part, no assignment, release, or commutation of benefits due or payable under this part by a responsible operator shall be valid, and all benefits shall be exempt from claims of creditors and from levy, execution, and attachment or other remedy or recovery or collection of a debt, which exemption may not be waived.

(b) Notwithstanding any other provision of law, benefits due from, or payable by, the Black Lung Disability Trust Fund under the Act and this part to a claimant shall be subject to legal process brought for the enforcement against the claimant of his or her legal obligations to provide child support or make alimony payments to the same extent as if the fund was a private person.

**BENEFIT RATES**

**§ 725.520 Computation of benefits.**

(a) *Basic rate.* The amount of benefits payable to a beneficiary for a month is determined, in the first instance, by computing the "basic rate." The basic rate is equal to 37½ percent of the monthly pay rate for Federal employees in GS-2, step 1. That rate for a month is determined by:

(1) Ascertaining the lowest annual rate of pay (step 1) for Grade GS-2 of

the General Schedule applicable to such month (see 5 U.S.C. 5332);

(2) Ascertaining the monthly rate thereof by dividing the amount determined in paragraph (a)(1) of this section by 12; and

(3) Ascertaining the basic rate under the Act by multiplying the amount determined in paragraph (a)(2) of this section by 0.375 (that is, by 37½ percent).

(b) *Basic benefit.* When a miner or surviving spouse is entitled to benefits for a month for which he or she has no dependents who qualify under this part and when a surviving child of a miner or spouse, or a parent, brother, or sister of a miner, is entitled to benefits for a month for which he or she is the only beneficiary entitled to benefits, the amount of benefits to which such beneficiary is entitled is equal to the basic rate as computed in accordance with this section (raised, if not a multiple of 10 cents, to the next high multiple of 10 cents). This amount is referred to as the "basic benefit."

(c) *Augmented benefit.* (1) When a miner or surviving spouse is entitled to benefits for a month for which he or she has one or more dependents who qualify under this part, the amount of benefits to which such miner or surviving spouse is entitled is increased. This increase is referred to as an "augmentation."

(2) The benefits of a miner or surviving spouse are augmented to take account of a particular dependent beginning with the first month in which such dependent satisfies the conditions set forth in this part, and continues to be augmented through the month before the month in which such dependent ceases to satisfy the conditions set forth in this part, except in the case of a child who qualifies as a dependent because he or she is a student. In the latter case, such benefits continue to be augmented through the month before the first month during no part of which he or she qualifies as a student.

(3) The basic rate is augmented by 50 percent for one such dependent, 75 percent for two such dependents, and 100 percent for three or more such dependents.

(d) *Survivor benefits.* As used in this section, "survivor" means a surviving child of a miner or surviving spouse, or