

U.S. DEPARTMENT OF LABOR

Office of Workers' Compensation Programs
Division of Coal Mine Workers' Compensation
Washington, DC 20210



AUG 15 2014

**RELEASE – REVISION OF EXHIBIT 695 OF RESOURCE BOOK, COAL MINE (BLBA)
PROCEDURE MANUAL**

BLBA TRANSMITTAL NO. 14-02

July 2014

EXPLANATION OF MATERIAL TRANSMITTED:

This transmittal updates Exhibit 695 by adding the 2012 and 2013 annual and monthly earnings offset exempt amounts. It also updates the instructions in BLBA PM Chapter 2, 1403, Offsets, necessary for applying the earnings offset amounts. The amounts went up for both 2012 and 2013.

Other Changes:

1. Previous versions of this exhibit imposed a uniform threshold of age 65 as the age at which the earnings offset ends. We have learned that amendments to the Social Security Act, which we follow, require that we apply a sliding scale based on date of birth to the age of full retirement. Therefore, we have added an addendum to the exhibit with a table showing date of birth/full retirement age (FRA).
2. During the year in which a beneficiary attains full retirement age, deduct \$1.00 for each \$3.00 earned above a certain annual amount (see the exhibit), until the month the beneficiary attains full retirement age. Check the Social Security Administration website <http://www.socialsecurity.gov>, for the FRA-year \$1 for \$3 threshold amount for years prior to 2009. For years before the year in which the beneficiary attains Full Retirement Age, the offset is uniformly \$1.00 for each \$2.00 earned above the exempt amount. Again, apply no earnings offset for any month during which or after a beneficiary attains FRA.

REMINDER – Public Law 106-182, enacted in April 2000, eliminated the Social Security retirement earnings test in and after the month in which a person attains full retirement age. Elimination is effective with respect to taxable years ending after December 31, 1999.

MICHAEL A. CHANCE
Director, Division of Coal
Mine Workers' Compensation

FILING INSTRUCTIONS:

Remove Old Exhibit

BLBA PM Resource Book

Exhibit # 695

Remove Old Pages

BLBA PM 2-1403
pp. 22-25

Insert New Exhibit

BLBA PM Resource Book

Exhibit # 695

Insert New Pages

BLBA PM 2-1403
pp. 22-27

DISTRIBUTION:

List No. 3

(All Supervisors, Claims Examiners and Workers' Compensation Specialists)

EARNINGS OFFSET

CHART OF ANNUAL AND MONTHLY EXEMPT AMOUNTS

Note: FRA = Full Retirement Age

Effective Date	Rate Per Year	Rate Per Month
01/01/74	\$2,400	\$200
01/01/75	2,520	210
01/01/76	2,760	230
01/01/77	3,000	250
01/01/78 (for persons under FRA)	3,240	270
(for persons FRA to 71)	4,000	333
(for persons 72 or over)	(No limit on earnings)	
01/01/79 (for persons under FRA)	3,480	290
(for persons FRA to 71)	4,500	375
(for persons 72 or over)	(No limit on earnings)	
01/01/80 (for persons under FRA)	3,720	310
(for persons FRA to 71)	5,000	417
(for persons 72 or over)	(No limit on earnings)	
01/01/81 (for persons under FRA)	4,080	340
(for persons FRA to 71)	5,500	459
(for persons 72 or over)	(No limit on earnings)	
01/01/82 (for persons under FRA)	4,440	370
(for persons FRA to 71)	6,000	500
(for persons 72 or over)	(No limit on earnings)	
01/01/83 (for persons under FRA)	4,920	410
(for persons FRA to 69)	6,600	550
(for persons 70 or over)	(No limit on earnings)	
01/01/84 (for persons under FRA)	5,160	430
(for persons FRA to 69)	6,960	580
(for persons 70 or over)	(No limit on earnings)	
01/01/85 (for persons under FRA)	5,400	450
(for persons FRA to 69)	7,320	610
(for persons 70 or over)	(No limit on earnings)	
01/01/86 (for persons under FRA)	5,760	480
(for persons FRA to 69)	7,800	650
(for persons 70 or over)	(No limit on earnings)	
01/01/87 (for persons under FRA)	6,000	500
(for persons FRA to 69)	8,160	680
(for persons 70 or over)	(No limit on earnings)	
01/10/88 (for persons under FRA)	6,120	510
(for persons FRA to 69)	8,400	700
(for persons 70 or over)	(No limit on earnings)	
01/01/89 (for persons under FRA)	6,480	540
(for persons FRA to 69)	8,880	740
(for persons 70 or over)	(No limit on earnings)	

(See BLBA PM Chapter 2-1403.13)

EARNINGS OFFSET (Continued)

CHART OF ANNUAL AND MONTHLY EXEMPT AMOUNTS

<u>Effective Date</u>		<u>Rate Per Year</u>	<u>Rate Per Month</u>
01/01/90	(for persons under FRA)	6,840	570
	(for persons FRA to 69)	9,360	780
	(for persons 70 or over)	(No limit on earnings)	
01/01/91	(for persons under FRA)	7,080	590
	(for persons FRA to 69)	9,720	810
	(for persons 70 or over)	(No limit on earnings)	
01/01/92	(for persons under FRA)	7,440	620
	(for persons FRA to 69)	10,200	850
	(for persons 70 or over)	(No limit on earnings)	
01/01/93	(for persons under FRA)	7,680	640
	(for persons FRA to 69)	10,560	880
	(for persons 70 or over)	(No limit on earnings)	
01/01/94	(for persons under FRA)	8,040	670
	(for persons FRA to 69)	11,160	930
	(for persons 70 or over)	(No limit on earnings)	
01/01/95	(for persons under FRA)	8,160	680
	(for persons FRA to 69)	11,280	940
	(for persons 70 or over)	(No limit on earnings)	
01/01/96	(for persons under FRA)	8,280	690
	(for persons FRA to 69)	12,500	1,042
	(for persons 70 or over)	(No limit on earnings)	
01/01/97	(for persons under FRA)	8,640	720
	(for persons FRA to 69)	13,500	1,125
	(for persons 70 or over)	(No limit on earnings)	
01/01/98	(for persons under FRA)	9,120	760
	(for persons FRA to 69)	14,500	1,208
	(for persons 70 or over)	(No limit on earnings)	
01/01/99	(for persons under FRA)	9,600	800
	(for persons FRA to 69)	15,500	1,292
	(for persons 70 or over)	(No limit on earnings)	
01/01/00	(for persons under FRA)	10,080	840
	(for persons FRA or over)	(No limit on earnings)	
01/01/01	(for persons under FRA)	10,600	883
	(for persons FRA or over)	(No limit on earnings)	
01/01/02	(for persons under FRA)	11,280	940
	(for persons FRA or over)	(No limit on earnings)	
01/01/03	(for persons under FRA)	11,520	960
	(for persons FRA or over)	(No limit on earnings)	

(See BLBA PM Chapter 2-1403.13)

EARNINGS OFFSET (Continued)

CHART OF ANNUAL AND MONTHLY EXEMPT AMOUNTS

Effective Date	Rate Per Year	Rate Per Month
01/01/04 (for persons under FRA)	11,640	970
(for persons FRA or over)	(No limit on earnings)	
01/01/05 (for persons under FRA)	12,000	1,000
(for persons FRA or over)	(No limit on earnings)	
01/01/06 (for persons under FRA)	12,480	1,040
(for persons FRA or over)	(No limit on earnings)	
01/01/07 (for persons under FRA)	12,960	1,080
(for persons FRA or over)	(No limit on earnings)	
01/01/08 (for persons under FRA)	13,560	1,130
(for persons FRA or over)	(No limit on earnings)	
01/01/09 (for persons under FRA)	14,160	1,180
(for persons FRA or over)	(No limit on earnings)	
01/01/10 (for persons under FRA)	14,160	1,180
(for persons FRA or over)	(No limit on earnings)	
(persons who reach FRA during 2010 must deduct \$1 for each \$3 earned above 37,680 - 3,140/month - until the month they reach FRA)		
01/01/11 (for persons under FRA)	14,160	1,180
(for persons FRA or over)	(No limits on earnings)	
(persons who reach FRA during 2011 must deduct \$1 for each \$3 earned above 37,680 or 3,140/month - until the month they reach FRA)		
01/01/12 (for persons under FRA)	14,640	1,220
(for persons FRA or over)	(No limits on earnings)	
(persons who reach FRA during 2012 must deduct \$1 for each \$3 earned above 38,880 or 3,240/month until the month they reach FRA)		
01/01/13 (for persons under FRA)	15,120	1,260
(for persons FRA or over)	(No limits on earnings)	
(persons who reach FRA during 2013 must deduct \$1 for each \$3 earned above 40,080 or 3,340/month until the month they reach FRA)		
01/01/14 (for persons under FRA)	15,480	1,290
(for persons FRA or over)	(No limits on earnings)	
(persons who reach FRA during 2014 must deduct \$1 for each \$3 earned above \$41,400 or \$3,450/month until the month they reach FRA)		

(See BLBA PM Chapter 2-1403.13)

TABLE OF CONTENTS

<u>Paragraph</u>	<u>Subject</u>	<u>Page</u>
<u>CHAPTER 2-1403, OFFSETS</u>		
1.	Offsets.....	1
2.	Authority.....	1
3.	Policy.....	1
4.	Definitions.....	1
5.	References.....	1
6.	Responsibilities.....	1
7.	Workers' Compensation Offsets.....	1
8.	Verification of Receipt of Benefits.....	2
9.	Offsetable benefits.....	2
10.	Effective Monthly Rate.....	3
11.	Calculation of Effective Monthly Rate (Prorating).....	4
12.	State Workers' Compensation Pneumoconiosis Programs.....	5
13.	Excess Earnings Offsets.....	22

13. Excess Earnings Offsets. Benefit payments to surviving parents, brothers, and sisters are subject to an excess earnings offset as imposed by the Federal Coal Mine Health and Safety Act of 1969. In addition, the 1981 Amendments to the BLBA impose the same excess earnings offset to the benefit payments for eligible miners who file a claim after December 31, 1981. Other Part C benefit recipients are not offset for excess earnings.

Two changes in the Social Security Act have affected how to apply the earnings offset:

- (1) To reduce the cost of benefit payments, and considering the increase in life expectancy in recent years, amendments to the Social Security Act were enacted in 1983 setting up a sliding scale for attaining Full Retirement Age (FRA). The scale is based on the wage-earner's year of birth. Please refer to the table below when calculating a beneficiary's FRA:

Full Retirement Age	Year of Birth
65 years	1937 or earlier
65 years + 2 months	1938
65 years + 4 months	1939
65 years + 6 months	1940
65 years + 8 months	1941
65 years + 10 months	1942
66 years	1943 - 1954
66 years + 2 months	1955
66 years + 4 months	1956
66 years + 6 months	1957
66 years + 8 months	1958
66 years + 10 months	1959
67 years	1960 later

- (2) In April 2000, Congress passed and the President signed into law the Senior Citizens' Freedom to Work Act (P.L. 106-182). This legislation eliminated the Social Security retirement earnings test in and after the month in which a person attains FRA. Elimination of the retirement test after FRA is effective with respect to taxable years ending after December 31, 1999.
 - a. Annual Earnings Test. Earnings include monies from wages (gross amounts), tips, in-kind payments (room and board), bonuses, vacation pay, and severance pay for services rendered, and self-employment (SE).

Self-employment is the performance of substantial services in any month. Substantial service is defined as services for 15 or more hours per month. The performance of more than 45 hours of service will always be deemed to be self-employment unless the claimant provides evidence to the contrary. Between 15 and 45 hours of service, the circumstances and factors involved must be considered, such as the skills of the individual, other employees and the net earnings of the individual. Services rendered by the self-employed claimant must be reviewed and the District Director must determine whether such SE income can be treated as being earned from the performance of substantial services. If a beneficiary subject to an excess earnings offset earns more than the maximum allowable earnings, that person's benefits are subject to offset of one dollar in benefits for every two dollars earned over the annual exempt amount, i.e., the total yearly earnings minus the annual exempt amount of earnings (see BLBA PM Resource Book - Exhibit 695) divided by 2 equals the excess earnings offset.

The excess earnings offset is to be deducted from the total monthly benefits payable until the excess earnings offset has been equaled. Note that two different exempt amounts apply, one amount for beneficiaries under FRA and another for those FRA or older. A beneficiary age 72 prior to January 1, 1983 or age 70 by January 1, 1983 or thereafter is not subject to an excess earnings offset. The FRA exempt amount applies if the beneficiary attains FRA before the close of the taxable year (calendar or fiscal year). In computing the excess earnings offset, drop all cents (except in the benefit amount) in doing the computation.

Example: A miner age 42 with two augmentees filed a claim on February 9, 1982 and was determined to be entitled to monthly benefits of \$513.10 beginning February 1, 1982. His 1982 earnings totaled \$11,516 and he did not earn less than \$370 in any month. The exempt amount would be \$11,516 minus \$4,440, which equals \$7,076. The excess earnings would be \$7,076 divided by 2, which equals \$3,538.

Therefore, the miner would not receive any benefits for six months (February-July) and \$53.70 in the seventh month (August). Full benefits would be payable in the eighth month (September). Any change in the benefit rate must be considered in the computation, as a general increase in monthly benefits is usually made in January of each year, or a change in the augmented rate may occur. A miner's excess earnings are charged against his/her benefits and the benefits of all augmentees entitled to benefits on the account. A dependent survivor's excess earnings are charged only against the dependent survivor's benefits.

Example: [This example pertains to the \$1.00 for \$3.00 offset to be applied during the last year before the beneficiary reaches FRA] A miner-beneficiary celebrates his FRA birthday in July 2012. So for the last 12 months prior to July 2012, we would deduct \$1.00 for each \$3.00 he earned above the exempt amount. Looking only at the year 2012, the year exempt amount would be \$38,880.00, and the monthly exempt amount would be \$3,230.00/month.

The miner will earn \$60,000.00 during 2012. For six months, that is \$30,000.00. The exempt amount would be \$19,380.00 ($\$3,230.00 \times 6$). $\$30,000.00 - \$19,380.00 = \$10,620.00$ (the amount exceeding the exempt amount for the six months). If we are to subtract \$1.00 for each \$3.00 above the exempt amount, the amount to subtract for the six months is \$3,540.00 ($\$10,620.00/3$). 2012 that total would be \$5,629.80 ($\938.30×6). Subtract the \$1.00 for \$3.00 excess earnings amount from the six-month benefit total ($\$5,629.80 - \$3,540.00$) for a total reduction of \$2,089.80. For each month, the reduction is \$348.30 ($\$2,089.80/6$).

If the miner would be getting \$938.30 (chief beneficiary + 1) per month, for the first six months of Next, we subtract that amount from the amount for each month (\$938.30 - \$348.30 = \$590.00). So for the first six months of 2012, we pay the miner \$590.00/month instead of the full \$938.30. Starting with the August-for-July payment, we will pay him the full \$938.30 per month, because he reached FRA in July.

b. Monthly Earnings Test. Under the 1977 Amendments to the Social Security Act the monthly earnings test was eliminated except for the first year in which a beneficiary has a month of entitlement in which the monthly exempt amount is not earned or substantial service is not performed in self-employment. The year in which the monthly earnings test applies is known as a "grace year." Each beneficiary is entitled to the use of the monthly earnings test in at least one taxable year after December 31, 1977. If a beneficiary's taxable year overlaps two calendar years, the annual exempt amount used is the higher amount (e.g., 5/1/80 through 4/30/81, use 1981 amounts, \$5500 or \$4080).

Regardless of total annual, benefits are payable in full for any month in a grace year in which the beneficiary does not earn more than the monthly exempt amount from wages or does not perform substantial services in self-employment.

c. Short Taxable Year. A short taxable year may result due to death or attainment of FRA. The earnings test will not apply to any month in which a beneficiary is age 67. The exempt amount for a short taxable year is calculated by dividing the annual exempt amount by 12 and multiplying the quotient by the number of months, including the terminating event. The month of attainment of FRA for years after 1999. The month of death will determine the short taxable year for a deceased miner.

Example 1: The annual exempt amount involving beneficiary under the age of 65 in 1981 would be \$5500. The beneficiary dies in September 1981. To calculate the exempt amount \$5500 is divided by 12 to equal \$458.33 1/3 per month, which is then multiplied by 9 (January through September) to equal \$4125, which is the annual exempt amount for this short taxable year.

Example 2: Beneficiary attained age 72 on July 10, 1980 and died October 23, 1980. He earned \$1200 in wages each month January through May and August through October. He did not work in June or July. His excess earnings are computed as follows:

\$6000	--	1980 earnings (\$1200x5 months work prior to age 72)
-4170	--	exempt amount (\$417x10)
<hr/>		
\$1830	--	earnings in excess of exempt amount, divided by 2 =
\$915	--	excess earnings

The excess earnings may be charged against benefits for January through May only. The miner earned less than \$417 in June and was not self-employed. All months beginning with July must be passed over because he is age 72.

d. Benefits to Which Excess Earnings May Be Charged. A miner's excess earnings are charged to the primary benefit and the benefits of all other augmentees entitled on that account. A survivor's excess earnings may be charged only against that survivor's own benefits. Any other offset, e.g., State worker's compensation based on a respiratory disease, which is chargeable against Federal black lung benefits is first offset before reducing benefits due to excess earnings. Benefits payable cannot be reduced to less than \$0 for any month. The first six months of sick pay received during the first six months of sick leave is considered as earned wages for offset purposes. Sick pay received in the seventh month and thereafter is not considered as earned wages. Money from wages is treated as earnings in the month the money is earned. Money from self-employment is treated as earnings in the month it is received.

e. Administering the Earnings Test. A claimant's first contact with the earnings test is usually when an application for benefits is made. For a claimant who may be subject to an excess earnings offset, it is necessary to obtain from the claimant estimated earnings for the current year, and also for the next year if work is continuing. All miners who file a claim for benefits after December 31, 1981, and dependent survivors subject to an excess earnings offset, can have retroactive benefits offset back to date of entitlement. Also, claimants who are not age 72 (age 70 after 1982) are required to file reports of earnings for taxable years in which they receive benefits and earn more than the annual exempt amount.

In addition, the claimant must be made aware that start-work or stop-work changes and changes in estimated earnings should be reported during the year as they occur. NOTE: There is no special form for collecting earnings information from the claimant/beneficiary. Neither is there a DIARY ACTION Code for this action. Send a letter to the claimant or beneficiary requesting his or her earnings and annotate the file accordingly.

The beneficiary subject to an excess earnings offset should be encouraged to use a high earnings estimate to avoid a benefits overpayment. Earnings estimate can be made more accurate by counting gross wages rather than net wages, multiplying weekly wages by $4 \frac{1}{3}$ instead of 4 to obtain monthly wages, and including special payments, such as bonus, vacation, sick or separation pay, in the estimate.

f. Benefit Payment Modification Due to Imposing the Excess Earnings Offset. The procedures for completing the CM-1261 and inputting data into CIPS are outlined in BLBA PM Chapter 2-1402 of the Coal Mine (BLBA) Procedure Manual. Be sure that an "E" is noted under "Reason" on the CM-1261 whenever an excess earnings offset is imposed.

g. Reminder Items Checklist.

- (1) Determine the beneficiary's age to obtain the exempt amount.
- (2) Consider whether or not a short taxable year applies due to age or death.
- (3) Consider the monthly exempt amount for the grace year.
- (4) Determine if substantial services were rendered for self-employment.
- (5) Calculate the excess earnings offset.
- (6) Annotate the file with a reminder to send a letter to the beneficiary at the end of his or her taxable year.