

## Railroad Retirement Board

## § 218.3

### § 217.31 Applicant's right to appeal denial.

Each applicant is given the right to appeal the denial of his or her application if he or she does not agree with the Board's decision. The appeals process is explained in part 260 of this chapter.

## PART 218—ANNUITY BEGINNING AND ENDING DATES

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## Subpart A—General

### § 218.1 Introduction.

This part tells when a person's entitlement to a monthly railroad retirement annuity begins and ends. Ordinarily, an annuity begins on the earliest date permitted under the Railroad Retirement Act (Act). This part also tells when and how a person may select a later beginning date. Included is an explanation of how work and certain types of special payments affect the beginning date of an employee or spouse annuity.

### § 218.2 Definitions.

As used in this part:

*Applicant* means a person who signs an application for an annuity for himself, herself or for some other person.

*Application* means a form described in part 217 of this chapter.

*Award* means to process a form to make a payment.

*Claimant* means the person for whom an annuity application is filed.

*Filing date* means the date on which an application or written statement is filed with the Board.

*Tier I benefit* means the benefit calculated using the Social Security formulas and is based upon earnings, both in and outside the railroad industry.

*Tier II benefit* means the benefit calculated under a formula found in the Act and is based only upon railroad earnings.

### § 218.3 When an employee disappears.

(a) *General*. If an employee who is entitled to an annuity disappears, the employee annuity ends on the last day of the month before the month of the disappearance.

(b) *Employee has a current connection*. (1) The Board may pay survivor benefits from the month of the employee's disappearance if both of the following

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conditions are met at the time of the disappearance:

(i) The employee has a current connection with the railroad industry as defined in part 216 of this chapter, and

(ii) The employee's spouse is entitled, or would have been entitled if he or she had filed an application, to a spouse annuity in the month that the employee disappeared.

(2) If the employee is later found to have been alive during any month for which a survivor annuity was paid, the amount of any incorrect payment must be recovered under the rules of part 255, Erroneous Payments, of this chapter. The incorrect payment is the amount of any survivor benefits which were paid minus any spouse benefits which were paid minus any spouse benefits that would have been paid.

(c) *Employee has no current connection.* If the employee does not have a current connection and the employee's spouse is entitled to an annuity in the month of the employee's disappearance, the spouse annuity will continue to be paid until one of the following events occurs:

(1) The employee's death is established.

(2) The spouse annuity ends for another reason.

### Subpart B—When an Annuity Begins

#### §218.5 General rules.

(a) An annuity begins either on the earliest date permitted by law, or on a specific date chosen by the applicant. If the applicant chooses a specific date, that date must not be before the earliest date permitted by law.

(b) An annuity may not begin on the thirty-first day of a month, unless the claimant would lose benefits if the annuity begins on the first day of the following month. No annuity is payable for the thirty-first day of any month.

#### §218.6 How to choose an annuity beginning date.

(a) *When application is filed.* The applicant may choose an annuity beginning date by—

(1) Naming the month, day and year in an application accepted by the Board; or

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(2) Including with the application a signed statement which tells the date (month, day and year) when the annuity should begin.

(b) *After application is filed.* After an application is filed, the claimant may choose an annuity beginning date by submitting a signed statement which tells the month, day and year when the annuity should begin.

(Approved by the Office of Management and Budget under control numbers 3220-0002, 3220-0030 and 3220-0042)

#### §218.7 When chosen annuity beginning date is more than three months after filing date.

If the applicant for any type of annuity other than a disability annuity, or a spouse annuity based upon the disabled applicant's compensation, chooses an annuity beginning date in a month which is more than three months after the date the application is filed, the Board will deny the application as explained in part 217 of this chapter. The applicant must file a new application no earlier than three months before the month he or she wants the annuity to begin.

(Approved by the Office of Management and Budget under control numbers 3220-0002, 3220-0030 and 3220-0042)

#### §218.8 When an individual may change the annuity beginning date.

(a) *Before annuity is awarded.* A claimant may change the annuity beginning date if—

(1) The claimant requests the change in a signed statement; and

(2) The statement is received by the Board on or before the date of the claimant's death.

(b) *After annuity is awarded.* An award can be reopened to change the annuity beginning date to a later date if—

(1) The annuitant requests the change in a signed statement;

(2) The statement is received by the Board on or before the date of the annuitant's death;

(3) The annuitant shows that it is to his or her advantage to have a later annuity beginning date; and

(4) All payments made for the period before the later annuity beginning date are recovered by cash refund or setoff.