

**Subpart F—Child Support and Dependency**

**§ 222.50 When child dependency determinations are made.**

(a) *Dependency determination.* One of the requirements for a child's annuity or for increasing an employee or spouse annuity under the social security overall minimum provision on the basis of the presence of a child in the family group is that the child be dependent upon the employee. The dependency requirements and the time when they must be met are explained in §§ 222.51 through 222.57.

(b) *Related determinations.* To prove a child's dependency, an applicant may be asked to show that at a specific time the child lived with the employee, that the child received contributions for his or her support from the employee, or that the employee provided at least one-half of the child's support. The terms "living with", "contributing to support", and "one-half support" are defined in §§ 222.58, 222.42, and 222.43. These determinations are required when—

(1) A natural child or legally adopted child of the employee is adopted by someone else; or

(2) The child claimant is the stepchild, grandchild, or equitably adopted child of the employee.

**§ 222.51 When a natural child is dependent.**

The employee's natural child, as defined in § 222.32, is considered to be dependent upon the employee. However, if the child is legally adopted by someone else during the employee's lifetime and, after the adoption, a child's annuity or other annuity or annuity increase is applied for on the basis of the employee's earnings record and the relationship of the child to the employee, the child will be considered dependent upon the employee (the natural parent) only if he or she was either living with the employee or the employee was contributing to the child's support when either:

(a) A spouse's annuity begins; or

(b) The employee's annuity can be increased under the social security overall minimum provision; or

(c) The employee dies; or

(d) If the employee had a period of disability which lasted until he or she could have become entitled to an age or disability benefit under the Social Security Act (treating the employee's railroad compensation as wages under that Act), at the beginning of the period of disability or at the time the employee could have become entitled to the benefit.

**§ 222.52 When a legally adopted child is dependent—general.**

(a) *During employee's lifetime.* If the employee adopts a child before he or she could become entitled to a social security benefit (treating his or her railroad compensation as wages under that Act), the child is considered dependent upon the employee. If the employee adopts a child, unless the child is his natural child or stepchild, after he or she could become entitled to an old age or disability benefit under the Social Security Act (treating his or her railroad compensation as wages under that Act), the child is considered dependent on the employee only if the requirements of § 222.53 are met.

(b) *After employee's death.* If the surviving spouse of an employee adopted a child after the employee's death, the child is considered dependent on the employee if either—

(1) The employee began proceedings to adopt the child prior to his or her death, or the surviving spouse adopted the child within two years after the employee's death; and

(2) The child was living in the employee's household at the time of the employee's death; and

(3) The child was not receiving regular contributions from any person, including any public or private welfare organization, other than the employee or spouse at the time of the employee's death.

**§ 222.53 When a legally adopted child is dependent—child adopted after entitlement.**

A child who is not the employee's natural child, stepchild, grandchild, or stepgrandchild, and who is adopted by the employee after the employee could become entitled to an old age or disability benefit under the Social Security Act (treating his or her railroad

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compensation as wages under that Act), is considered dependent on the employee during the employee's lifetime only if the requirements in paragraphs (a) and (b), and either (c) or (d) of this section are met:

(a) The child is adopted in the United States;

(b) The child began living with the employee before the child attained age 18;

(c) The child is living with the employee in the United States and receives at least one-half of his or her support from the employee for the year before the month in which—

(1) The employee could become entitled to a social security benefit as described above; or

(2) The employee becomes entitled to a period of disability which continues until he or she could become entitled to a social security benefit as described above.

(d) In the case of a child born within the one-year period stated in paragraph (c) of this section, at the close of such period the child must have been living with and have been receiving at least one-half of his or her support from the employee for substantially all of the period that began on the date the child was born.

(e) "Substantially all" means—

(1) The child was living with and receiving one-half support from the employee when the employee could have become entitled to a social security benefit as described above; and

(2) Any period during which the child was not living with or receiving one-half support from the employee is not more than one-half the period from the child's birth to the employee's date of entitlement or three months, whichever is less.

### **§ 222.54 When a legally adopted child is dependent—grandchild or stepgrandchild adopted after entitlement.**

If an employee legally adopts his or her grandchild or the spouse's grandchild after he could become entitled to an old age or disability benefit under the Social Security Act (treating his or her railroad compensation as wages under that Act), the grandchild is considered dependent on the employee dur-

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ing the employee's lifetime only if the requirements in paragraphs (a) and (b), and either (c) or (d) of this section are met:

(a) The grandchild is adopted in the United States.

(b) The grandchild began living with the employee before the grandchild attained age 18.

(c) The grandchild is living with the employee in the United States and receives at least one-half of his or her support from the employee for the year before the month in which—

(1) The employee's annuity was increased under the social security overall minimum provision by including the grandchild; or

(2) The employee could become entitled to a social security benefit as described above; or

(3) The employee becomes entitled to a period of disability which continues until he or she could become entitled to a social security benefit as described above.

(d) In the case of a grandchild born within the one-year period referred to in paragraph (c) of this section, at the close of such period the child must have been living with and have been receiving at least one-half of his or her support from the employee for substantially all of the period that began on the date the grandchild was born. "Substantially all" is defined in § 222.53.

### **§ 222.55 When a stepchild is dependent.**

An employee's stepchild, as described in § 222.35, is considered dependent on the employee if the stepchild receiving at least one-half of his or her support from the employee at one of the times shown in § 222.51.

[54 FR 42949, Oct. 19, 1989, as amended at 62 FR 47138, Sept. 8, 1997]

### **§ 222.56 When a grandchild or stepgrandchild is dependent.**

An employee's grandchild or stepgrandchild, as described in § 222.36, is considered dependent on the employee if the requirements in both paragraphs (a) and (b), or paragraph (c) of this section are met:

(a) The grandchild or stepgrandchild was living with the employee before