1.3.1 Spouse Defined

RCM 1.3.1 through 1.3.133 has been replaced by FOM-I-320.

1.3.150 Including Spouse/Divorced Spouse in Ret. O/M

Refer to RCM 8.3.

1.3.155 Dependency Requirements for Husband's Prior To 3-1-77

Refer to RCM 8.3.20.

1.3.165 Evidence Requirements

See RCM 1.1.21.

1.3.180 Public Service Pensions

The 1977 SS Act Amendments provided in part that individuals receiving both an SS spouse benefit and a pension based on their own public service (i.e. government) employment, may be subject to offset in their SS benefit for their public service pension. The purpose of the public pension offset was to ensure that these individuals would not receive a combined monthly benefit greater than the monthly benefit received by individuals getting both an SS spouse's benefit and a RIB/DIB based on their own employment.

The 1983 SS Act Amendments changed the public pension offset amount from the full amount of the public service pension to two thirds (.66667) of the pension amount effective December 1, 1984.

Because the spouse tier-one benefit and O/M benefit are computed like an SS Act benefit, we must reduce them for the public service pension just as SSA would.

1.3.181 When Public Service Pension Provisions Apply

Unless the conditions for exception to the public service pension offset as explained in RCM 1.3.192 through RCM 1.3.200 are met, tier 1 must be reduced for any public service pension (PSP) when a pension is payable based on the spouse, divorced spouse, or independently-entitled divorced spouse's own employment by a unit of the federal, state or local government and:

The individual becomes entitled to an RR Act spouse or divorced spouse, or independently-entitled divorced spouse annuity, based on an application filed on or after December 1, 1977; and,

FICA taxes were not deducted from the employment on which the pension is based as defined in RCM 1.3.190.

Note: If an annuity converts from one type to another and no application is required, an individual is not subject to offset if her prior entitlement was based on an application filed prior to December 1977.

1.3.182 Employee Receiving Public Service Pension

Effective 1-1986, a reduction for a pension based on non-covered service may be applied to the employee's PIA computation as explained in RCM 1.1.15-1.1.18. This PIA is then used to compute the spouse, divorced spouse, and independently-entitled divorced spouse Tier I benefit.

1.3.183 "Public Service" Defined

Public service means service performed for the U.S. government, a state government, or any political subdivision of a state, such as a city, county, town, township, village, school or sanitation district. Service for the government of a foreign country or any political subdivision is not included. The definition of "state" includes the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa.

Interstate instrumentalities (i.e., an instrumentality of two or more states organized as a body corporate) are not considered public service employers for reduction purposes.

1.3.184 "Pension" Defined

A public service pension means any periodic benefit or lump sum payment made in lieu of a periodic benefit, payable to an individual because of her employment with a Federal, State, or local government unit. A pension is a payment based on earnings from employment, and as such, includes both retirement pensions (based on age and service) and disability pensions. The program under which the pension is paid does not have to be administered by the government entity by which the individual was employed; it may be administered by a different government agency or a private insurance company.

Full salary benefits paid to a retired or resigned judge under the Federal Judiciary Retirement System are considered public service pensions.

1.3.185 Payments Not Considered A PSP

The following types of payments are not considered Public Service Pensions for offset purposes:

- Lump Sum Payments - A lump sum payment that is actually a refund of the individual's contributions plus interest to an employee pension fund, is not a pension for offset purposes.

- Periodic Benefits - Periodic benefits that are not considered pensions for reduction purposes are: payments under the Federal Employee's Act (Office of Worker's Compensation Programs); black lung benefits; Railroad Retirement annuities; Social Security benefits; and VA payments of any kind.

- Worker's Compensation Payments - Payments made under a specific Federal or State law which would cause an offset against disability benefits at SSA, are not considered pensions for reduction purposes. However periodic benefits made to State and local government employees because of work related injury or disease (i.e., payments in lieu of workmen's compensation) may not be exempt for reduction purposes. If such a case comes to your attention, refer it to RAC for handling.

- Military Service Pensions - Effective 1-95, military service pensions are also excluded from PSP offset. If a offset was deducted before January, 1995, it should have been removed effective January 1, 1995.

  Before January 1995, the PSP offset would not apply if the last day of employment in active military service was after 1956. However, if active duty after 1956 was not used to determine the pension or if the last day of service on which the pension is based was non-active duty reserve time, the PSP reduction will apply. All MS pensions which began before 1957 are subject to reduction, even though the individual may have received gratuitous SS wage credits for the pre-57 MS.

NOTE: Federal employment covered by Medicare only is not exempt from PSP offset.

1.3.190 Exemption Based on FICA Coverage

A Employed by Federal Government.--If, on the last day of employment, the spouse was employed by the federal government, use this chart to determine if the PSP offset applies.

FICA Deductions Claimed	**FERS Elected Before 7-1-1988**	**FERS Elected in 1998**	**Action to Be Taken**
Yes	No	No	The record should show that

			Federal employment began after 12/31/83. If the claim is supported, do not apply the PSP offset. If not, contact the F/O and have the spouse secure proof.
Yes	Yes	No	If the record shows that SS deductions were made on the date last worked, do not apply the offset. If the earnings are shown under MQGE-non-covered or Medicare Total, apply the reduction.
No	No	No	Apply the PSP reduction.
Yes	No	Yes	If the records show that SS deductions were made for 60 or more months after FERS was elected and before the ABD, do not apply the PSP offset.

Federal employees who are receiving a pension under the CSRS Offset retirement plan are in a unique category. In order to receive a CSRS Offset pension, the spouse must have been an employee of the federal government before 1983, had a break in service of at least 365 days and then returned to federal service after 12-1-83.

B. Employed by State or Local Government.--If, on the last day of employment, the spouse was employed by a state or local agency, determine if the PSP offset applies using the following instructions:

1. The spouse's exemption is determined under P,L,108-203. P.L.108-203, enacted on March 2, 2004, changed the requirements for exemption from the PSP offset.

   If the spouse's application is filed after March 2004 and the last day of public service employment is after June 30, 2004, FICA taxes must have been deducted from the public service wages for the last 60 months of employment. If not, the PSP offset applies.

   Grandfather Provision

   P.L.108-203 includes a grandfather provision to lessen the impact on public service employees who will retire within the next 5 years. Under this provision, any months before March 2004 in which FICA taxes were deducted from the public service wages are subtracted from the 60 months needed for exemption. They need not be continuous. A maximum of 59 months can be subtracted. The months of FICA covered

service necessary to fulfill the 60-month period must be 1) continuous, 2) performed after March 2, 2004, and 3) include the last month of public service employment.

Example 1: Ms. Jones was working for a state agency in March 2004. FICA taxes were not being deducted from her wages. For 12 months in 1997 and 3 months in 2002, she worked under the same retirement plan and FICA taxes were deducted. Because FICA taxes were previously deducted for 15 months, the requirement that her last 60 months of public service employment have FICA deductions is reduced. Only the last 45 months of her public service employment must have FICA deductions.
Example 2: The spouse is working as a school teacher having been continuously employed paying FICA taxes on these earnings since September 2003, with an additional 12 months of FICA-covered employment with this employer from September 1989 through August 1990. Because FICA taxes were previously deducted for 18 months prior to March 2004, the requirement that her last 60 months of public service employment have FICA deductions is reduced by 18. Only the last 42 months of public service employment need have FICA deductions. Those 42 months must be after March 2, 2004 (March 2004 can be counted as one of those months). If she works continually, she'll be entitled to exemption from PSP offset in August 2007.

The grandfather provision cannot apply if the applicant's day last worked is after March 2, 2009.

NOTE: If a determination is being made in a case where there is continuous entitlement (i.e., spouse to divorced spouse or spouse with children to aged spouse), use the filing date of the initial application to determine if P.L.108-203 applies

2. If the spouse's application was filed before April 2004 <u>or</u> the last day of public service employment is before July 1, 2004, exemption is determined under the 1977 Social Security Act Amendments. Under these amendments, a spouse employed by a state or local agency was exempt from offset if FICA taxes were deducted on the last day of employment. Last day of employment is defined in the next section.

1.3.191 Last Day of Employment Defined

The last day of employment is usually the same as the "last day worked" or the "official termination date." It is not the same as the last day worked when the position held on the last day worked is not covered under the pension plan. Do not develop the last day of employment unless there is reason to believe that the date furnished is incorrect. These situations may require development:

- The individual terminates employment in a position covered by a pension plan but not covered under the SS Act, and then returns to work for the same employer in a position not covered by a pension plan, but covered under SSA (e.g., a part-time position). Since the pension would not be based on any of the employment covered under the SS Act, the individual would be subject to reduction; or

- The individual terminates employment in a position covered by a pension plan but not covered under the SS Act, and then returns to work for the same employer in a position covered by the same pension plan and covered under SSA. Since the pension is based on employment covered under the SS Act, the offset will not apply; or

- NOTE: This situation applies primarily to school teachers. Their teaching jobs were not covered under social security. On or after their last day of teaching, they worked at a non-teaching position that was covered under both the teacher retirement system and Social Security. The Office of the General Counsel has determined that if the last day of employment is covered under the SS Act <u>and is used to compute the pension, the PSP offset will not apply. The length of employment in the second position does not matter.</u>

- The individual is transferred by his or her employer from a position not covered by SS to a position which is covered by SS. If only the position not covered by SS was covered under the pension plan, the individual's last day of employment is the last day she held the non-covered position. Since that position was not covered under SS, the offset would apply.

- If however, in the same situation both positions were covered under the pension plan, the individual would be exempt from PSP offset because the position held was covered under SS on the last day of employment; or

- The individual holds a second job with the same employer for whom she is working full time in a position covered by a pension plan but not by SS. If the second job (i.e., a part-time position) is covered by SS but not by the pension plan and the individual ceases employment in both positions on the same day, she would still be subject to reduction for PSP since the pension was based on the full-time position.

1.3.192 Exceptions to the PSP Provision

Exceptions to the PSP provision were made to lessen the impact on individuals who were within a few years of eligibility to their public service pensions at the time of enactment.

<u>Conditions for Exception</u> - Annuities payable for any month after November 1977 will <u>never</u> be subject to reduction for a PSP if, at the time of filing, the applicant:

1. Could meet the entitlement requirements for an SS spouse benefit, as in effect and being administered in January 1977 (if the EE's RR earnings had been covered under the SS Act); and

2. Is entitled to or eligible for the PSP for any month in the period from December 1977 through November 1982. If the applicant would have been eligible for the PSP before December 1982 except for a requirement which postponed eligibility for the PSP until the month after the month in which all other requirements were met, the annuity will not be subject to a PSP reduction, effective December 1, 1984.

For the purpose of applying this exception, the RRB filing date and ABD are immaterial. The applicant need not file for or become entitled to any annuity prior to December 1982 for it to apply.

In addition, for annuities payable for any month after November 1982, the public service pension offset will not apply if the applicant:

1. Was dependent on the employee for at least one-half support at the time of the employee's tier-one beginning date, disability onset date, conversion date or date of death; and

2. Is entitled to or eligible for the PSP for any month prior to July 1983. If the applicant would have been eligible for a PSP before July 1983 except for a requirement which postponed eligibility for the PSP until the month after the month in which all other requirements were met, the annuity will not be subject to a PSP reduction, effective December 1, 1984.

1.3.193 SSA's January 1977 Requirements

To meet the first condition in 1.3.192 all of the requirements necessary for an SS Act spouse benefit that were in effect and being administered in January 1977, must be met at the time of filing for an RR Act spouse or divorced spouse annuity. The requirements need not have actually been met in January 1977 for this condition to apply. (For example, a reduced age spouse filing in 1981, must be age 62 in 1981, not 1977.)

Below is a list of spouse categories, who meet the SSA requirements in effect in January, 1977:

- Wives
- Young wives
- Divorced wives married at least 20 years
- Dependent husbands

Categories of SS beneficiaries who do not meet the January 1977 eligibility requirements and do not qualify for exception in the offset to their benefits are:

- Divorced wives married less than 20 years
- Non-dependent husbands
- Young husbands
- Divorced husbands

1.3.194 "Entitled To" Defined

"Entitled To" means that all of the requirements for the pension have been met, the application has been filed and the pension is either being paid or is due to be paid for the month, although payment may not yet have actually been made.

1.3.195 "Eligible For" Defined

"Eligible For" means that the pension would be payable (i.e., all age and service requirements have been met) but the spouse has not yet ceased employment and has not filed an application for the pension.

If the spouse's PSP was first payable after November 1982 or July 1983 and she meets the other condition for exception explained above, she must prove that she was eligible for a pension before December 1982 or July 1983 in order to qualify for that exception.

1.3.196 "Eligible for" Provision and Federal Employment

SSA has determined that the following types of federal employees may also qualify for exception under the "eligible for" provision:

- Those who meet the requirements for an "early-out" prior to December 1982 or July 1983, but continue to work after that date.
- Those eligible for a discontinued service annuity (involuntary separation not due to misconduct, at age 50 with 20 years, or any age with 25 years) prior to December 1982 or July 1983, regardless of whether they take advantage of it or not.
- Those who elected a deferred retirement annuity (stopped federal employment at an early age knowing they would not be eligible for their pension until age 62); provided age 62 is attained prior to December 1982 or July 1983. This is regardless of whether or not they begin to receive their pension prior to December 1982 or July 1983.

1.3.205 Timetable for Applying the Provision

The PSP reduction provision applies to RRB spouse annuitants payable for months after November 1977, based on applications filed December 1, 1977, or later. Specific categories of annuities are affected as follows:

PSP Eligibility/ Entitlement Date	Spouses Subject To PSP Offset	Spouses Exempt From PSP Offset
A. Before 12-1-82	Non-Dependent Males Divorced Female Married Less Than 20 Years Divorced Males	Females Divorced Female Married 20 or More Years Dependent Males
B. Before 7-1-83	All Non-dependent: Males Females Divorced Males Divorced Females Regardless of Length of Marriage	Beginning with Annuities Payable for months after November 1982, All Dependant: Males Females Divorced Males Divorced Females Regardless of Length of Marriage
C. After 6-30-83	All Categories Regardless of Dependency	Spouses who elected FERS during the Open Season which ended 7-1-1988. Spouses who elected FERS during the Open Season which ended 12-31-1998 and worked in covered Federal Employment for 60 months or more after the effective

		date of the election and before the ABD.

1.3.206 Examiner Action

In current cases the PSP information is entered on APPLE. Older cases in which a paper application was completed, the PSP information was entered on Form G-208. When working a case with PSP involvement, examiners should take the following actions:

Initial Cases - Upon receipt of an application for an annuity the examiner needs to:

1. Review the Application Express System – Public Service Pension Screens. In general, there are four screens that can be completed for PSP. The screens that are completed depend on the responses to the questions on the APPLE application. The four APPLE public service pension screens are:

   (a) Public Service Pension – This screen provides general information about a spouse or survivor applicant's entitlement to a public service pension.

   (b) PSP – Federal/State Employee – This screen is used to determine if the applicant is exempt from the PSP Offset due to FERS or FICA taxes being withheld. This screen will only be displayed if the applicant is receiving, or potentially entitled to, a PSP. If the applicant is exempt from the offset, the remaining screens will not be displayed.

   (c) PSP Information – This screen provides general information about the PSP. It is also used to determine if the applicant will be exempt from the offset.

   (d) PSP Rates – The rate information on this screen is only completed if the public service pension offset applies. All prefilled information should be verified.

2. Determine the effective date of reduction. If the pension has not been awarded, enter the date the applicant expects to begin receiving it. If the date is not known or the applicant will not provide a date, enter a logical date such as age 65.

3. Allow the case to process on RASI or pay it final on ROC.

Post Entitlement Cases - When an annuitant notifies the RRB of receipt of PSP after she has been receiving an annuity, it is necessary to secure a completed Form G-208 if none is in file Use the PREH on-line correction facility to keep the Research record up to date whenever a change in the PSP rate or entitlement

occurs and an award activity is not required. Enter the correct offset amount in 3210-PSP-AMT. PSP Offset Does Not Apply – Enter the appropriate code into the PREH record. Take one of the following actions to do this:

1. Using the PREH On-line Correction Facility, enter a “1” in 3200- PSP-RED-STAT-CD. If the PSP is paid by OPM, enter a “1” in 3200- PSP-SOURCE-CD. If the PSP is not paid by OPM, enter a “2”; OR

2. If an award action is necessary and the case will be paid on ROC, enter a “1” in PSP REDUCTION STATUS. Enter a “1” in PSP SOURCE if the pension is paid by OPM. Enter a “2” if it is not paid by OPM. The entries are found on the PUBLIC SERVICE PENSION screen in APPLE or paper form G-208.

1.3.207 PSP Information - Handle the receipt of PSP information as follows:

At the Time of Filing – If there is an indication that the annuitant is receiving a monthly PSP amount it is necessary for the field to complete the Public Service Pension information on APPLE. There are two exceptions:

1. The spouse received a lump-sum payment which was a refund of her contributions plus interest; and,

2. The spouse states on the application that she was an employee of a state or local government and FICA taxes were deducted from the last 60 months of employment. Refer to RCM 1.3.190 – Exemption Based on FICA Coverage for additional information.

See RCM 1.3.212 for handling cases with future entitlement.

Report of Pension Change - The annuitant is responsible for reporting any change in PSP entitlement or amount. Changes which will not result in a net tier I rate or spouse O/M benefit of zero must be verified. Otherwise the annuitant’s signed statement regarding the change will be sufficient.

Refusal to Furnish Information - When an individual refuses to furnish information about the receipt of a PSP or the pension amount, apply a total tier I offset high enough to zero out the net tier I.

1.3.208 Comparing PSP Information with SS Earnings

Use this table to determine the action to be taken in determining if a PSP offset should apply: When determining whether or not a case should be reduced for a PSP, always compare the applicant’s allegation regarding SS coverage with the SS earnings posted.

Employed by State or Local Government - If, on the last day of employment, the spouse was employed by a state or local government, use this chart to determine if the PSP offset applies.

SS Deductions Claimed	Action to be Taken
Yes	If the earnings record shows that SS deductions were made, do not apply the PSP reduction. If the earnings are shown under MQGE-Non-covered or Medicare Total, apply the offset.
Yes	If the wage record does not support the claim, have the F/O contact the spouse for verification of coverage.
No	Apply the PSP reduction

1.3.210 How to Determine the Pension Amount

For reduction purposes, the pension is the amount payable before deductions for health insurance, allotments, bonds, etc.; but after reduction for early retirement or survivor benefits. If the spouse is receiving a "Medicare Reimbursement," do not include it in the pension amount. If an individual receives more than one PSP, add the pensions together to determine the amount of reduction.

Periodic Payments - Because annuities are paid on a monthly basis, the PSP reduction should be based on the monthly rate. Multiply weekly pensions by 4.33 to find the monthly rate. Multiply biweekly pensions by 2.166 to find the monthly rate.

Pension Begins on Other than First Day of Month - If the pension begins on other than the first day of the month, the monthly pension rate should be prorated to equal the exact pension amount payable for that month. Subtract the day on which the pension begins from 31. Multiply the monthly rate by this figure and divide the product by 30. Prior to 12/84, use the prorated pension amount as the PSP reduction for that month. Beginning 12/84 and later, multiply the prorated pension amount by 2/3 to determine the PSP reduction amount for that month.

Example: The pension begins on 5/10/2005. Multiply the monthly pension rate by 21/30 (31 – 10 = 21 divided by 30) and then multiply this amount by 2/3. Use the result as the PSP reduction amount for the month of May (following normal rounding rules).

Only prorate the pension if it begins on a day other than the first of the month. If the pension increases, adjust tier 1 for the full amount of the increase from the

first day of the month in which it becomes payable regardless of the effective date of the increase or the date on which the increase is actually paid.

Lump-Sum Payments:

1) Full Lump Sum Payments: Defined as a lump sum payment in lieu of any periodic payment for a specific period of time (e.g., life), with no additional periodic payments being made. Determine the amount of the monthly pension for which the full lump sum was substituted and for the period of time that it covers. The PSP offset should begin with the month the periodic benefit would have been payable.

If the period of time is known, but the amount is not determinable, prorate the lump sum over that period of time, beginning with the month the pension would first have become payable.

If the only alternative to a lump sum is a life annuity, and the amount of the life annuity monthly benefit is known, use that amount for reduction purposes.

EXAMPLE: The spouse/widow elects a lump sum of $30,000.00 in lieu of periodic payments of $150.00 per month for life. The PSP reduction would be $100.00 (2/3 of $150.00).

If either the monthly reduction amount or period of time cannot be determined, refer to –RCM1.3 Appendix D.

A lump sum payment that is actually only a refund of the employee's contributions to a pension fund, plus interest, is not a PSP for offset purposes.

2) Partial Lump Sum Payments: Defined as a lump sum benefit made in lieu of some part of the periodic payment due for a specified period. These lump sum payments, also known as the partial lump sum option(PLOP), can be elected by the beneficiary and paid ***in addition*** to a reduced periodic benefit. Oftentimes, the beneficiary can choose from a number of PLOP's.

EXAMPLE 1: The spouse elected both a survivor option and a PLOP from her public service employer at the time of her retirement. Her periodic PSP would have been $1900 per month had she not chosen either option. Her survivor election reduced her periodic payment to $1700, while her election for a PLOP of $20,000 further reduced her periodic payment to $1500. Because PSP offset is based on a PSP ***after*** reduction for survivor benefits, but ***before*** the PLOP, the $1700 figure would be the basis of the PSP offset (2/3 of $1700 is the PSP offset amount = $1133.40), even though the spouse will be receiving a periodic payment of $1500.

Later increase in periodic rate where PLOP was paid: For the beneficiary who previously elected a PLOP and is now entitled to an increase in the periodic PSP

rate, add the amount of the PSP periodic rate increase to the amount of the PSP previously used to determine the PSP for offset purposes.

EXAMPLE 2: In the same example as example 1 above, the spouse's periodic payment is now increased the following year from $1500 to $1550. The basis for the new PSP rate for offset purposes is $50 plus the earlier amount used (which includes the amount relinquished for the PLOP). Add $50 to $1700 for the new PSP amount = $1750. 2/3 of $1750 = $1166.70 is the new PSP offset amount, effective with the month of the PSP increase.

3) Teachers Retirement System of Texas (TRS) January, 2008 Lump-Sum Payment: The TRS paid an extra check in January, 2008 to PSP recipients, who began receiving their PSP prior to January, 2007. The payment represented something of a substitute for a cost-of living increase for 2007, and was in the amount of the August, 2007 payment, but not to exceed $2400. This one-time payment is treated as a PSP partial lump sum for purposes of PSP offset, and must be prorated over the lifetime of the beneficiary for determining the new PSP offset amount effective January, 2008.

RBD/SBD will recompute the PSP offset factoring in the one-time payment prorating it based on the amount of the payment and the spouse/widow's age as of January 1, 2008. Actuarial tables for prorating the partial lump sum can be found in both RCM 1.3 Appendix D, and RCM 2.1 Appendix C. The factors to use for these cases will be those in the "Factors for Lump Sum Award Dates 6/1/2007 or Later" column.

Steps for determining the January 2008 PSP offset amount is as follows:

Step	***Action***
1	Determine the lump sum amount, which is equal to the August, 2007 PSP rate (use $2400 if the lump sum amount exceeds $2400)
2	Determine the spouse/widow age as of January 1, 2008.
3	Determine the actuarial value from the tables in RCM 1.3 Appendix D or RCM 2.1 Appendix C.
4	Divide the lump sum amount from step 1 by the actuarial value from step 3.
5	Multiply the result from step 4 by 2/3.
6	Round the result from step 5 up to the dime.
7	Add the result from step 6 to the existing PSP offset amount = **the new PSP offset amount.**

Example 1: The spouse is receiving a monthly PSP of $645.00 since January 2001 from TRS. The PSP offset is $430.00 (2/3 of $645.00). We assume the one-time payment is in the amount of $645.00 (still in effect August 2007), without evidence to the contrary. The spouse is 65 years of age (DOB 5/9/1942) as of January 1, 2008. Divide the pension lump sum amount ($645.00) by the actuarial value in the table corresponding to the spouse's age on the date of the lump sum payment (123.8), which equals $5.21. Multiply that result by 2/3, which equals $3.47, and round up to the dime ($3.50). Add that amount to the existing PSP offset amount, for a new PSP offset amount of $433.50 ($430.00 + $3.50) effective January, 2008.

Example 2: The spouse is receiving a monthly PSP of $2703.30 since February, 1998 from TRS. Her PSP offset is $1802.20 (2/3 of $2703.30). We assume the one-time payment is in the amount of $2400.00, the maximum. The spouse is 72 years of age (DOB 3/10/1935) as of January 1, 2008. Divide the pension lump sum amount ($2400.00) by the actuarial value in the table corresponding to the spouse's age on the date of the lump sum payment (101.2), which equals $23.72. Multiply that result by 2/3, which equals $15.81, rounded up to $15.90. Add that amount to the existing PSP offset amount, now totaling $1818.10 ($15.90 + $1802.20), as the new PSP offset amount effective January 1, 2008.

Future PSP offset adjustments

Any future PSP offset adjustment for changes in the PSP after January, 2008 will need to factor in this one-time payment. We are compiling a list of TRS PSP cases in a Word document on the J drive, in the "PSP Texas Teachers" folder. It will serve as an aid to examiners in determining whether a one-time PSP lump sum was paid by TRS under this provision. The listing includes spouses and widows.

While the list may not be all-inclusive, those cases identified by Field Offices this year should be on the list. Examiners should feel free to add cases to the listing, as identified, and then "save" the document to drive J.

If not otherwise available, examiners should be able to determine the amount of the re-computed PSP monthly rate used for PSP offset, by

1) checking PREH screen 3210, page 1 of 2, PSP-AMT effective with the 1/08 date break,

2) multiplying the PSP offset amount by 3/2, and

3) rounding the result down to the dime.

Example: Using the spouse in Example 2 above, $1818.10 would be shown on PREH as the PSP offset amount as of January 2008. Multiply $1818.10 x 3/2, and round down to the dime = $2727.10, the PSP rate used as the basis for the PSP offset effective January 2008. If for example, the spouse received a $15.00

increase in her periodic monthly PSP (from $2703.30 to $2718.30) effective January 2009, the $15.00 increase would be added to $2727.10 as the new PSP monthly rate ($2742.10). 2/3 of $2742.10 ($1828.10, rounded up from $1828.07) would be the new PSP offset amount effective January 2009.

Tolerance

As the example above shows, the PSP offset amount increase is small for most cases. Consider applying tolerance for any resulting overpayment, when applicable.

1.3.211 How to Determine the Reduction Amount

The tier 1 or OM should be reduced by the amount of the PSP as follows:

Two-thirds Reduction Effective 12-84 and Later - Effective 12-1-84, the annuity is reduced by 2/3 of the PSP amount. Multiply the pension amount by .66667. If the product is not a multiple of $.10, round it up to the next higher multiple of $.10.

PSP Eligibility Before 7-1-83 - If the spouse was eligible for a public pension before 7-1-83, reduce the annuity by the full amount of the public pension. This is true even if she was not entitled to a public pension until after 7-1-83. The full reduction is reduced to 2/3's effective 12-1-84.

PSP Eligibility 7-1-83 or Later - If the spouse was first eligible for a public pension 7-1-83 or later, the annuity is reduced by 2/3's of the amount of the public pension. Multiply the pension amount by .66667. The product, if not a multiple of $.10, is rounded to the next higher multiple of $.10.

1.3.212 When to Begin Reducing for the PSP

Begin reducing for the PSP as follows:

Current PSP Entitlement - Reduce for the PSP beginning on the later of the tier I effective date or O/M effective date or the first day of the month for which a pension is payable, regardless of when the pension is actually paid.

When the conditions for exception in 1.3.192 are met, and the ABD is before December 1982, remove the reduction for all months after November 1982.

Never apply a PSP reduction to any month prior to December 1977 regardless of the RR ABD, filing date or O/M effective date. If an annuity is based on an application filed after November 1977, and the ABD retroacts to before December 1977, reduce the PSP effective December 1977.

Never reduce an annuity for PSP if it is based on an effective application filed before December 1977. This includes cases where entitlement under the RR Act has changed since the application was filed, but no new application was

required. Examples are a spouse with child who converts to a full age spouse, or a spouse who converts to a full age divorced spouse.

Potential Entitlement - Reduce for potential PSP entitlement only when the spouse claims to have already filed an application for the pension. Base the effective date of the PSP on the expected date of receipt and apply a reduction large enough to make the net tier I zero. Use code paragraph 437 on the award letter.

If the spouse has not filed an application for a PSP, set a tickler call-up for one month before the expected date of entitlement (item 16 on the Form G-208). Upon receipt of the case, develop for information concerning possible entitlement through the field. Do not suspend or reduce the annuity until the development has been completed and a determination has been made.

1.3.213 Verifying the Pension Amount

The following tells when the pension amount should or should not be verified:

When Not to Verify - Do not verify the pension rate if, after reduction for PSP, age, SS benefit and/or EE annuity, the net tier I or spouse O/M benefit equals zero. The individual's allegation of the pension payable is sufficient for the purpose of applying total offset.

When to Verify - Verify the pension rate before initially paying or increasing a net tier I rate or spouse O/M benefit in any annuity reduced for PSP. The net tier I or spouse O/M benefit can increase because of a RECOMP or decrease in PSP or SS benefit rate. Do not verity the rate if the recalculated tier I or spouse O/M benefit remains zero.

Verity the pension rate with a copy of an award notice or other document from the agency issuing the pension.

1.3.215 Proofs Needed for Exemption from Offset

This section gives the different reasons a spouse could be exempt from PSP offset and the proofs needed to establish the exemption.

Exemption Based on PSP Eligibility Date - If the applicant claims to have been eligible for the pension before 12-1-82 or 7-1-83, but the pension did not begin until on or after 12-1-82 or 7-1-83, a letter from the employer or pension paying agency showing the date she was first eligible to retire and receive a pension is the desired proof.

Exemption Based on Receiving a CSRS Offset Pension.—The spouse must submit a statement from OPM stating that (s)he is receiving a CSRS Offset pension.

Exemption Based on Dependency - If the applicant could be exempt from the PSP offset because she was dependent on the employee for one-half support and was eligible for the PSP before 7-1-83, she must complete Form G-134, Statement of Contributions and Support. Do not develop for Form G-134 if the tier I is reduced to zero by an SS benefit or employee annuity. There is not time limit for proving dependency in order to qualify for this exception.

Exemption Based on FICA Taxes Being Deducted - If the applicant is receiving a PSP from a state or local employer and claims that FICA taxes were withheld on the day last worked, verify her claim with a DEQY.

Exemption Based on FICA Taxes Being Deducted on Last Day of Employment.-- If the applicant is receiving a PSP from a State employer and claims that FICA taxes were not deducted during the majority of working years but were deducted on the last day of employment, secure proof that FICA taxes were being deducted (e.g., a pay stub) and a statement from the agency paying the pension verifying her claim. It must state that the day last worked is included in the pension computation.

Exemption Based on FERS Election Before 7/1/88 - If the applicant claims to have elected FERS before 7/1/88, secure one of the following:

- An Election of Coverage Form (OPM Form 1555) signed by the claimant, or a statement from OPM, or the employing agency showing a timely or belated election was filed, or

- A FERS annuity statement from OPM showing an annuity commencement date before 1/1/88, or

- A statement from OPM showing an open season election was deemed to have been filed before 7/1/88, or

- A statement from the Merit System Protection Board (MSPB) showing a correction retroactive to 12/31/87 was allowed, or

- A DEQY showing that covered Federal employment began before 1/1/88, or

- A statement from OPM or the employing agency showing the Federal employment was covered under Social Security regulations.

Exemption Based on FERS Election in 1998 - If the applicant claims to have elected FERS in 1998, secure the following:

- A DEQY showing the 60 months of covered Federal employment. If the DEQY does not prove the applicant's claim, secure one of the following:

- An Election of Coverage Form (OPM Form 1555) signed by the claimant, or a statement from OPM, or the employing agency showing an election was filed, or

- A FERS annuity statement from OPM showing the commencement date, or

- A statement from OPM showing an open season election was filed.

Federal Employee Hired After 12/31/1983 - If the applicant claims to be exempt from offset because she was hired for Federal employment after 12/31/1983, use a DEQY to verify her statement.

State or Local Employees Claiming Exemption Under P.L.108-103.-- If FICA taxes have been continuously deducted from the spouse's wages for at least the last seven years, the claims representative will secure a statement from the employing agency giving this information.

If the applicant is unable to secure a statement, the field office will indicate, on APPLE, that headquarters will secure proof. In this situation, request a DEQY to verity the FICA deductions.

If FICA deductions were not made on a regular basis, a statement from the employing agency detailing the months in which FICA taxes were deducted is needed.

1.3.216 Public Service Pension Monitoring

Public Service Pensions are monitored as follows:

Non-OPM-Pensions - The annual COLA operation identifies spouses who are receiving a public service pension with a net tier I greater than zero. These cases are referred to the field offices for monitoring.

OPM Pensions - Federal Public Service Pensions receive a COLA each December. The COLA operation determines the new PSP reduction amount based on the cost-of-living increase payable to Federal employees.

Once each year, a match is run to compare our records to OPM's. Refer to RCM 6.8 for Instructions on handling referrals generated by this run.

1.3.217 How PSP Cases are Processed Spouse (Male or Female)

Spouse applications are processed on RASI. If the spouse is receiving a Public Service Pension and is not exempt from the offset, RASI will set a 957 call-up. A referral is issued with the message: "957 REQUIRED – PUBLIC SERVICE PENSION INDICATED – SPAR T1 NOW ZERO."

When a SPAR has been entered, RASI will zero out the tier I, but will pay the Tier II.

Process the RASI referral as explained in RCM 9.3.13.

Divorced Spouse - Divorced spouse applications are processed through ROC. Review the Public Service Pension screen on APPLE and pay the case accordingly.

1.3.220 SS Benefits Subject to the PSP Provision

SSA's terminology for PSP reduction is "Government Pension Offset - GPO." When paying an RRB annuitant entitled to an SSA auxiliary or survivor benefit, always check the LAF CODE to determine if a GPO has been applied. If the LAF CODE is "SH," the GPO applies and the benefit is in suspense.

Since our PSP reduction provisions are based on the SS Act, the conditions for reduction (RCM 1.3.181) and exception (RCM 1.3.185) apply to all auxiliary and survivor SS beneficiaries who filed their applications on or after 12-1-77. (A GPO IS NEVER APPLIED TO A RIB OR DIB. However, these benefits may be subject to a non-covered service pension offset as explained in RCM 1.1.15 - RCM 1.1.18.)

Appendices

Appendix A - Spouse Annuity Legislative History

Effective Date	Spouse Annuity Provision
11-1-1951	The spouse of an employee who was awarded a commuted value annuity on or after 10-30-51 is not disqualified from receiving a spouse annuity.
11-1-1951	Annuity for a spouse age 65 or a wife under age 65 with a minor child in her care who would be entitled to a child's insurance annuity (CIA) were the employee to die.
09-1-1954	Annuity for a wife under age 65 with a disabled child in her care who would be entitled to a CIA were the employee to die.
06-1-1959	Reduced spouse annuity at age 62, if the employee is age 65.
10-1-1961	Spouse is eligible after one year of marriage. If she was entitled to certain survivor benefits under the RR Act before remarrying, no waiting period is necessary.

Effective Date	Spouse Annuity Provision
10-1-1965	Full dual benefit reduction repealed.
11-1-1966	Annuity for a wife under age 65 with a minor or disabled child in her care, even if the child would not be entitled to a CIA were the employee to die. Provide for adjusting 1/180th reduction months when a reduced age annuity is increased after 10-29-66 by recomputation or by amendment.
11-1-1966	Rounding RR annuities so the last digit ends in 5.
02-1-1968	De facto spouse is eligible for an annuity. Reduction for SS Act benefit entitlement in order to duplicate the increases provided in the 1965 and 1967 SS Act Amendments. (Guaranteed a minimum spouse increase of $5.00.)
01-1-1973	Child disabled before attaining age 22 may qualify a spouse for an annuity. Grandchild who meets dependency requirements may qualify a spouse for an annuity.
01-1-1975	Full spouse annuity at age 60, or at any age if the spouse has the employee's minor or disabled child in her care, provided the employee retired after 6-30-74 with at least 354 service months and the employee has attained age 60. Reduced spouse annuity at age 62 if the employee retired after 12-31-74, has less than 354 service months, and has attained age 62. Tiered annuity computation under the 1974 Railroad Retirement Act. Work deductions applied to portions of a spouse annuity if there is a work deduction insured status and excess earnings or employee annuity is reduced for excess earnings. Work deductions for spouse’s own excess earnings removed when the spouse attains age 72.
03-1-1977	Nondependent male spouse is eligible for an annuity.

Effective Date	Spouse Annuity Provision
12-1-1977	Reduction established in tier I for a nondependent husband's public service pension.
01-1-1978	In work deduction computations, nonwork months are considered only in the first year after 1977 the beneficiary is entitled to an annuity. If a wife is entitled based on having a child in her care, non-work months are also considered in the year of termination if the termination is not due to the death of the beneficiary.
12-1-1978	A nondependent male spouse may receive a windfall at age 60 or be included in the O/M if he is eligible for an SS benefit based on having in his care a child eligible for a child's SS benefit based on the employee's wage record.
08-13-1981	No new vested dual benefits are payable to spouses beginning 8-13-81.
09-1-1981	Tier 1 equals zero when the child attains age 16, if entitlement began 9-1-81 or later. NOTE: Per Board Order 92-263, full tier I is payable until age 18 in cases where the child attains age 16 after 7-92. Per Board Order 93-108, tier 1 benefits terminated under the 9-81 provision were paid retroactive to 1-1-86. Tier 1 may not begin before the first full month the eligibility requirements are met. Spouse Tier 1 is based on the EE's PIA 1 x 50% rounded down to a dollar effective with annuities awarded or adjusted after August 1981.
10-1-1981	Divorced spouse is eligible for an annuity. Spouse maximum eliminated for annuities first paid 10-1-81 or later.

Effective Date	Spouse Annuity Provision
10-1-1981	Age reduction is applied to each tier separately, effective with annuities awarded and adjusted 10-1-81 or later. The age reduction factor applicable on the ABD will be applied to all annuity adjustments paid 10-1-81 or later. The age reduction factor for spouse annuities initially paid 10-1-81 or later is 1/144 for each month the annuitant is under age 65 on the ABD. The Tier 1 reduction sequence in spouse annuities initially paid 10-1-81 or later, is public service pension, age, SS benefit and own EE annuity, as applicable. The spouse's Tier 2 is based on 45% of the EE's Tier 2, if the spouse was initially paid 10-1-81 or later. Creation of the Dual Benefits Payment Account, thereby necessitating cutbacks in the vested dual benefit payable.
01-1-1982	Reduced Tier 1 by the SS benefit amount payable before work deductions. Eliminate Tier 1 work deductions for any month in which an SS benefit reduction applies. Eliminate ABD month only work deductions except when the ABD is the first of the month and excess earnings are indicated for that month.
06-1-1982	Retroactivity of application limited for tier 1.
09-1-1982	Tier 1 may be reduced if disability annuitant is entitled to worker's compensation or a public disability benefit.
12-1-1982	Reduction in Tier 1 for all spouse or divorced spouse annuitants who are eligible for a public service pension 12-1-82 or later. Reduction does not apply to any annuitant who is eligible for the public service pension before 7-1-83 and is dependent.
01-1-1983	Work deductions no longer apply in the month the annuitant attains age 70.
05-1-1983	A husband is eligible for a tier 1 only annuity, based on having a child in care.
07-1-1983	If an annuitant is first eligible for the PSP 7-1-83 or later, the tier 2 reduction is only 2/3 of the PSP. Dependency does not cause

Effective Date	Spouse Annuity Provision
	exemption.
08-12-1983	The living with requirement is eliminated except for de facto (deemed) spouses and spouse entitlements beginning before 8-12-83.
09-01-1983	Retroactivity of Tier 1 and tier 2 is limited for spouse applications filed 9-1-83 or later.
08-12-1983	Age reduction applied to a spouse annuity will not change when that annuity is converted to a divorced spouse annuity.
09-01-1983	Tier 2 and vested dual benefit (windfall) annuity components of employee of spouse benefits and supplemental annuities can be subject to community property settlements in dissolution of marriage cases.
09-01-1983	Military service reduction removed.
09-01-1983	The same ABD is established for the Tier 1 and Tier 2 benefit. The retroactivity of a spouse Tier 2 is limited to no more than 6 months to agree with Tier I retroactivity.
12-01-1983	Cost-of-living increase changed from July 1 to December 1. The Tier 2 takeback provisions applied in the 12-1-83 COL operation.
01-01-1984	Annuities are subject to taxation.
07-01-1984	Spouses of age and service employees who attain age 60 and acquire 30 years of service 7-1-84 or later, are subject to reduction for age if the employee retires before age 62. Spouses of disability annuitants who have a disability annuity beginning date on or after July 1, 1984 are subject to an age reduction.
12-01-1984	The PSP reduction is 2/3 of the PSP amount for all annuitants. The PSP reduction may be removed if the spouse is deemed to be eligible for the PSP in 11-82 or 6-83, when PSP entitlement was delayed because of a full month requirement.
01-01-1985	Divorced spouses are no longer subject to work deductions because of the employee's earnings, if they have been divorced at least two years. The tier 1 of a spouse who is not a U.S. citizen, and is outside the U.S. more than six months, may be suspended under an alien

Effective Date	Spouse Annuity Provision
	nonpayment provision.
01-01-1986	Some spouse annuities are affected by the employee's noncovered service pension.
12-01-1988	Employee's or spouse's last pre-retirement nonrailroad employment permitted after ABD with earnings deduction in spouse's tier 2.
1-01-2001	Definition of “full retirement age” gradually changes from age 65 to age 67 for spouse annuitants born after 1937.
1-1-2002	Age reduction no longer applies for an employee who receives a 60/30 annuity with an ABD at age 60-61, provided the ABD is January 1, 2002, or later. Also, age reduction no longer applies to the annuities of their spouses. Age reduction no longer applies for spouses of 60/30 disability annuitants, regardless of the employee’s ABD, if the spouse ABD is 1-1-2002 or later.
1-1-2002	RRA Max provision removed from RRA effective with rates payable from January 1, 2002.
1-1-2002	Spouses or divorced spouses may qualify for annuities at age 62 based the record of employees who have less than 120 months of railroad service, but at least 60 months of railroad service after 1995. Tier 1 is payable only when the age and service employee has sufficient quarters of coverage based on combined railroad compensation and SSA wages for an SS Act Fully Insured Status or when the disability annuitant has an actual disability freeze.

Effective Date	Spouse Annuity Provision
08-17-2007	PL 109-280 allows for the independent entitlement of divorced spouses. Spouses who have been divorced from the employee for 2 years will be able to apply for divorced spouse benefits when both the employee and the spouse are 62 for a full month, and the employee has 120 months of service, or 60 months of service after 1995. The employee will not have to stop work in the railroad industry or relinquish rights in order for the independently entitled divorced spouse to receive an annuity.

Appendix B - Dual Benefit Reduction under The 1937 Railroad Retirement Act

B1. When Reduction Was Applicable Under The 1937 Railroad Retirement Act

A. General - Prior to 10-1-65, a spouse annuity was reduced by the amount of any "other benefit" (except a WIB) the spouse was entitled or potentially entitled to under the 1937 RR Act or SS Act. However, a wife under age 65 receiving a spouse annuity based on a child in her care was not subject to reduction for potential entitlement.

Effective 10-1-65, a spouse annuity was paid without a full reduction for any "other" benefit (social security or railroad retirement) (s)he may be receiving. An annuity was also paid to a spouse whose annuity was commuted prior to 10-1-65 because of entitlement to "other" benefits. However, effective 11-1-66 it is necessary to reduce a spouse annuity for social security benefits.

B. 1937 RR Act Benefits - A spouse annuity for any month was reduced by the amount of any retirement annuity or parent's insurance annuity to which the spouse was entitled or potentially entitled, (except as noted in A above) including the monthly amount on which a commuted award was based.

C. SS Act Benefits - A spouse annuity for any month was reduced by the amount of any monthly insurance benefit (except a WIB) to which the spouse was entitled or potentially entitled (except as noted in A above). The term "monthly insurance benefit" refers to an RIB or DIB based on the spouse's wage record or an SSA benefit based on a wage record other than the spouse's or employee's.

If the spouse, because of entitlement to another insurance benefit under the SS Act, had not been awarded a WIB, became disentitled to a WIB after having been awarded such benefit, or had a WIB reduced, the 1937

RR Act spouse annuity was reduced only by the amount that the other benefit EXCEEDED the WIB to which the spouse would have otherwise been entitled.

NOTE: When a spouse was receiving a reduced RIB before age 65 and the O/M was never applied to increase the employee's retirement annuity, the spouse annuity under the 1937 RR Act was reduced by the amount of the reduced RIB.

B2. If Spouse Applicant Had Been Awarded An Employee Or Parent's Insurance Annuity

When a spouse's employee annuity or parent's insurance annuity equaled or exceeded the amount of the spouse annuity, the application for the spouse annuity was denied. If the spouse annuity exceeded the employee annuity or parent's insurance annuity, only the amount by which it exceeded such annuity was payable.

B3. When To Assume That A Spouse, Entitled To An RIB, Was Also Entitled To A WIB

In any case in which a spouse annuity was subject to reduction due to entitlement to an RIB and the employee annuitant was also entitled to an RIB, it was assumed that the spouse was entitled to a WIB or would have been if (s)he were not entitled to an RIB. The amount of the WIB was determined as explained in sections A, B, and C below.

A. Spouse at Least Age 65 in First Month of Employee's Entitlement to RIB - The amount of the WIB was assumed to be equal to one-half of the employee annuitant's PIA. The amount was rounded to the next higher multiple of ten cents.

B. Spouse Under Age 65 in First Month of Employee's Entitlement to RIB, Applying for Reduced Spouse Annuity on Basis of Child in Her Care - Same as A above.

C. Spouse Under Age 65 in First Month of Employee's Entitlement to RIB, Applying for Reduced Spouse Annuity - The amount of the WIB was assumed to be equal to one-half of the employee annuitant's PIA rounded to the next higher multiple of ten cents reduced by 1/144 for each month the spouse was under age 65 when entitlement began.

B4. Reduction For RIB Or Parent's Insurance Benefit When Spouse Was Entitled Or Had Been Disentitled To WIB

When a spouse was entitled to an RIB or parent's insurance benefit which was equal to or less than the WIB to which the spouse was otherwise entitled, the spouse annuity was not subject to any reduction. If the RIB or parent's insurance

benefit was more than the WIB to which the spouse was otherwise entitled, only the difference between the two benefits was deducted from the spouse annuity.

Under the SS Act, a spouse cannot become entitled to a WIB if (s)he is already entitled to an RIB or parent's insurance benefit which is more than the WIB. When a spouse never became entitled to a WIB for this reason, the same rules applied as in the case of a spouse who had once been entitled and later became disentitled to a WIB.

B5. When Spouse Was Entitled To WIB

When the WIB equaled or exceeded the RIB or parent's insurance benefit, or when the spouse was entitled only to a WIB, no reduction was made in the spouse annuity under the 1937 RR Act.

B6. When Spouse Was Entitled To RIB Or To Parent's Insurance Benefit Underthe SS Act

When the SSA benefit data indicated that a spouse was entitled or, if age 65 or older, was potentially entitled to an RIB or parent's insurance benefit and no WIB was involved, the spouse 1937 RR Act annuity was reduced by the total amount of the benefit payable under the SS Act. If the spouse applicant was under age 65 and only potentially entitled to an RIB, A or B below applied.

A. Wife Applied for a 1937 RR Act Wife's Annuity on the Basis of Having a Child in Her Care - The wife's annuity was not reduced for potential entitlement.

B. Spouse Applied for a Reduced Spouse 1937 RR Act Annuity - The spouse annuity was reduced by the amount of the reduced RIB to which the spouse would have been entitled on the beginning date of the spouse annuity if the spouse were to have filed an application at SSA. If potential entitlement first occurred after the beginning date of the spouse annuity, reduction was by the amount of the RIB to which the spouse would have been entitled on the first day of potential entitlement.

B7. Elimination Of Dual Benefit Reduction Under The 1937 Railroad Retirement Act

The dual benefit reduction under the 1937 Railroad Retirement Act was repealed effective 10-1-65. This permitted the Board to:

A. Pay full benefits to spouse 1937 RR Act annuitants whose annuities were reduced prior to 10-1-65 because of entitlement to "other benefits."

B. Reinstate payments effective 10-1-65 in cases in which a 1937 RR Act spouse annuity was suspended, terminated, or denied because of entitlement to "other benefits."

C. Begin monthly payments in cases in which a spouse 1937 RR Act annuity was commuted before 10-1-65 because of entitlement to "other benefits." In this type of case, the spouse was permitted to retain the commuted lump sum amount. However, the monthly rate was reduced by the amount of the monthly rate on which the commuted lump sum was based. (See following example.)

EXAMPLE

Before 10-1-65			Effective 10-1-65		
Spouse annuity rate	=	$50.00	Spouse annuity rate	=	$50.00
Reduction for "Other Benefits"	=	-47.00	Reduction for commuted lump-sum	=	-3.00
Monthly rate	=	3.00	Monthly rate	=	$47.00
Commuted lump-sum paid	=	$450.00			

The 1974 Railroad Retirement Act provisions for dual benefits are explained in RCM 1.3.10 - 1.3.11.

Appendix C - Spouse's Annuities

C1. History Of Spouse Elections.

A. Initiation of Spouse Election Procedure - The Social Security Act was amended effective 11-1-56 to provide reduced benefits for wives ages 62-64 11/12 if the wage earner was at least age 62 or had a DIB Insured Status (see RCM 5.6.11). At that time, the Railroad Retirement Act stated that a wife of an RR annuitant 65 or over could not qualify for an RRA spouse annuity until age 65 unless she had a minor or disabled child of the employee in her care.

The spouse election procedure was initiated to permit the inclusion of wives age 62-64 11/12, who would have qualified under SSA rules, in the O/M computation provided the employee had attained age 62 or had a DIB Insured Status. The employee's annuity increased under the O/M to include a share for his wife until she became entitled to a RR spouse annuity ate age 65. By filing an election, the wife agreed to have her spouse annuity permanently reduced by a specific amount in order to permit her husband's annuity to be increased under the O/M.

B. Effect of 1959 RRA Amendments - Effective 6-1-59, a reduced spouse annuity became payable to a spouse 62-64 11/12 provided the employee was 65 or over. As a practical matter, this amendment eliminated the

need for spouse elections except in cases where the employee annuitant was ages 62-64 11/12 or had a DIB Insured Status. With the enactment of the 1959 RRA amendments, the Board discontinued soliciting spouse elections.

C. Effect of 1972 RRA Amendments - Effective 9-1-72, limitations were placed on the switching of annuity rates to the O/M formula from the RR formula.

Cases were initially tested for a possible spouse election on the basis of the age of the spouse shown on the employee's application. A message was printed on the award form if the O/M would apply immediately or a call-up was established if the O/M could apply when the employee or spouse attained age 62. Examiners developed all possible spouse election cases when payable.

D. Effect of 1974 Railroad Retirement Act - The benefits payable under the 1974 Railroad Retirement Act eliminated the need for a spouse election in most cases (see RCM 1.3.7). The Board again discontinued soliciting spouse elections. Spouse election information is released only when an inquiry concerning benefit entitlement or adjustment is received from an eligible employee or age 62-64 11/12 spouse.

The 1981 RR Act Amendments have no effect on spouse election procedure.

E. Spouse Election Cases Under the 1937 Railroad Retirement Act - The employee's age and service O/M or DIB O/M computation could be increased on the basis of a "spouse election" filed by the employee and spouse to include the spouse age 62-64 11/12 (without a child in her care if the spouse is female), who is not eligible for a railroad spouse annuity until the employee attains the required age, as an IPI in the employee's O/M computation. The employee must have been insured for the O/M as explained in RCM 8.3.8 and the spouse must meet all the eligibility requirements explained in RCM 8.3.22l.

An adjustment computed on Form G-168 for the reduced age spouse benefits paid before the spouse qualifies for the railroad spouse annuity is later applied as an actuarial reduction to the spouse annuity railroad formula rate when payable under the 1937 RR Act or 1974 RR Act (see RCM 8.3 Appendix A).

A spouse election was not required to include a spouse age 65 or a female spouse with the employee's minor or disabled child in her care as an IPI either in the employee's age and service O/M, if the employee is at least age 62; or in the employee's DIM O/M, if the employee has DIB Insured Status (see RCM 5.6.11). The spouse must have met all the

eligibility requirements in RCM 8.3.22. No reduction is applied to a future railroad spouse annuity for these IPI spouse benefits paid without an age reduction before the RR spouse annuity ABD.

F. Spouse Election Cases Under 1974 Railroad Retirement Act - Assuming the spouse meets all other eligibility requirements, a spouse election is currently required to increase the employee's annuity under the Retirement O/M computation only in the following cases:

- The Employee ABD and Filing Date are Both Before 1-1-75 - The spouse is not eligible for a railroad spouse annuity until the employee attains age 65 if the employee's reduced age annuity (2(a)3 or disability annuity (2(a)4 or 2(a)5):

  - began before July 1, 1974; or,

  - began between July 1, 1974 and December 31, 1974 and the employee had less than 30 years of railroad service.

  The spouse age 62-64 11/12 (without the employee's minor or disabled child in care if female spouse, or male spouse effective December 1978 or later) may file a "spouse election" to be included as an IPI in the O/M computation if the employee either has attained age 62 or has a "DIB Insured Status as explained in RCM 5.6.11.

- The Employee ABD or Filing Date is 1-1-75 or Later With Less Than 30 Years Service - If the employee is receiving an annuity based on disability (2(a)(1)(iv) or 2(a)(1)(v)), the spouse is not eligible for a railroad spouse annuity until the employee attains age 62. A spouse age 62-64 11/12 (without the employee's minor or disabled child in care, if female spouse, or male spouse effective December 1978 or later) may file a "spouse election" if the employee is under age 62 and has a DIB Insured Status as explained in RCM 5.6.11.

- The Employee ABD is 7-1-74 or Later With 30 or More Years of Service - If the employee under age 60 is receiving an annuity based on disability, the spouse is not eligible for a railroad spouse annuity until the employee attains age 60. A spouse age 62-64 11/12 (without the employee's minor or disabled child in care, if female spouse, or male spouse effective December, 1978 or later) may file a "spouse election if the employee has a DIB Insured Status as explained in RCM 5.6.11.

Spouse elections in force are adjusted as explained in RCM 8.3 Appendix A.

C2. Disability Freeze Cases Previously Code For Call-Up When Disability Annuitant's Wife Attains Age 62

A number of disability freeze cases were previously coded for call-up upon the attainment of age 62 of the wife of a disability annuitant who would still be under the required age to qualify his wife for a spouse annuity when she reaches age 62. No action to solicit a wife's election is to be taken in these cases when the wife attains age 62, unless the annuitant or his wife had previously inquired about additional benefits payable for the spouse.

In those cases where the wife is older than her husband and will attain age 65 before the month her husband will attain the required age to qualify her for a spouse annuity, make a new call-up for the first day of the month in which the wife will attain age 65, if the inclusion of the wife in the computation of her husband's annuity under the O/M would result in a larger annuity.

C3. Answering Inquiries From Employee Or Spouse When Election Information Previously Furnished

If Forms RL-162, RL-162a, RL-163 or a dictated spouse election letter were previously furnished, the time limit of 30 days has expired, it is past the O/M effective date, and the employee or spouse inquiries about entitlement to a spouse election, use Code Letters 452 and 453 to answer these inquiries.

EXCEPTION: In a case where a spouse is older than the employee, and the O/M is being paid at the time the spouse attains age 65, she may be included in the O/M computations even though she refused the election at age 62 or did not respond to the election information.

C4. Effects Of Death Of Employee Or Spouse On Spouse Election

A spouse election was not to be solicited after the death of the employee annuitant. However, an election filed after the death of the employee annuitant was a valid election and any increase in annuity due to the election is paid as an accrued annuity due but unpaid at death.

An election is not valid if received at an office of the Board after the date of the spouse's death or after the date a spouse's annuity award is approved.

C5. Retroactivity Of Spouse Election

The spouse may be included in the employee annuity retroactive to the first of the month in which the employee and spouse meet the eligibility requirements (see RCM 1.3.7) provided the spouse election is filed within thirty days of the release of the spouse election information.

C6. Computation Of Spouse Election Reduction

The initial computation of the spouse election reduction is explained in RCM 8.3, Appendix A.

Recomputation of the estimated adjustment amount is required for spouse elections in force when the spouse files for an RR spouse annuity if the spouse was not included as an IPI in the Retirement O/M computation for all months used in the computation of the estimate, or if the Retirement O/M monthly rate changed after the computation of the estimate.

C7. Use Of Form Letters Rl-162, Rl-162a, And Rl-163

Prior to the 1974 Railroad Retirement Act, spouse elections were solicited by the adjudication units by the release of Form Letter RL-162 when the spouse was younger than the employee or Form Letter RL-162a when the spouse will attain age 65 before the month in which the employee will reach age 65. Form Letter RL-163 was released to the employee with an attached copy of the letter that was released to the spouse. These letters were not controlled or traced for a response.

The spouse must have responded to these letters within 30 days to be eligible for the spouse election. However, elections received after the 30 day period but before the first month the O/M was applicable (attainment of age 62 in most cases) were accepted.

The form letters, RL-162, RL-162a and RL-163 are now obsolete.

C8. Current Procedure For Release Of Spouse Election Information

If the employee or spouse inquires about entitlement of the spouse to benefits at RRB, the adjudication units are to determine if a spouse election is possible. If an election is possible have the required rates computed and forward the case to M&P-A for release of a dictated letter to the employee and spouse.

An application for a spouse's annuity which must be denied because the annuitant is under age 65, or an application for a wife's benefit at SSA on the RR employee's wage record will also be considered as an inquiry for spouse benefits for the purpose of considering a spouse election.

C9. Application Required In Spouse Election Cases

In order to process a "spouse election" the spouse must file Form G-319 plus a signed statement witnessed by a Board representative, indicating that s(he) understand that:

- The amount of the spouse's annuity (s)he may receive in the future will be permanently reduced to take into account the additional amount paid to the employee before (s)he becomes entitled to a spouse annuity; and,

- This election will not cause a reduction in any annuity payable to her(him) as a widow(er); and,

- This election cannot be revoked or changed in any way after the employee's annuity has been increased.

- The employee must also file Form G-319 plus a signed statement, witnessed by a Board representative, indicating that (s)he understands that as a result of the election made by the spouse:

- His(her) annuity will be increased and (s)he will receive at least the amount his(her) spouse and (s)he would receive if his(her) railroad service were covered by the Social Security Act; and,

- The amount of the spouse annuity that the spouse may receive in the future will be permanently reduced to take into account the additional amount paid to him(her) before his(her) spouse became entitled to a spouse annuity; and,

- All or part of the increase will not be payable if:

  - While under age 72, the spouse

    (1) works outside the U.S.; or,

    (2) works in the United States and earns over the annual earnings exempt amount; or,

  - The employee or spouse receives social security benefits; or,

  - The marriage is terminated by death or divorce.

The employee must agree to notify the Board promptly of the occurrence of any of these events.

Form G-340, which was previously used in these case, is now obsolete.

C10. Evidence Required In Spouse Election Cases

The following evidence is required in spouse election cases:

Evidence	**When Required**
G-319 Statement Regarding	Always from both the employee and the

Family And Earnings For Special Guaranty Computation	spouse
Age of spouse	Always
Marriage	Always (prior to 6-1-58 documentary evidence not required, spouse's statement was acceptable if verified by employee's G-346.)
Termination of prior marriage	If reasonable doubt whether prior marriage of either wife or husband was ended.
Proof of one-half support of husband	In male spouse cases prior to 3-1-77.
Living with	Required for months prior to 9-1957 and for awards and recertifications made after 10-4-72.
Statements described in Appendix C9	Always

C11. Work Deduction In Spouse Election Cases

The increase to the employee benefit due to the inclusion of the spouse benefit in the O/M computation is subject to work deductions if the employee or spouse has excess earnings (see RCM 8.3.135 - 8.3.143).

C12. Finality Of Spouse Election

Once the O/M computation rate is paid with the spouse election, the election cannot be cancelled. The spouse election reduction can, however, be adjusted for non-payment months when the spouse annuity is payable (see RCM 8.3, Appendix A).

The employee's monthly rate may revert back to the RR formula computation whenever this rate exceeds the O/M computation rate.

C13. Recovery Of Overpayment From Spouse Election Accrual

An accrued employee O/M annuity due to the "spouse election" may be used to recover the employee's previous annuity overpayment. The spouse IPI benefits are considered to be "paid" and the reduction for these months of payment before the spouse ABD is to be applied to the spouse annuity when payable. This should be explained when releasing the spouse election information.

RUIA clearance is not required if the annuity is being increased solely because of a spouse election.

C14. Non-Payment Months In Spouse Election Cases Before Spouse Annuity ABD

If the spouse was not included in the computation of the monthly benefits actually paid to the employee for a month that was included on Form G-168 in the computation of the estimated spouse election reduction, the spouse election reduction is recomputed to drop the non-payment months when the spouse becomes entitled to an RR spouse annuity.

NOTE: The age reduction under the Retirement O/M computation is not adjusted to drop non-payment months until the spouse attains age 65.

The net increase in the employee's 100% O/M or 110% grandfather O/M computation due to the "spouse election" is not payable when:

1. The employee or spouse suffers a full work deduction under the Social Security formula (see RCM 8.3.136 and RCM 8.3.139); or,

2. The employee annuity is not payable because the employee worked in "employer" or last person" service; or,

3. The employee's disability annuity is not payable because of earnings in excess of $200 a month; or,

4. The DIB O/M employee annuitant is reported by the SSA to have refused vocational rehabilitation and a VR deduction would be assessed under the Social Security Act; or,

5. The employee's railroad formula rate exceeds the family O/M computation rate.

Before 8-1-61 three non-payment months were necessary to recompute the spouse election reduction. Effective 8-1-61 only one non-payment months is necessary to recompute the spouse election reduction.

C15. Termination Of Increase In Employee Annuity

The increase made in the employee's annuity by reason of a spouse election will end with the month immediately preceding the month in which:

(1) The marriage of the employee and the spouse is ended by a final divorce decree; or,

(2) The defacto wife or husband enters into a valid marriage with another person; or,

(3) The spouse dies; or

(4) The spouse is awarded a spouse annuity.

NOTE 1: If a person other than the spouse included in the O/M qualifies for a spouse benefit under the SS Act as the legal spouse of the employee, send the case to M&P-A.

NOTE 2: If the spouse annuity ABD is after the first of the month, the spouse election increase is payable up to the day before the spouse annuity ABD.

If the employee is under age 62 and the DIB Insured Status is terminated, the increase made in the employee's annuity by reason of the spouse election will end the second month after the month in which the disability ceased.

C16. Adjustment Of Estimated Reductions When Spouse Files AA-3

The figures used in the computation of the estimated reduction amount on Form G-168 are based on the known facts at the time the estimate is computed. When the spouse files for the RR spouse annuity, the actual reduction amount must be determined as explained in RCM 8.3 Appendix A.

C17. Spouse Later Does Not Qualify For RR Annuity

A spouse who has filed a valid "spouse election" is retained in the O/M computation as long as (s)he meets the Social Security Act eligibility requirements, even though (s)he is later not eligible for a railroad spouse annuity (e.g. working in LPS or RR service) or does not file for a spouse annuity.

The additional amount included in the employee annuity under the over all minimum provision due to the "spouse election" cannot in itself be regarded as regular contributions towards the spouse's support to qualify the spouse for an RR spouse annuity. The O/M payment is made only to the employee with nothing in the statute requiring it to be paid to the spouse or used for her support. The employee must either file an assignment of payment (see RCM 8.3.170) or make regular contributions to the spouse to meet the support requirement.

C18. Effect Of Spouse Election On Spouse's Own Retirement Annuity Calculation

The spouse's own employee retirement annuity is affected by the spouse election only to the extent of the adjustment required for the dual benefit entitlement (see RCM 8.3.112 for Retirement O/M Cases).

The spouse election reduction is an "actuarial adjustment" to the spouse annuity only. It is never transferred to the spouse's own employee retirement annuity.

C19. Effect Of Spouse Election On Future Widow(er)'S Annuity Calculation

The spouse election reduction is never applied to the widow(er)'s annuity. Where the spouse made an election to be included in the 100% O/M or 110% Grandfather O/M computation of the employee's annuity and subsequently does not become entitled to a railroad spouse annuity in a month before the month in which the employee died, no reduction is required due to the "spouse election."

Where the spouse made an election to be included in the 100% O/M or 110% Grandfather O/M computation of the employee's annuity and subsequently was paid a spouse annuity that had a "spouse election" reduction in the month before the month in which the employee died, the spouse minimum rate used in the computation of the widow(er)'s annuity is the spouse annuity rate before the spouse election reduction.

EXAMPLE: The spouse RR annuity effective 9-1-79 before the "spouse election" reduction is $198.44. The reduction of $5.89 results in a spouse benefit payable of $192.55. The employee dies 12-3-79. The spouse minimum rate considered in the WIA computation effective 12-1-79 is $198.44 (rate before "spouse election" reduction).

Appendix D - Determining the PSP Amount When the Spouse Receives a Lump-Sum Payment

If the spouse receives a lump-sum payment for an unspecified period of time, determine the monthly PSP amount as follows:

1. Divide the lump-sum amount by the factor in the table shown below. Use the value that corresponds to the spouse's age, in years, at the time the lump-sum payment is made.

Age When Lump-sum was Paid	Factors for Lump Sum Award Dates 6/1/2011 or Later	Factors for Lump Sum Award Dates 6/1/2007 thru 5/31/2011	Factors for Lump Sum Award Dates 5/31/2007 or Earlier
40 or under	183.1	179.7	172.7
41	181.7	178.3	171.1
42	180.2	176.8	169.3
43	178.6	175.2	167.6
44	177.1	173.6	165.7

Age When Lump-sum was Paid	Factors for Lump Sum Award Dates 6/1/2011 or Later	Factors for Lump Sum Award Dates 6/1/2007 thru 5/31/2011	Factors for Lump Sum Award Dates 5/31/2007 or Earlier
45	175.4	172.0	163.8
46	173.7	170.2	161.8
47	171.9	168.4	159.7
48	170.1	166.6	157.6
49	168.2	164.7	155.4
50	166.3	162.7	153.2
51	164.3	160.6	150.8
52	162.2	158.4	148.4
53	160.1	156.2	146.0
54	157.9	153.9	143.5
55	155.6	151.5	140.9
56	153.2	149.0	138.3
57	150.7	146.5	135.6
58	148.2	143.9	132.8
59	145.5	141.2	130.0
60	142.8	138.4	127.2
61	140.1	135.6	124.2
62	137.3	132.8	121.3
63	134.4	129.8	118.2
64	131.4	126.8	115.2
65	128.4	123.8	112.1

Age When Lump-sum was Paid	Factors for Lump Sum Award Dates 6/1/2011 or Later	Factors for Lump Sum Award Dates 6/1/2007 thru 5/31/2011	Factors for Lump Sum Award Dates 5/31/2007 or Earlier
66	125.3	120.7	109.1
67	122.1	117.5	106.0
68	118.8	114.4	102.9
69	115.5	111.1	99.8
70	112.2	107.8	96.7
71	108.7	104.5	93.5
72	105.3	101.2	90.4
73	101.8	97.8	87.2
74	98.3	94.4	84.0
75	94.8	91.0	80.9
76	91.2	87.5	77.7
77	87.6	84.0	74.6
78	84.0	80.5	71.6
79	80.4	77.1	68.6
80 or older	76.8	73.6	65.6

2. If after multiplying the PSP rate by 2/3, the result is not a multiple of $.10, round up to the next multiple of $.10.