

because he or she had the employee's child "in care", is eligible for an age or disability annuity when he or she no longer has an eligible child "in care".

(q) A remarried widow(er)'s annuity or a surviving divorced spouse annuity based on age if the remarried widow(er) or the surviving divorced spouse was entitled to an annuity based on the disability in the month before the month in which he or she attains age 65.

(r) A remarried widow(er)'s annuity or a surviving divorced spouse annuity based on age if the remarried widow(er) or surviving divorced spouse, who was receiving an annuity based on disability, is 60 years old or older when he or she recovers from the disability.

(s) A benefit under title II of the Social Security Act unless the applicant restricts the application only to an annuity payable under the Railroad Retirement Act.

(t) An accrued annuity due at the death of a spouse or divorced spouse if the claimant is entitled to an employee annuity on the same claim number.

(u) A full-time student's annuity if the student was entitled to a child's annuity in the month before the month the child attained age 18.

[47 FR 7647, Feb. 22, 1982, as amended at 54 FR 13363, Apr. 3, 1989; 60 FR 21982, May 4, 1995]

§217.9 Effective period of application.

(a) *When effective period ends.* The effective period of an application ends on the date of the notice of an initial decision denying the claim. If a timely appeal is made (see part 260 of this chapter) the effective period of the application ends on the date of the notice of the decision of the referee, on the date of the notice of the final decision of the Board, or when court review of the denial has been completed. After the effective period of an application ends, the person must file a new application for any annuity or lump sum to which the claimant believes he or she is eligible.

(b) *Application filed before claimant is eligible—(1) General rule.* Except as shown in paragraph (b)(2) of this section, an application for an annuity must be denied if it is filed with the Board more than three months before the date an annuity can begin.

(2) *Application for disability annuity.* If the Board determines that a claimant for a disability annuity is disabled under part 220 of this chapter, beginning with a date after the application is filed and before a final decision is made, the application is treated as though it were filed on the date the claimant became disabled. The claimant may be an employee, widow(er), surviving divorced spouse, remarried widow(er), or surviving child.

(c) *Application filed after the claimant is eligible—(1) Application for lump-sum death payment.* An application for a lump-sum death payment under part 234 of this chapter must be filed within two years after the death of the employee. This period may be extended under the Soldiers' and Sailors' Civil Relief Act of 1940, or when the applicant can prove "good cause" under §217.11 of this chapter for not filing within the time limit.

(2) *Application for annuity unpaid at death.* An application for an annuity due but unpaid at death under part 234 of this chapter must be filed within two years after the death of the person entitled to the annuity. This period may be extended under the Soldiers' and Sailors' Civil Relief Act of 1940, or when the applicant can prove "good cause" under §217.11 of this chapter for not filing within the time limit.

(3) *Application for residual lump sum.* An application for a residual lump sum under part 234 of this chapter may be filed at any time after the death of the employee.

(4) *Application for a period of disability.* In order to be entitled to a period of disability under part 220 of this chapter, an employee must apply while he or she is disabled under part 220 or not later than 12 months after the month in which the period of disability ends except that an employee who is unable to apply within the 12-month period after the period of disability ends because his or her physical condition limited his or her activities to the extent that he or she could not complete and sign an application or because he or she was mentally incompetent, may

§ 217.10

apply no later than 36 months after the period of disability ends.

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

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§ 217.10 Application filed after death.

(a) A survivor eligible for an annuity or lump sum under this chapter may file an application to establish a period of disability if the employee dies before filing an application for a disability annuity. A period of disability is defined in part 220 of this chapter. The application must be filed within three months after the month the employee died.

(b) A person who could receive payment for the estate of a person who paid the burial expenses of the deceased employee may file an application if the person who paid the burial expenses dies before applying for the lump-sum death payment under part 234 of this chapter. The application must be filed within the two-year period shown in § 217.9 (c)(1).

(c) A widow(er) or surviving divorced spouse may file an application for a spouse or divorced spouse annuity after the death of the employee if the widow(er) or surviving divorced spouse was eligible for a spouse or divorced spouse annuity in any month before the month the employee died. The spouse or divorced spouse annuity is payable from the beginning date set forth in part 218 of this chapter.

(Approved by the Office of Management and Budget under control numbers 3220-0031 and 3220-0032)

[47 FR 7647, Feb. 22, 1982, as amended at 52 FR 11017, Apr. 6, 1987; 54 FR 13364, Apr. 3, 1989]

§ 217.11 “Good cause” for delay in filing application.

(a) An applicant has “good cause” for a delay in the filing of an application for a lump-sum death payment or an annuity unpaid at death, as shown in § 217.9(c)(1) and (2), if the delay was due to—

(1) Circumstances beyond the applicant’s control, such as extended illness, mental or physical incapacity, or communication difficulties; or

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

(2) Incorrect or incomplete information furnished by the Board; or

(3) Efforts by the applicant to secure evidence without realizing that evidence could be submitted after filing an application; or

(4) Unusual or unavoidable circumstances which show that the applicant could not reasonably be expected to have been aware of the need to file an application within the set time limit.

(b) An applicant does not have good cause for a delay in filing if he or she was informed of the need to file within the set time limit but neglected to do so or decided not to file.

Subpart C—Filing An Application

§ 217.15 Where to file.

(a) *Applicant in U.S. or Canada.* An applicant who lives in the United States or Canada may file an application at any Board office in person or by mail. An applicant may also give the application to any Board field employee who is authorized to receive it at a place other than a Board office.

(b) *Application outside U.S.* An applicant who lives outside the United States or Canada may file an application at any United States Foreign Service office. An applicant may also send the application to an office of the Board.

§ 217.16 Filing date.

An application filed in a manner and form acceptable to the Board is officially filed with the Board on the earliest of the following dates:

(a) On the date it is received at a Board office.

(b) On the date it is delivered to a field employee of the Board as described in § 217.15.

(c) On the date it is received at any office of the U.S. Foreign Service.

(d) On the date the application was mailed, as shown by the postmark, if using the date it is received will result in the loss or reduction of benefits.

(e) On the date the Social Security Administration considers the application filed, if it is filed with the Social Security Administration or the Veterans Administration.