divorced spouse, or surviving divorced
spouse, parent or disabled child; or
(f) Could have been entitled to a ben-
efit listed in paragraph (e) of this sec-
tion, if the widow(er) had applied and
been old enough to qualify therefor in
the month before the month of mar-
rriage.

§ 216.66 Who is an employee’s sur-
viving divorced spouse.
An individual who was married to the
employee is the deceased employee’s
surviving divorced spouse if he or she:
(a) Was married to the employee for
a period of at least 10 years imme-
diately before the date the divorce be-
came final, and applies for an annuity
based on age or disability; or
(b) Applies for an annuity based on
having a “child in care” and either:
(1) Is the natural parent of the em-
ployee’s child;
(2) Was married to the employee at
the time the employee or the surviving
divorced spouse adopted the other’s
child who was then under 18 years old; or
(3) Was married to the employee at
the time they adopted a child who was
then under 18 years old.

§ 216.67 “Child in care.”
(a) Railroad Retirement Act. Part 222 of
this chapter sets forth what is required
to establish that a child is in an indi-
vidual’s care for purposes of the Rail-
road Retirement Act. This definition is
used to establish eligibility for the tier
II component of a female spouse or
widow(er) annuity under that Act.
Under this definition a child must be
under age 18 or under a disability be-
fore any benefit is payable based upon
having the child in care.
(b) Social Security Act. In order to es-
ablish eligibility for the tier I compo-
nents of a spouse or widow(er) annuity,
and eligibility for a surviving divorced
spouse annuity based upon having a
child of the employee in care, the defi-
nition of “child in care” found in the
Social Security Act is used. Under this
definition, a child must be under age 16
or under a disability.

§ 216.68 Disability period for
widow(er), surviving divorced
spouse, or remarried widow(er).
A widow(er), surviving divorced
spouse, or remarried widow(er) who has
a disability as defined in part 220 of
this chapter is eligible for an annuity
only if the disability began before the end of a period which:
(a) Begins in the later of:
(1) The month in which the employee
died;
(2) The last month for which the
widow(er) or surviving divorced
spouse was entitled to an annuity for having
the employee’s child in care; or
(3) The last month for which the
widow(er) or surviving divorced
spouse was entitled to a previous annuity
based on disability; and
(b) Ends with the earlier of:
(1) The month before the month in
which the widow(er) or surviving di-
vorced spouse or remarried widow(er)
become 60 years old; or
(2) The last day of the last month of
a 7-year period (84 consecutive months)
following the month in which the pe-
riod began.

Subpart H—Child’s Annuity
§ 216.70 General.
The Railroad Retirement Act pro-
vides an annuity for the child of a de-
ceased employee but not for the child
of a living employee. The Act does pro-
vide that the child of a living employee
can establish another individual’s eli-
gibility for a spouse annuity or cause
an increase in the annuities of an em-
ployee and spouse. The eligibility re-
quirements described in this subpart
also apply for the following purposes,
except as otherwise indicated in this
part:
(a) To establish annuity eligibility
for a spouse under subpart F of this
part if he or she has the employee’s eli-
gible child in care;
(b) To establish annuity eligibility
for a widow(er), or surviving divorce
spouse or remarried widow(er) under
subpart G of this part if he or she has
the employee’s child in care; or
(c) To provide an increase in the em-
ployee’s annuity under the Social Se-
curity Overall Minimum Guaranty (see