

## § 345.405

as a benefit in proportion to the amount by which each such employer's cumulative benefit balance was increased as a result of the payment of the benefit.

(b) *Recovery of other benefit payments.* Where the Board recovers a benefit payment that was not charged, in whole or in part, to any base year employer, or was made before January 1, 1990, the Board will treat the amount of the recovery as a subtraction from the system unallocated charge balance.

(c) *Payment of interest or other debt collection-related charges.* The Board will not adjust a base year employer's cumulative benefit balance to reflect payment by a debtor of interest or other charges assessed by the Board under §200.7 of this chapter with respect to the collection of a debt arising from a benefit payment charged to such employer and later found to be recoverable by the Board.

(d) *Limitations.* The Board will adjust a base year employer's cumulative benefit balance only when the Board actually recovers, by cash payment or setoff, a debt that represents a benefit payment that was charged, in whole or in part, to such employer. No adjustment shall be made—

(1) If the Board waives recovery of a debt in accordance with part 340 of this chapter, or

(2) If the Board finds that a debt is uncollectible, or

(3) To the extent of the amount not recovered by the Board by reason of a compromise settlement of a debt.

## § 345.405 Notices to base year employers.

(a) *Prepayment notification.* When the Board receives an employee's claim for unemployment or sickness benefits, the Board will give the employee's base year employer notice of the claim and an opportunity to provide information to the Board with respect to the employee's eligibility for benefits for the period of time covered by the claim.

(b) *Notice of claim determination.* After the base year employer has had an opportunity to provide information in accordance with the prepayment notification process described in paragraph (a) of this section, the office of the Board that is adjudicating the employ-

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ee's claim for benefits will determine whether to pay or to deny benefits on the claim. Such office will send notice to the base year employer showing what determination was made on the claim. If benefits are found to be payable, the amount of the payment will be charged to the cumulative benefit balance of the base year employer in accordance with the provisions of this subpart. If the base year employer disagrees with the payment of benefits, it may request reconsideration in accordance with part 320 of this chapter.

(c) *Quarterly notice of benefit charges.* As soon as practical following the end of each calendar quarter, the Board will send to each employer a report of its cumulative benefit balance computed as of the end of such quarter. The computation of such balance will reflect the following:

(1) The total amount of unemployment and sickness benefit payments made after December 31, 1989, that have been charged to the employer as the base year employer of the employees who received the benefits; minus

(2) The total amount realized in recovery of such benefits; plus

(3) The total amount of the unallocated charges assigned to such base year employer after December 31, 1989; minus

(4) The total amount realized in recovery of such unallocated charges.

## § 345.406 Defunct employer.

Whenever the Board determines, pursuant to §345.207 of this part, that an employer is defunct, the Board will add the amount of such employer's benefit charges, as shown in its cumulative benefit balance, to the system unallocated charge balance.

## PART 346—RAILROAD HIRING

AUTHORITY: 45 U.S.C. 362(l).

### § 346.1 Central register.

(a) The Board shall maintain a central register of railroad employees with at least one year of service who have declared their current availability for rail industry employment. The register shall indicate which of those employees claims a first right of hire.

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(b) The central register shall be subdivided by class and craft of prior employment and shall be updated periodically to reflect current employee availability.

(c) Upon request, listings of employees named in the central register and selected on the basis of job experience, location of residence, claimed hiring preference, last railroad employer or other available selection criteria will be furnished to railroads. Railroads may provide written notice of job vacancies to selected employees listed on the register. The railroad notice to the employees should contain job qualification requirements and application instructions. If the railroad requests, the Board shall notify the employees of the vacancy.

[53 FR 3201, Feb. 4, 1988]

### PART 348—REPRESENTATIVE PAYMENT

Sec.

348.1 Introduction.

348.2 Recognition by the Board of a person to act in behalf of another.

AUTHORITY: 45 U.S.C. 355, 45 U.S.C. 231k.

SOURCE: 61 FR 42377, Aug. 15, 1996, unless otherwise noted.

#### § 348.1 Introduction.

(a) *Explanation of representative payment.* This part explains the principles and procedures that the Board follows in determining whether to make representative payment and in selecting a representative payee. It also explains the responsibilities that a representative payee has concerning the use of the funds which he or she receives on behalf of a claimant. A representative payee may be either a person or an organization selected by the Board to receive benefits on behalf of a claimant. A representative payee will be selected if the Board believes that the interest of a claimant will be served by representative payment rather than direct payment of benefits. Generally, the Board will appoint a representative payee if it determines that the claimant is not able to manage or direct the management of benefit payments in his or her interest.

(b) *Statutory authority.* Section 12 of the Railroad Retirement Act, which is also applicable to the Railroad Unemployment Insurance Act, provides that every claimant shall be conclusively presumed to have been competent until the date on which the Board receives a notice in writing that a legal guardian or other person legally vested with the care of the person or estate of an incompetent or a minor has been appointed: *Provided, however,* That despite receiving such notice, the Board may, if it finds the interests of such claimant to be served thereby, recognize actions by, conduct transactions with, and make payments to such claimant.

(c) *Policy used to determine whether to make representative payment.* (1) The Board's policy is that every claimant has the right to manage his or her own benefits. However, due to mental or physical condition some claimants may be unable to do so. If the Board determines that the interests of a claimant would be better served if benefit payments were certified to another person as representative payee, the Board will appoint a representative payee in accordance with the procedures set forth in this part. The Board may appoint a representative payee even if the claimant is a legally competent individual. If the claimant is a legally incompetent individual, the Board may appoint the legal guardian or some other person as a representative payee.

(2) If payment is being made directly to a claimant and a question arises concerning his or her ability to manage or direct the management of benefit payments, the Board may, if the claimant has not been adjudged legally incompetent, continue to pay the claimant until the Board makes a determination about his or her ability to manage or direct the management of benefit payments and the selection of a representative payee.

#### § 348.2 Recognition by the Board of a person to act in behalf of another.

The provisions of part 266 of this chapter shall be applicable to the appointment of a representative payee under this part to the same extent and