

## Railroad Retirement Board

## §216.51

(c) *Other than retirement benefits.* A plan which provides benefits not customarily considered retirement benefits (such as unemployment benefits, sickness or hospitalization benefits) is not a private pension plan under this section.

(d) *Effective date of private railroad pension for supplemental annuity purposes.* A private pension reduces a supplemental annuity payment effective on the first day of the month after the month the Board determines that it is a private pension as defined in paragraph (a) of this section.

(e) *Effect of private railroad pension.* A supplemental annuity is reduced by the amount of any private pension the employee is receiving which is attributable to an employer's contributions, less any amount by which the private pension is reduced because of the supplemental annuity. The supplemental annuity is not reduced for the amount of a private pension attributable to the employee's contributions. The Board will determine the amount of a private pension for any month which is attributable to the employee's contributions.

### §216.43 Effect of a supplemental annuity on other benefits.

(a) *Employee annuity.* A supplemental annuity that begins after December 31, 1974, does not affect the payment of a regular employee annuity. A supplemental annuity beginning prior to 1975 causes a reduction in the employee annuity as provided by section 3(j) of the Railroad Retirement Act of 1937.

(b) *Spouse or survivor annuity.* The payment of a supplemental annuity does not affect the amount of a spouse or survivor annuity.

(c) *Residual lump-sum.* The amount of a supplemental annuity is not deducted from the gross residual lump-sum benefit. See part 234 of this chapter for an explanation of the residual lump-sum benefit.

## Subpart F—Spouse and Divorced Spouse Annuities

### §216.50 General.

The Railroad Retirement Act provides annuities for the spouse, and divorced spouse, of an employee who is entitled to an employee annuity. A

spouse may receive an annuity based on age, or on having a child of the employee in his or her care. A divorced spouse may only receive an annuity based on age. No spouse or divorced spouse annuity may be paid based upon disability.

### §216.51 Who is eligible for a spouse annuity.

(a) To be eligible for an annuity, a spouse must:

(1) Be the husband or wife, as defined in part 222 of this chapter, of an employee who is entitled to an annuity described under subpart D of this part; and

(2) Stop working for any railroad employer.

(b) Where the employee's annuity began before January 1, 1975, the employee has completed less than 30 years of railroad service, and is age 65 or older, the spouse must be:

(1) Age 65 or older;

(2) Less than age 65 and have in his or her care a disabled child or minor child (a child under 18 years old if the spouse claimant is a wife, or under 16 years old if the spouse claimant is a husband) of the employee; or

(3) Age 62 or older but under age 65. In such case, all annuity components are reduced for each month the spouse is under age 65 at the time the annuity begins.

(c) Where the employee's annuity begins after December 31, 1974, the employee has completed 10 years but less than 30 years of railroad service, and has attained age 62, the spouse must be:

(1) Retirement age or older;

(2) Less than retirement age and have in his or her care a disabled child or a minor child (a child under 18 years old if the spouse claimant is a wife, or under 16 years old if the spouse claimant is a husband) of the employee; or

(3) Age 62 or older but under retirement age. In such case, all annuity components are reduced for each month the spouse is under retirement age at the time the annuity begins.

(d) Where the employee's annuity began after June 30, 1974, the employee has completed 30 years of railroad service, and is age 60 or older, the spouse must be:

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- (1) Age 60 or older;
- (2) Less than age 60 and have in his or her care a disabled child or a minor child (a child under 18 years old if the spouse claimant is a wife, or under 16 years old if the spouse claimant is a husband) of the employee; or
- (3) Age 60 but less than retirement age. In such case, the tier I component is reduced if the following conditions are met:
  - (i) The employee was under age 62 at the time his or her annuity began;
  - (ii) The employee annuity began after June 30, 1984;
  - (iii) The employee was under age 60 on June 30, 1984 or completed 30 years of railroad service after June 30, 1984; and
  - (iv) The spouse annuity begins after June 30, 1984.

### §216.52 Who is eligible for an annuity as a divorced spouse.

To be eligible for a divorced spouse annuity, the employee annuitant must be at least age 62 and the divorced spouse (see §222.22 of this chapter) must:

- (a) Be the divorced wife or husband of an employee;
- (b) Stop work for a railroad employer;
- (c) Not be entitled to an old-age or disability benefit under the Social Security Act based on a primary insurance amount that is equal to or greater than one-half of the employee's tier I primary insurance amount; and either
- (d) Have attained retirement age; or
- (e) Have attained age 62 but be under retirement age. The annuity is reduced for each month the spouse is under retirement age at the time the annuity begins.

### §216.53 What is required for payment.

An eligible spouse or divorced spouse must:

- (a) Apply to be entitled to an annuity; and
- (b) Give up the right to return to work for a railroad employer.

(Approved by the Office of Management and Budget under control number 3220-0016 and 3220-0042)

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### §216.54 Who is an employee's wife or husband.

An employee's wife or husband is an individual who—

- (a) Is married to the employee; and
- (b) Has been married to the employee for at least one year immediately before the date the spouse applied for annuity;
- (c) Is the natural parent of the employee's child;
- (d) Was entitled to an annuity as a widow(er), a parent, or a disabled child under this part in the month before he or she married the employee; or
- (e) Could have been entitled to a benefit listed in paragraph (d) of this section, if the spouse had applied and been old enough in the month before he or she married the employee.

## Subpart G—Widow(er), Surviving Divorced Spouse, and Remarried Widow(er) Annuities

### §216.60 General.

The Railroad Retirement Act provides annuities for the widow(er), surviving divorced spouse, or remarried widow(er) of an employee. The deceased employee must have completed 10 years of railroad service and have had a current connection with the railroad industry at the time of his or her death. A widow(er), surviving divorced spouse, or remarried widow(er) may receive an annuity based on age, on disability, or on having a child of the employee in his or her care.

### §216.61 Who is eligible for an annuity as a widow(er).

- (a) A widow(er) of an employee who has completed 10 years of railroad service and had a current connection with the railroad industry at death is eligible for an annuity if he or she:
  - (1) Has not remarried; and either
  - (2) Has attained retirement age;
  - (3) Is at least 50 but less than 60 years of age and became disabled as defined in part 220 of this chapter before the end of the period described in §216.68 (this results in a reduced annuity);
  - (4) Is less than retirement age but has in his or her care a child who either is under age 18 (16 with respect to the tier I component) or is disabled and