

§ 404.1371 Evidence of membership in a uniformed service during the years 1957 through 1967.

(a) *General.* When you file an application for a monthly benefit or lump-sum death payment based on the services of a member of a uniformed service during the years 1957 through 1967, you should submit evidence identifying the member's uniformed service and showing the period(s) he or she was on active duty during those years.

(b) *Evidence we accept.* The evidence we will accept includes any official correspondence showing the member's status as an active service member during the appropriate period, a certification of service by the uniformed service, official earnings statements, copies of the member's Form W-2, and military orders, for the appropriate period.

Subpart O—Interrelationship of Old-Age, Survivors and Disability Insurance Program With the Railroad Retirement Program

AUTHORITY: Secs. 202(1), 205(a), (c)(5)(D), (i), and (o), 210 (a)(9) and (1)(4), 211(c)(3), and 702(a)(5) of the Social Security Act (42 U.S.C. 402(1), 405(a), (c)(5)(D), (i), and (o), 410 (a)(9) and (1)(4), 411(c)(3), and 902(a)(5)).

CROSS REFERENCE: For regulations under the Railroad Retirement Act, see chapter II of this title.

§ 404.1401 General relationship of Railroad Retirement Act with the old-age, survivors and disability insurance program of the Social Security Act.

The Railroad Retirement Act sets up a system of benefits for railroad employees, their dependents and survivors, and has been integrated with the Social Security Act to provide a coordinated system of retirement, survivor, dependent and disability benefits payable on the basis of an individual's work in the railroad industry and in employment and self-employment covered by the Social Security Act. With respect to the coordination between the two programs, the Railroad Retirement Act distinguishes between "career" railroad workers and those individuals who may be considered "casual" railroad workers. The line of de-

marcation is generally 10 years of service in the railroad industry, including service prior to 1937. The Railroad Retirement Act transfers to the old-age, survivors and disability insurance system the compensation records of individuals who at the time of retirement, onset of disability or death have less than 10 years of service in the railroad industry and meet certain other requirements. Any compensation paid to such individuals for such service after 1936 becomes wages under the Social Security Act (to the extent they do not exceed the annual wage limitations described in § 404.1027(a)). Whatever benefits are payable to them, their dependents, and their survivors are computed on the basis of the combined compensation and social security covered earnings creditable to the individuals' records. The compensation paid to individuals with 10 or more years of railroad service remain under the Railroad Retirement Act, but in certain circumstances, the compensation of such workers who die may be transferred to the old-age, survivors, and disability insurance program (see §§ 404.1402(b) and 404.1407). Under certain circumstances (see § 404.1413), certification of benefits payable under the provisions of the Social Security Act will be made to the Railroad Retirement Board. The Railroad Board will certify such benefits to the Secretary of the Treasury.

[42 FR 18272, Apr. 6, 1977]

§ 404.1402 When services in the railroad industry are covered.

Services performed by an individual in the railroad industry which would, but for the provisions of this section, be excepted from "employment" by reason of § 404.1017 shall be considered to be included under "employment" as defined in section 210 of the Act in the following situations:

(a) For the purpose of determining entitlement to, or the amount of, any monthly benefits or lump-sum death payment on the basis of the wages and self-employment income of an individual where the years of service in the railroad industry are less than 10;

(b) For the purpose of determining entitlement to, or the amount of, any survivor monthly benefit or any lump-