

**TITLE 42 - THE PUBLIC HEALTH AND WELFARE**  
**CHAPTER 7 - SOCIAL SECURITY**  
**SUBCHAPTER II - FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE**  
**BENEFITS**

**§ 426a. Transitional provision on eligibility of uninsured individuals for hospital insurance benefits**

**(a) Entitlement to benefits**

Anyone who—

- (1) has attained the age of 65,
- (2) (A) attained such age before 1968, or  
 (B) has not less than 3 quarters of coverage (as defined in this subchapter or section 228e (l) of title 45), whenever acquired, for each calendar year elapsing after 1966 and before the year in which he attained such age,
- (3) is not, and upon filing application for monthly insurance benefits under section 402 of this title would not be, entitled to hospital insurance benefits under section 426 of this title, and is not certifiable as a qualified railroad retirement beneficiary under section 228s–2 of title 45,
- (4) is a resident of the United States (as defined in section 410 (i) of this title), and is
  - (A) a citizen of the United States or
  - (B) an alien lawfully admitted for permanent residence who has resided in the United States (as so defined) continuously during the 5 years immediately preceding the month in which he files application under this section, and
- (5) has filed an application under this section in such manner and in accordance with such other requirements as may be prescribed in regulations of the Secretary,

shall (subject to the limitations in this section) be deemed, solely for purposes of section 426 of this title, to be entitled to monthly insurance benefits under such section 402 for each month, beginning with the first month in which he meets the requirements of this subsection and ending with the month in which he dies, or, if earlier, the month before the month in which he becomes (or upon filing application for monthly insurance benefits under section 402 of this title would become) entitled to hospital insurance benefits under section 426 of this title or becomes certifiable as a qualified railroad retirement beneficiary. An individual who would have met the preceding requirements of this subsection in any month had he filed application under paragraph (5) hereof before the end of such month shall be deemed to have met such requirements in such month if he files such application before the end of the twelfth month following such month. No application under this section which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraphs (1), (2), (3), and (4) shall be accepted as an application for purposes of this section.

**(b) Persons ineligible**

The provisions of subsection (a) of this section shall not apply to any individual who—

- (1) is, at the beginning of the first month in which he meets the requirements of subsection (a), a member of any organization referred to in section 410 (a)(17) of this title,
- (2) has, prior to the beginning of such first month, been convicted of any offense listed in section 402 (u) of this title, or
- (3) (A) at the beginning of such first month is covered by an enrollment in a health benefits plan under chapter 89 of title 5,  
 (B) was so covered on February 16, 1965, or  
 (C) could have been so covered for such first month if he or some other person had availed himself of opportunities to enroll in a health benefits plan under such chapter and to continue

*NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).*

such enrollment (but this subparagraph shall not apply unless he or such other person was a Federal employee at any time after February 15, 1965).

Paragraph (3) shall not apply in the case of any individual for the month (or any month thereafter) in which coverage under such a health benefits plan ceases (or would have ceased if he had had such coverage) by reason of his or some other person's separation from Federal service, if he or such other person was not (or would not have been) eligible to continue such coverage after such separation.

### **(c) Authorization of appropriations**

There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund (established by section 1395i of this title) from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

- (1) payments made or to be made during such fiscal year from such Trust Fund under part A of subchapter XVIII of this chapter with respect to individuals who are entitled to hospital insurance benefits under section 426 of this title solely by reason of this section,
- (2) the additional administrative expenses resulting or expected to result therefrom, and
- (3) any loss in interest to such Trust Fund resulting from the payment of such amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year in which it would have been if the preceding subsections of this section had not been enacted.

(Pub. L. 89–97, title I, § 103, July 30, 1965, 79 Stat. 333; Pub. L. 90–248, title I, § 139, title IV, § 403(h), Jan. 2, 1968, 81 Stat. 854, 932.)

### **References in Text**

Sections 228e (l) and 228s–2 of title 45, referred to in subsec. (a)(2), (3), are references to sections 5(l) and 21 of the Railroad Retirement Act of 1937. That Act was amended in its entirety and completely revised by Pub. L. 93–445, Oct. 16, 1974, 88 Stat. 1305. That Act, as thus amended and revised, was redesignated the Railroad Retirement Act of 1974, and is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. Sections 228e and 228s–2 of title 45 are covered by sections 231e and 231f of Title 45, respectively.

Part A of subchapter XVIII of this chapter, referred to in subsec. (c)(1), is classified to section 1395c et seq. of this title.

### **Codification**

Section was not enacted as part of the Social Security Act which comprises this chapter.

### **Amendments**

1968—Subsec. (a)(2)(B). Pub. L. 90–248, § 139, substituted “1966” for “1965”.

Subsec. (b)(3)(A), (C). Pub. L. 90–248, § 403(h)(1), (2), substituted “chapter 89 of title 5” and “such chapter” for “the Federal Employees Health Benefits Act of 1959” and “such Act” in subpars. (A) and (C), respectively.