

**Subpart B—Social Security Overall Minimum Guarantee Defined**

**§ 229.10 What the social security overall minimum guarantee is.**

The social security overall minimum guarantee is the amount of total family benefits which would be paid under the Social Security Act if the employee's railroad service had been covered by that Act. A 100 percent overall minimum benefit may be paid, as described in § 229.11. A 100 percent overall minimum based on age (age O/M) may be payable when the employee is 62 years old. The age O/M is reduced for age for months in which the O/M is payable before the employee attains retirement age. An overall minimum may also be payable before age 62 based on an employee's disability (DIB O/M). The DIB O/M is not reduced for age.

**§ 229.11 100 percent overall minimum.**

Section 3(f)(3) of the 1974 Act guarantees that the total annuities payable to the employee and spouse, including the vested dual benefits but not including a supplemental annuity, will not be less than 100 percent of the total family benefits payable under the Social Security Act if the employee's railroad service after 1936 were credited as social security earnings. Subpart F describes how the 100 percent overall minimum rate is computed.

**Subpart C—Eligibility for Increase Under the Overall Minimum**

**§ 229.20 When an employee is eligible for an increase under the overall minimum.**

(a) *Overall minimum based on age.* An employee annuity can be increased under the age O/M if all the following conditions are met:

- (1) The employee is entitled to an age or disability annuity as shown in part 216 of this chapter.
- (2) The employee is at least 62 years old throughout the whole month. The O/M is reduced for each month it is payable before the month the employee attains retirement age.
- (3) The employee is fully insured under section 214 or 227 of the Social Security Act based on railroad and social security earnings.

(b) *Overall minimum based on disability.* An employee annuity can be increased under the DIB O/M if the employee is under retirement age, and

- (1) Is entitled to an age or disability annuity; and
- (2) Is disabled under § 404.1505 of this title; and
- (3) Is insured for a disability benefit under § 404.130 of this title based upon combined railroad and social security earnings.

(c) *Spouse with child in care or spouse retirement age or older.* If the employee has not attained the age required to qualify the spouse for a spouse annuity but the employee meets the conditions of paragraph (a) or (b) of this section, the employee annuity can be increased under the overall minimum if:

- (1) The employee and spouse complete the required statements concerning the family and earnings as provided for in § 229.4 of this part; and
- (2) The spouse meets the marriage requirements as provided for in part 222 of this chapter; and
- (3) The spouse has an eligible child in care, or the spouse is retirement age or older.

(d) *Spouse election.* If the employee has not attained the age required to qualify the spouse for a spouse annuity but the employee meets the conditions of paragraph (a) or (b) of this section, the employee annuity can be increased under the overall minimum if:

- (1) The employee and spouse complete the required statements concerning the family and earnings as provided for in § 229.4 of this part; and
- (2) The spouse meets the marriage requirements as provided for in part 222 of this chapter; and
- (3) The spouse is between age 62 and retirement age and does not have a child in care; and
- (4) The spouse files an election to be included.

**§ 229.21 When a spouse is eligible for an increase under the overall minimum.**

Normally, only the employee annuity receives the amount of the overall minimum increase. However, a spouse annuity may be increased under the O/M in cases in which the O/M benefit

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amount exceeds the total amount of the employee and spouse annuity.

### § 229.22 Beginning date of increase under overall minimum.

(a) *Employee age O/M.* An increase under the overall minimum in an employee annuity based on age can be paid beginning with the later of:

(1) The first day of the first full month throughout which the employee is age 62; or

(2) The beginning date of the employee's age or disability annuity; or

(3) The first month of the quarter in which the employee becomes insured under section 214 or 227 of the Social Security Act based on railroad and social security earnings; or

(4) The month the employee attains retirement age, if a DIB O/M was paid in the previous month. A DIB O/M is changed to an age O/M in the month the employee attains retirement age.

(b) *Employee DIB O/M.* An increase under the overall minimum in an employee annuity based on disability can be paid beginning with the later of—

(1) The beginning date of the employee's disability annuity; or

(2) The month after the month in which the disability waiting period described in § 404.315(d) of this title ends; or

(3) If no disability waiting period is required, the first month in which the employee is disabled and is insured for a disability benefit under § 404.130 of this title.

(c) *Spouse.* An increase in a spouse annuity under the overall minimum can be paid on the later of:

(1) The date the increase in the employee's annuity is paid; or

(2) The date the spouse is both eligible under the O/M and entitled to a spouse annuity.

### Subpart D—Family Members Included in Overall Minimum Computation

#### § 229.30 Who can be included in the computation of an annuity under the overall minimum.

(a) *Spouse.* In order to be included as a spouse in the computation of the overall minimum rate, a person must be the employee's wife or husband, as

defined in part 222 of this chapter, as of the date described in § 229.31 of this part. The spouse must also be 62 years or older throughout the whole month in which he or she is first included or have the employee's child who is under 16 years old or disabled (before attaining age 22) in his or her care. If a spouse is 62 years old or older and under retirement age, and does not have an eligible child in his or her care, the spouse will be included only if he or she requests the payment of a reduced spouse annuity.

(b) *Child.* In order to be included as a child in the computation of the overall minimum, a person must meet the following requirements as of the date described in § 229.32 of this part. The person must be:

(1) The employee's child as defined in part 222 of this chapter; and

(2) Dependent on the employee, as shown in part 222 of this chapter; and

(3) Not married; and either

(4) Under 18 years old, or 18 years old to 19 years old and a full-time student, as defined in part 216 of this chapter, or 18 years old or older and disabled for any regular employment (see part 220 of this chapter) before attaining age 22.

(c) *Divorced spouse.* In order to be included as a divorced spouse in the computation of the overall minimum, a person must be eligible for a benefit as a divorced spouse under the Railroad Retirement Act as of the date described in § 229.33 of this part.

#### § 229.31 When a spouse can be included in the computation of the overall minimum rate.

(a) A spouse who is married to the employee when the employee's application is filed can be included in the computation of the overall minimum rate beginning in the later of the month in which:

(1) The employee first is eligible for an increase in his or her annuity under the overall minimum, as shown in § 229.22 of this part; or

(2) The spouse first becomes eligible to be included under the overall minimum, as shown in § 229.30 of this part.

(b) A spouse who marries the employee after the employee application is filed can be included in the overall minimum computation in the month in