

§216.92

employee representative before January 1, 1975.

(b) *Tier I reduction.* If an individual is entitled to an annuity as a spouse, divorced spouse or survivor, and is also entitled to an employee annuity, then the tier I component of the spouse, divorced spouse or survivor annuity must be reduced by the amount of the tier I component of the employee annuity. Where the spouse or survivor is entitled to a tier II component, then a portion of this reduction may be restored in the computation of this component.

§216.92 Entitlement as a spouse or divorced spouse and as a survivor.

If an individual is entitled to both a spouse or divorced spouse and survivor annuity, only the larger annuity will be paid. However, if the individual so chooses, he or she can receive the smaller annuity rather than the larger annuity.

§216.93 Entitlement to more than one survivor annuity.

If an individual is entitled to more than one survivor annuity, only the larger annuity will be paid. However, if the individual so chooses, he or she can receive the smaller annuity rather than the larger annuity.

§216.94 Entitlement to more than one divorced spouse annuity.

If an individual is entitled to more than one annuity as a divorced spouse, only the larger annuity will be paid. However, if the individual so chooses, he or she can receive the smaller annuity rather than the larger annuity.

PART 217—APPLICATION FOR ANNUITY OR LUMP SUM

Subpart A—General

- Sec.
217.1 Introduction.
217.2 Definitions.
217.3 Need to file an application.

Subpart B—Applications

- 217.5 When an application is a claim for an annuity or lump sum.
217.6 What is an application filed with the Board.
217.7 Claim filed with the Social Security Administration.

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

- 217.8 When one application satisfies the filing requirement for other benefits.
217.9 Effective period of application.
217.10 Application filed after death.
217.11 “Good cause” for delay in filing application.

Subpart C—Filing An Application

- 217.15 Where to file.
217.16 Filing date.
217.17 Who may sign an application.
217.18 When application is not acceptable.
217.19 Representative of the claimant selected after application is filed.
217.20 When a written statement is used to establish the filing date.
217.21 Deterred from filing.

Subpart D—Cancellation of Application

- 217.25 Who may cancel an application.
217.26 How to cancel an application.
217.27 Effect of cancellation.

Subpart E—Denial of Application

- 217.30 Reasons for denial of application.
217.31 Applicant’s right to appeal denial.

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Subpart A—General

§217.1 Introduction.

This part prescribes how to apply for an annuity or lump-sum payment under this chapter. It contains the rules for the filing and cancellation of an application and the period of time the application is in effect. Eligibility requirements for an annuity and for a lump-sum payment are found respectively in parts 216 and 234 of this chapter.

[54 FR 13363, Apr. 3, 1989]

§217.2 Definitions.

The following definitions are used in this part:

Applicant means a person who signs an application for an annuity or lump sum for himself or herself or for some other person.

Application refers only to a form described in §217.6.

Apply or *file* means to sign a form or statement that the Railroad Retirement Board accepts as an application.

Railroad Retirement Board

§217.7

Award means to process a form to make a payment. An annuity is awarded on the date the payment form is processed.

Claimant means a person who files for an annuity or lump sum for himself or herself or the person for whom an application is filed.

§217.3 Need to file an application.

In addition to meeting other requirements, a person must file an application to become entitled to an annuity or lump sum. Filing an application will—

(a) Permit a formal decision on whether the person is entitled to an annuity or lump sum;

(b) Protect a person's entitlement to an annuity for as many as 12 months before the application is filed; and

(c) Provide the right to appeal if the person is dissatisfied with the decision (see part 260 of this chapter).

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[47 FR 7647, Feb. 22, 1982, as amended at 52 FR 11017, Apr. 6, 1987]

Subpart B—Applications

§217.5 When an application is a claim for an annuity or lump sum.

An application is a claim for an annuity or lump sum if it meets all of the following conditions:

(a) It is on an application form completed and filed with the Board as described in §217.6;

(b) It is signed by the claimant or by someone described in §217.17 who can sign the application for the claimant;

(c) It is filed with the Board on or before the date of death of the claimant. (See §217.10 for limited exceptions.)

(Approved by the Office of Management and Budget under control number 3220-0002)

[47 FR 7647, Feb. 22, 1982, as amended at 52 FR 11017, Apr. 6, 1987]

§217.6 What is an application filed with the Board.

(a) *General*. An application filed with the Board is generally one that is filed on a form set up by the Board for that purpose. See part 200 of this chapter for a list of application forms.

(b) *Claim filed with the Social Security Administration*. An application filed for benefits under title II of the Social Security Act on one of the forms set up by the Social Security Administration for that purpose (except an application for a disability insurance benefit that terminated before the employee completed his or her 120th month of creditable railroad service) is also considered an application for an annuity or lump sum if it is filed as shown in §217.7.

(c) *Claim filed with the Veterans Administration*. An application filed with the Veterans Administration on one of its forms for survivor benefits under section 3005 of title 38, United States Code, is also considered an application for a survivor annuity.

§217.7 Claim filed with the Social Security Administration.

(a) *Claim is for life benefits*. An application for life benefits under title II of the Social Security Act is an application for an annuity if the conditions either in paragraphs (a)(1), (2), and (3) or in paragraph (a)(4) of this section are met:

(1) The application was filed because the applicant did not know he or she was eligible for an annuity under the Railroad Retirement Act. The Board must have or receive evidence indicating why the applicant thought that he or she lacked eligibility for an annuity.

(2) The claimant would have been entitled to and would currently be entitled to an annuity under subpart B or D of part 216 of this chapter if the applicant had applied for the annuity on the date the social security application was filed.

(3) The applicant asks the Board in a written statement to consider the application for social security benefits as an application for an employee or spouse annuity.

(4) The application was filed because the employee had less than 10 years of creditable railroad service, and having established entitlement to social security benefits and continued working in railroad service, subsequently acquired 10 years of railroad service.

(b) *Claim is for death benefits*. An application for death benefits under title