U.S. Railroad Retirement Board
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6.2.1 Effective Date and Definitions

A. Effective Date - The effective date of this procedure is September 29, 1997. This means that any decision (initial, final, and decisions under reconsideration or appeal at any level) considered or adjudicated on or after September 29, 1997, is subject to this procedure. The Reconsideration Section will use the new regulations in determining whether a reopening decision made after September 29, 1997 is correct. Reopening decisions can be reversed if they are incorrectly made under these rules.

If the decision being reconsidered is a reopening decision made before September 29, 1997, handle the reconsideration in accordance with legal opinion L-97-50 as follows: If the rate correction was correctly handled under Board Order 75-5 and is otherwise correct, do not change it. If an overpayment is being reconsidered, apply the new regulations to determine whether it should be recovered. If recovery of an overpayment has begun, further recovery action should cease (i.e., the withholding amount should be removed and the rate corrected). If the annuitant requested waiver and part of the overpayment has been recovered or an accrual has been used to reduce the overpayment, forward the file to DRD for a waiver determination regarding the withheld or recovered amount.

B. Administrative Finality Principle - The principle of "administrative finality" is used in the payment of annuities and lump sums under the RR Act. Under this principle, the Office of Programs - Operations adjudicates claims and makes decisions as to the rights of persons to benefits under the RR Act. After the expiration of the time for filing an appeal, such initial decisions become final and binding upon the parties to it. This means that once a decision is final, it can be reopened only when the conditions described in this chapter are met. If the conditions for reopening are not met, we apply administrative finality to the decision and consider it to be accurate.

The administrative finality principle is also applied in Medicare decisions involving HI benefits in Canada and DOB determinations.

C. Restriction On Review - When reviewing a case for application of amendments, deductions, reductions, etc., that review should not go any further than is necessary to complete the current action. Unless the current action implies that previous actions in the case are incorrect (such as a PREH referral or cost-of-living reject/review code which indicates a discrepancy in the annuity computations), assume that previous actions on the claim are correct. If, however, an error comes to your attention in the normal course of examining the

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folder, determine if the previous action can be reopened per RCM 6.2.2. If reopening is allowed, correct the previous action.

Examiners should be alert to all factors related to the current action. For example, when the current action establishes an overpayment, examiners should make sure all related actions that might adjust the net overpayment have been considered, i.e., if an overpayment is caused by excess earnings, the examiner should make sure all recomputations (such as an ARF adjustment) and/or delayed retirement credits payable based on those earnings have been considered.

The guidelines in these sections apply for post-adjudication actions. The guidelines for reconsideration actions are described in RCM 6.1.9 through 6.1.14.

D. Initial Decision - An initial decision is an appealable determination affecting monthly benefits or lump-sum payments in a case. The decision becomes “final” only after formal notice of the determination has been sent in writing to the applicant(s), annuitant(s), or authorized representative(s) and the reconsideration period has expired.

1. Types of determinations included are:

   a. Awards (including O/M and additional service or deemed service month recomputation awards):

   b. Denials (including an ER denial);

   c. Increases in the amount of the annuity because of amendment, yearly RRB cost-of-living adjustments;

   d. Reductions in the amount of annuities under the O/M because of entitlement to other benefits; or because of entitlement of other beneficiaries;

   e. Disability ratings (approval or denial of an alleged disability);

   f. Deductions (including deduction because of employer or "last person" service, for excess earnings, or for failure of spouse or widow(er) to have a child in his/her care);

   g. Termination of annuities (including finding that a disability has ceased);

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h. Determination that underpayment or overpayment has been made and will be adjusted;

i. Denial of waiver of recovery of overpayment (this decision may be part of an initial decision made in correcting an earlier decision and adjudicating an overpayment);

j. Tier I offsets due to the payment of or adjustment in SS (LAF E or C), worker's compensation/public disability or PSP benefits where the effective date of the benefits is later than the date of our final decision;

k. Transfer of claims to SSA (we have determined that the employee does not have 120 months of service or the employee does not have an insured status in a death case);

l. Determination of entitlement to HI and SMI Medicare benefits;

m. Adjudication of alien non-payment provision; and

n. Adjustments to supplemental annuities for the receipt of private pensions (RCM 1.4.60 - .65).

2. Types of actions not included are:

a. Abandonment for failure to prosecute; and

b. Temporary withholding of annuity payments if deductions may apply.

E. Final Decision - An initial decision becomes final when the applicant or annuitant has failed to take the next step in the appellate process and the following periods have expired:

1. Initial Decision - Sixty days from the date notice of the initial decision was mailed to the applicant or annuitant at the address (s)he furnished.

2 Reconsideration Decision - Sixty days from the date notice of the reconsideration decision was mailed to the applicant at the address (s)he furnished.

3. Hearings and Appeals Decision - Sixty days from the date notice of the decision by the Bureau of Hearings and Appeals was mailed to the applicant at the address (s)he furnished

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4. The Board - One year after the decision will have been entered upon the records of the Board and communicated to the claimant.

F. Reopening - For the purpose of these instructions, reopening is the revision of a final decision to correct an error or to change one or more of the factors on which the award or denial was based. Instructions on reopening are based on guidelines established in Part 261- ADMINISTRATIVE FINALITY of Title 20 of the Code of Federal Regulations.

1. A factor on which an award or denial is based is any one of the elements which must be considered in determining eligibility for, and the amount of, the award. For example, in a retirement annuity case the factors may include age, employment relation, years of service, average monthly compensation, current connection, cessation of service, disability, and for the purpose of the O/M, insured status, etc.

2. A decision is not reopened and, therefore, the rules on reopening do not apply if a decision on the claim has not been made, or if subsequent to the decision, an event occurs which affects the award but was not a factor at the time the decision was made. See §D.1, above, for examples of events subsequent to the decision. These situations are called “no decision” cases. Please refer cases falling into this category to Policy and Systems, RRA Application and Calculation Section (RAC) prior to any award action. Some situations in which “no decision” has been made are:

- A claim which has been lost, overlooked or abandoned (rather than denied) is found and reactivation suggests that reopening must be considered because 4 years has elapsed since it should have been handled.

- An event occurs which because of the law requires an adjustment of the annuity, the annuity is not adjusted and no action has been taken until the case is later rediscovered. Examples of this situation are as follows:

- a child attains age 18 and the O/M is no longer payable,

- a work deduction or reduction because of entitlement to another benefit is required,

- an adjustment is required because of the enactment of a new law,

- receipt of SS or PSP benefits, or

- a widow has been awarded an annuity, we find that she is also entitled to an LSDP or that she remarries.

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3. When a decision is reopened and revised, notice of the revision must be provided to the parties to the decision. The notice must state the basis for the revised decision and the effect of the revised decision. The notice must inform the parties of their right to further review.

   NOTE: This notice requirement also applies to decisions made by the Reconsideration Section, Hearings and Appeals and the three-member Board. If a revised decision is issued by a reconsideration specialist, any party may request that it be reviewed by Hearings and Appeals. If a revised decision is issued by a hearings officer, any party may request that it be reviewed by the three-member Board, or the three-member Board may review the decision on its own initiative.

4. A reopened decision is binding (i.e., it becomes a final decision) unless a timely request for reconsideration is filed, the three-member Board decides to review the decision, or the reopened decision is subject to further revision required in this procedure.

5. The procedures governing the appropriate time and place for requesting review of a reopened decision are found in RCM 6.1.

G. New And Material Evidence - Evidence that may reasonably be expected to affect a final decision, which was unavailable to the agency at the time the decision was made, and which the claimant could not reasonably be expected to have submitted at that time.

6.2.2 Conditions For Reopening

A final decision may be reopened:

A. Within 12 months of the date of the notice of such decision for any reason.

   NOTE: This is not a mandate to reexamine our own work for a 12-month period. Rather, if new information is brought to our attention either by the annuitant or an outside agency which calls a final decision into question, then we can make the necessary changes.

B. Within 4 years of the date of the notice of such decision, if:

   1. There is new and material evidence (6.2.1.G.), or

   2. There was adjudicative error not consistent with the evidence of record at the time of adjudication.

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The evidence submitted must be new to the claimant as well as material to the claim or it must be the discovery of our error; or

C. At any time if:

1. The decision was obtained by fraud or similar fault. Fraud is when a person makes or causes to be made any false statement or claim for the purpose of causing an award or payment to be made. Similar fault means an act or failure to act which approximates fraud. Similar fault is a knowing failure to inform the RRB of the receipt of benefits (from SSA, PSP, etc.) where a person has been put on notice of a duty to inform us of the benefit and doesn't do so. See RCM 6.2.20;

2. Another person files a claim on the same record of compensation and allowance of the claim adversely affects the first claim;

3. A person previously determined to be dead on whose earnings record survivor annuity is based is found to be alive;

4. A claim was denied because of the absence of proof of death of the employee, and the death is later established;

   a. By reason of an unexplained absence from his or her residence for a period of 7 years, or

   b. By location or identification of his or her body;

5. SSA has awarded duplicate benefits on the same record of compensation;

6. The decision was that the claimant did not have an insured status, and compensation has been credited to the employee's record of compensation in accordance with RCM 5.3;

   a. To enter items transferred by SSA which were credited under the SS Act when they should have been credited to the employee's railroad retirement compensation record; or

   b. To correct an error made in the allocation of earnings to an individual which, if properly allocated would have given him or her an insured status at the time of the decision and the evidence of these earnings was in the possession of the RRB or SSA at the time of the decision;

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7. The original decision was incorrect because of a clerical or obvious adjudicative error and reopening the decision to correct the error would be favorable to the annuitant. In general, this means that reopening would result in additional money due;

8. The decision found the claimant entitled to an annuity or a lump sum, payment based on the earnings record of a deceased person, and it is later established that:

   a. The claimant was convicted of a felony or an act in the nature of a felony for intentionally causing that person's death; or

   b. The claimant was subject to the juvenile justice system and was found by a court of competent jurisdiction to have intentionally caused that person's death by committing an act which, if committed by an adult would have been considered a felony or an act in the nature of a felony;

9. The claimant shows that it is to his or her advantage to select a later ABD and agrees to refund past payments by cash payment, set-off, full or partial withholding;

10. The decision is incorrect because the RRB failed to apply a reduction, or the proper reduction, to the tier 1 component of an annuity. For example, evidence in the file shows that the annuitant reported the receipt of a public service pension on his/her application but we failed to make the off-set when we paid the case and an overpayment resulted. In this situation, the RRB may apply the reduction retroactively if the error is discovered within 4 years. Otherwise, it shall apply the reduction only for the months following the month the RRB first takes corrective action.

    NOTE: Where the failure to reduce the tier 1 was the result of fraud or similar fault on the part of the annuitant, C.10 does not apply. See Section C.1. C.10 applies when the error was based on RRB failure to make the appropriate, timely tier 1 reduction and 4 years have passed since the error occurred.

6.2.3 Effect Of A Change Of Legal Interpretation, Or Administrative Ruling, Or Interpretation

A change in legal interpretation or administrative ruling on which a decision is based does not render the decision erroneous and does not provide a basis for reopening.

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Cases should not be reopened after a final decision has been made solely due to another interpretation of the same evidence. For example, in a disability case, after a denial determination becomes final, the case may not be reopened because another doctor or disability claims examiner interprets the same medical evidence differently.

6.2.4 Decisions Which Shall Not Be Reopened

This section should only be used if you have already determined the case should be reopened based on RCM Sections 6.2.2. If any of the following sections prohibit reopening, then you can not reopen the case even though Sections 6.2.2 allow you to reopen.

The following decisions should not be reopened:

A. An award of an annuity beginning date (ABD) to an applicant later found to have been in compensated service to a RR employer on that ABD and who is found not at fault in causing the erroneous award.

Use the chart below to determine whether to adjust the ABD and recover the overpayment:

Time Since Award	Fault Exists?	Actions
Within 1 year	Yes or No	Move ABD and collect O/P. Note: If low RR earnings, see RCM 6.6.75 on CBW. If good faith can be established, send the case to BFO-DRD.
>1<4 years	No	Don't Move ABD; treat as return to RR service & collect O/P. Note: If an employee requests a later ABD or moving an ABD is to the employee's advantage (for example the ABD could be set in the middle of a month, allowing us to pay the annuity for part of the month) then the ABD can be moved.
>1<4 years	Yes	Move ABD and collect O/P. If low RR earnings, see RCM 6.6.75 on CBW.

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		If good faith can be established, send the case to BFO-DRD.
> 4 years	No	Not Reopenable; Earmark PREH and EDM
> 4 years	Yes	Move ABD and collect O/P. If low RR earnings, see RCM 6.6.75 on CBW. If good faith can be established, send the case to BFO-DRD.

Examples:

1. EE is being paid based on original ABD (03-01-94), with Tier 2 computation based on service and compensation through 1993. The annuitant reported on his/her application that a settlement was pending. The settlement gave him service in the first 8 months of 1994, but we did not adjust the ABD for the settlement.

   Time since award: > 4 years

   At fault: No

   Decision: Not reopenable since none of the criteria listed in RCM 6.2.2.C are met. Apply finality to the original award in all respects. The annuity beginning date and annuity computations are considered correct and no overpayment should be established for the months covered by the settlement.

2. The employee is being paid based on original ABD (02-01-88), with Tier 2 computation based on service and compensation through 1987. A settlement was awarded in 1989 which gave him service through 12-89. The applicant never reported the settlement was pending on his application or when it was awarded in 1989. We are reviewing the case in 2005.

   Time since award: > 4 years

   At fault: Yes

   Decision: Since the employee is at fault (RCM 6.2.2.C.1), reopen and move ABD to 01-01-90.

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Note: When fault is in doubt or questionable, please send the case to Policy and Systems – RAC.

B. An award of an annuity based on subsequently discovered erroneous crediting of months of service and compensation to an individual where:

1. The loss of the months of service and compensation would cause the individual to lose his or her eligibility to the annuity; and

2. The erroneously credited months of service do not exceed 6 months; and

   NOTE: The erroneous months of service may be greater than 6 but only up to 6 months can be used to establish 120 months of service. Cases can be reopened to remove erroneously credited months of service over the 120 months required for eligibility.

3. The annuitant is not at fault in causing the erroneous crediting of service and compensation.

C. An erroneous award of a monthly annuity where the error is $1.00 or less.

D. An erroneous award of a lump sum or accrued annuity where the error is $25.00 or less.

E. Revision of the amount or payment of a separation allowance lump sum amount pursuant to Sec. 6(e) of the RR Act, due to RRB error whether clerical or adjudicative, is limited to 60 days from the date of notification of the award of the separation allowance lump sum payment.

   NOTE: This provision applies to RRB error. Revision of the amount or payment of a separation allowance lump sum amount due to adjustments made by the Employers, themselves, can be adjusted as post-adjudicative actions rather than reopening. For example, in handling a reject from the SALSA mass adjustment, it is discovered that the employer lowered the compensation on which the SALSA was based. The SALSA payment, which we made on the previous level of compensation reported by the employer, can now be adjusted because there was no RRB error in the earlier payment.

6.2.5 Late Completion Of Timely Investigations

A decision may be revised after the 1 and 4 year time periods of Sections 6.2.2.A. and 2.B. have expired if an investigation into whether to revise a decision began before the

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applicable time period expired and the RRB diligently pursued the investigation to its conclusion.

Diligently pursued means that in view of the facts and circumstances of a particular case, the investigation was undertaken and carried out as promptly as the circumstances permitted. Diligent pursuit will be presumed to be met if the investigation is concluded and the decision revised within 6 months from the date the investigation began.

An investigation is diligently pursued if we make every attempt to secure needed information or tests but a delay is caused by another party (i.e., the annuitant does not respond or the delay is caused by the inability to complete a medical test timely).

If the investigation is not diligently pursued to its conclusion:

- The decision will be revised if it is favorable to the annuitant, or
- The decision will not be revised if it is unfavorable to the annuitant.

6.2.6 Claims Filed On The Same Earnings Record

If two claims for benefits are filed on the same record of compensation, findings of fact made in a decision in the first claim may be revised in determining or deciding the second claim even though the time limit for revising the findings made in the first claim has passed. However, a finding that:

- A person was fully or currently insured at the time of filing an application,
- A person was fully or currently insured at the time of death, or
- A person was fully or currently insured at any other time,

may be revised only under the conditions set forth in RCM 6.2.2., above.

6.2.7 Additional Situations Where Reopening Is Allowed When New Evidence Is Received After 4-Year Limit Has Expired

If new evidence is received after the 4-year limit has expired and it establishes:

- A new date of birth, or
- A valid change, for any reason or in any circumstance, in the annuitant's record of compensation, and

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- The adjustment would result in an increase in benefits,

pay the annuity increase but only for the months following the month the new evidence is received.

6.2.8 Discretion Of The Three-Member Board And Referral To Board

A. In any case in which the three-member Board shall deem proper, the Board may direct that any decision, which is otherwise subject to this procedure, shall not be reopened or direct that any decision, which is not otherwise subject to this procedure, shall be reopened.

B. Refer to the Board any claim which should be reopened on which a decision was made by the Board. When referring the case to the Board, prepare the accompanying memorandum and Board Recommendation, G-20a.

1. Include in the memorandum the following information:

   a. In the first paragraph, a brief statement of the recommendation;

   b. In the second paragraph, a statement of the facts in the case; for example, if the claim was denied, a statement of the requirements which the applicant did not meet, or if the claim was certified, statement of the basis for award;

   c. In the following paragraph(s), the reason the claim was not certified originally in the amount now contemplated, and the extent, if any, to which fault or neglect on the part of the applicant was involved in the failure to make the award in the amount now contemplated;

   d. In the last paragraph, the amount of the increase, if any, and the amount of the accrual.

2. Prepare the G-20a as follows:

   "REOPENING THE ANNUITY CLAIM OF (NAME OF APPLICANT OR ANNUITANT), (DECEASED, IF EMPLOYEE HAS DIED), (CLAIM NUMBER)

   In the claim of (name of applicant or annuitant or survivor of employee, applicant or annuitant, and claim number), the facts relating to (the element which is the basis for request to reopen) are such as to warrant the reopening of the claim, the claim is reopened pursuant to 20 CFR Part 261".

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6.2.9 Administrative Finality And Legal Partition Awards

In Legal Opinion 99-1, the Bureau of Law stated that the new Administrative Finality regulations apply to legal partition, garnishment and assignment decisions on RRB annuitants. These regulations provide that a final decision may be reopened within a year for any reason; within 4 years if there is new and material evidence or there was adjudicative error not consistent with the evidence of record at the time of the adjudication; and at any time if the decision was obtained by fraud or similar fault.

Note: The partition amounts deducted from annuities and paid to spouses or former spouses are not annuity payments, and they are not subject to the reopening and administrative finality provisions. Any underpayments of those amounts should be paid out and any overpayment of those amounts should be recovered.

If the legal partition order, garnishment, or assignment request is still in force, adjust the monthly annuity rates according to the respective orders. This action is not a reopening; it is an initial decision in its own right. The reopening decisions regarding overpayments and underpayments made to the RRB annuitant should be handled as follows:

- Within 1 Year: Pay any underpayment/ collect any overpayment
- Within 4 years: Pay any underpayment/ collect any overpayment
- Over 4 years and fraud involved: Pay any underpayment/ collect any overpayment
- Over 4 years and no fraud involved: Pay any underpayment/ apply administrative finality to any overpayment; adjust monthly rate prospectively

Documenting your decision should be handled as explained in RCM 6.2.10.F.1, Documenting Reopening and Administrative Finality Decisions.

6.2.10 Making Reopening Decisions

The intent of the new regulations is to provide a sequential approach to reopening based on the time that has passed since the initial decision became a final decision.

A. Determine whether a final decision is correct:

Usually, new information comes in which questions a specific decision we made. This information can come from the annuitant, from another unit with oversight responsibilities within the RRB, or from another governmental agency or employer which calls into question a decision. The new information indicates either that the decision was incorrect based on facts and procedures controlling at the time the

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decision was made or that if we had the new and material information at the time we made the decision, we would have done it differently.

We do not reopen because of a change in legal or administrative ruling or interpretation (see RCM 6.2.3.) We utilize the reopening procedures to correct errors or adjust decisions based on new and material evidence.

B. Determine the time elapsed since the decision became final.

Calculate this period by starting with the date of the notice of the decision and ending with the date we can make a corrective award.

1. If it is not possible to establish the date of notice in a payment situation, use the voucher date of the award in question. Automated Award Letters to Annuitants System (ALTA) uses the voucher date as the date of the letter. If it is not possible to establish the date of notice in a non-payment situation, use the date the decision was authorized if a letter cannot be secured from the field office or annuitant.

2. If the date of the notice of decision is February 1, 1998, we can correct the rate through January 31, 1999, for any reason. We can correct the rate through January 31, 2002, if there is new and material evidence or adjudicative error involved. We can correct the rate at any time if one of the situations in 6.2.2.C. applies.

3. The rate correction may be made after the 1 and 4 year periods expire if an investigation into whether to revise a decision began before the applicable time period and the RRB diligently pursued the investigation to its conclusion (see RCM 6.2.5.)

C. Determine whether reopening is permissible based on the appropriate reopening rule:

- If the period was 1 year or less, RCM 6.2.2.A. applies.
- If the period was 4 years or less, RCM 6.2.2.B. may apply.
- If the period was more than 4 years, RCM 6.2.2.C. may apply.

NOTE: Cases properly appealed within the 60-day period for reconsideration are <u>not</u> re-openings. The decisions in this situation are not considered final. These cases can be corrected based on the decision of the reconsideration examiner.

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D. Consider exception and special rule situations:

- If we gave an incorrect ABD to an applicant in compensated RR service, review section 6.2.4.A;
- If we credit 6 months of service to an applicant, and later we consider the credit erroneous, consider section 6.2.4.B;
- If the error is within tolerance, consider sections 6.2.4.C and/or D;
- If we began an investigation within the 1 or 4 year rules of section 6.2.2.A or B. and the investigation was not completed within those periods, consider whether section 6.2.5, Late Completion of Timely Investigations, would allow you to extend the period in question;
- If two claims for benefits are filed on the same record of compensation, consider section 6.2.6;
- If a new date of birth or a correction in an annuitant's record of compensation is received after the 4-year time limit has expired, consider section 6.2.7.

E. Reopening the case

1. Adjust the annuity - When you reopen a decision, reopen the whole decision. Make sure that the annuity is adjusted correctly. That is, if a decision is reopened to correct the tier 1, correct any other errors made in the reopened decision.

2. Apply the appropriate period of retroactivity. The reopening provision used in the decision to reopen determines the appropriate period of retroactivity for the subsequent adjustment. However, when we reopen a decision, we reopen an entire decision. A decision may contain multiple errors. If we reopen a decision and discover additional errors in correcting the decision, these should be corrected.

   Example 1: A decision is being reopened to correct an error in the tier 2 which results in a $10.00 per month underpayment and an error in the tier 1 offset which results in a $150.00 per month overpayment. By itself, the tier 2 error would normally be reopened retroactively under RCM 6.2.2.C.7 to pay the increase due; by itself, the tier 1 error would normally be reopened only from the current month under RCM 6.2.2.C.10. The errors were made in the same decision, and must be treated consistently. In this example, correcting

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both errors retroactively would produce a net overpayment, so both errors are corrected from the current month under the provisions of RCM 6.2.2.C.10.

Example 2: If 4 or more years have gone by and we discover a tier 1 offset error made, for example, in January of 1975, that would be corrected from the current month. A tier 2 overpayment error, for example, made in January 1990, that would not be reopened at all, reopen the tier 1 overpayment correcting it from the current month; apply administrative finality to the tier 2 rate and overpayment.

Example 3: If 4 or more years have gone by and we discover a tier 1 offset error made, for example, in January of 1975, that would be corrected from the current month. A tier 2 underpayment error, for example, made in January 1990, that would be reopened, reopen the tier 1 overpayment and the tier 2 underpayment correcting the errors from the current month.

3. Reopening decisions are generally specific to a decision made in an award to an individual claimant. Since spouse and survivor annuities are based on employee annuities, however, reopening an employee award under these rules can result in reopening the spouse or survivor award.

   NOTE: If we review a decision made on an employee award and determine that the decision cannot be reopened under this procedure, we apply administrative finality to the decision in question. Any spouse or survivor annuity made correctly on the basis of the employee annuity will not be reopened even if the spouse or survivor awards fall within the time periods reopening would normally be allowed. It is not even an issue of applying administrative finality to the spouse or survivor awards. If administrative finality has been applied to the employee award, the rates are deemed correct and reopening the spouse or survivor awards is not even in question.

F. Documenting reopening and administration finality decisions:

1. Documenting Reopening and Administrative Finality decisions in the folder - Put a note in file (e.g., G-115 memorandum format) stating the facts about the case and the specific reason(s) the case will or will not be reopened. The note must be signed and dated, and a copy forwarded to BIS-SSS (3rd Floor) on a G-59R as well as sent to imaging. Please use RRAILS to prepare and image note when possible.

2. Viewing and Setting Administrative Finality Codes in PRE:

   a. General:

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Two fields on the PREH system have been updated to help identify administrative finality cases. The two fields are: the Administrative Finality Applies Code (3200-ADMIN-FIN-FLG-N); and the Administrative Finality Effective Date (3200-ADMIN-FIN-EFF-DT). The Administrative Finality Applies Code indicates with a number (1 through 4, as explained below) whether administrative finality has been applied in a given case. The Administrative Finality Effective Date field represents only the effective date of the rate correction when the annuity is re-opened or the effective date of the DOB change. It is not the date of the administrative finality decision. Examiners with access to the correction system can correct these fields and all examiners can view them to secure the information they provide.

These fields are located on the Rate History Inquiry screen (RHRRID (3200) 2 of 6.) These fields should be checked whenever there is a question whether administrative finality has been applied in a case. For example, if you are computing a case without the claim folder and the calculated amount is much lower than that on DATA-Q, this could indicate that administrative annuity had been applied in the past. If this is the case, review these fields on PREH as explained below and handle the case accordingly. If there is an administrative finality code on PREH, secure the claim folder to resolve the discrepancy.

b. When to set administrative finality codes:

The purpose of these codes is to identify records whose data on EDM, SEARCH and PREH will not automatically produce correct computations. For example, when a case was erroneously reopened to correct a RRB error over 4 years old, it will have to be returned to its previous (i.e., "incorrect") computation. Often, this correction will be forced through ROC or SURPASS. This type of case will have records on PREH that will not match or update correctly with data coming from SEARCH using a current G-90. Setting an administrative finality code on PREH, can help future examiners identify these cases.

For example, in cases where we must apply administrative finality to a decision (the decision is a RRB error and it is over 4 years old), the in-force PREH record is deemed correct and future prospective adjustments can be made. If EDM or SEARCH data does not support the current data on PREH (i.e., the PREH data is based on an old G-90 dated 01/01/90 rather that the current G-90 dated 01/01/99), we must set an administrative finality code for these cases. This is

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because the administrative finality decision holds that the 01/01/90 G-90 takes precedence over the 01/01/99 G-90.

In reopening situations (for example, to pay a vested dual benefit that was not paid when it should have been), you are correcting an error by creating a new award that corrects the record on PREH. You do not have to set an administrative finality code in these cases. Here the EDM, SEARCH and PREH data match and support each other.

NOTE: The administrative finality codes identify cases we did not reopen because the administrative finality regulations did not allow it. The administrative finality codes do identify decisions in cases that ordinarily should never be readjusted except, of course, for the yearly cost-of-living adjustments. These codes do not, in themselves, tell you why administrative finality has been applied in a particular case; they tell you that it has been applied. Retroactive adjustments should not be made in these cases without an in-depth review of the claim folder.

c. Viewing and changing administrative finality codes:

To access these fields follow the following steps:

- Go to the ORIS MENU RATE HISTORY INQUIRY screen, enter the prefix and claim number of the annuitant, then press enter;
- On the FAMILY GROUP MENU, select the beneficiary and select record 3200, then press enter;
- You are now on the RATE HISTORY INQUIRY screen, press F8 to go to page 2;
- The Administrative Finality Applies Code (3200-ADMIN-FIN-FLG-N) and the Administrative Finality Effective ate (3200-ADMIN-FIN-EFF-DT) are displayed here;
- To access the HELP screen, move the cursor to the Administrative Finality Applies Code and press F1. Three pages of HELP are available.

The fields are as follows:

0 Not applicable

1 Administrative finality applied to original date of birth determination. 3200-ADMIN-FIN-DOB-DT is used for all annuity adjustments; future

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entitlement(s) should use 3200 DOB-DT-N.

2 Administrative finality applied to previous payments (claim corrected prospectively). 3200-ADMIN-FIN-EFF-DT is the effective date of the annuity rate correction or DOB correction. In retirement cases, G-90 data is not updated to PREH.

3 Administrative finality applied currently and claim is not reopened. An error (other than DOB or only supplemental annuity) has been detected, but administrative finality has been applied and the decision has not been reopened. Code 3 is also used when more than one administrative finality code applies. In retirement cases, G-90 data is not updated to PREH.

4 Administrative finality applied to supplemental annuity only. Code 4 is valid for EE only.

5 Inclusion of deemed service months causes an annuity decrease.

6 An error has occurred involving the military service on record. Administrative finality has been applied currently and the claim is not reopened.

7 There has been a change in the compensation/wages but administrative finality has been applied currently and the claim is not reopened.

8 There has been a change in either the service months, compensation, or wages but administrative finality has been applied currently and the claim is not reopened.

9 A calculation error has been detected but administrative finality has been applied and the claim is not reopened.

To change these fields position the cursor under the field in question, type in the proper entry and press the ENTER key.

d. Administrative Finality Codes and Mass Adjustments:

All mass adjustments react to administrative finality on the DOB. Information on specific mass adjustments follows:

COLA - The cost of living mass adjustment adjusts the current rate. In code 2 and 3 situations, since the current rate is judged correct, the COLA can go ahead and adjust the rate based on the current record.

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AERO/RAIL - These mass adjustments made retroactive payments. They rejected for manual handling cases where there was no match between the calculated amounts and the amounts on PREH.

RESCUE refers cases if PREH indicates administrative finality applies to the DOB but RHRRID-ADMIN-FIN-DOB-DT is empty. RESCUE also rejects cases if the administrative finality code in PREH is 2, 3, 5, 6, 7, 8 or 9.

6.2.11 Erroneous Decision - Defined

An erroneous decision is one based on:

- A clerical error; or
- An adjudicative error not consistent with the evidence of record at the time of adjudication.

6.2.12 Clerical Errors

Clerical errors can be corrected under sections 6.2.2.A., 6.2.2.B., and 6.2.2.C. of these procedures. Clerical errors are errors made in completing a form, copying or entering data into a computer, or transposing numbers in either situation.

- Under sections 6.2.2.A. and 6.2.2.B., clerical errors can be corrected even if the corrected decision is adverse to the annuitant;
- Under section 6.2.2.C.7, clerical errors can be corrected at any time if reopening the decision in question would be favorable to the annuitant.

6.2.13 Adjudicative Errors

Adjudicative errors or errors on the face of the evidence exist where it is absolutely clear that the determination or decision was incorrect. Adjudicative errors are errors in applying the law (procedures) to the facts (evidence) of an individual case. A determination or decision which was reasonable on the basis of the facts and law existing at the time of the determination or decision was made will not be reopened merely because there was a shift in the weight of the evidence. A different rule of law would now be applied (unless a change in law specifically provides for retroactive effect), or a different inference is drawn from the evidence.

- Under section 6.2.2.A, adjudicative errors can be corrected within 1 year of the date on notice of the decision;

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- Under section 6.2.2.B, adjudicative errors can be corrected within 4 years of the date on notice of the decision;

- Under section 6.2.2.C.7, adjudicative errors can be corrected at any time if the decision in question was incorrect because of a clerical or obvious adjudicative error and reopening the decision to correct the error would be favorable to the annuitant.

The following examples illustrate these points.

Example 1: The examiner denies a claimant a divorced spouse annuity on the basis she has been married to the employee for less than 10 years. The claimant never appeals the decision. However, the proof of marriage and divorce decree in file indicates that they were married 15 years. This is an obvious adjudicative error and the denial; may be reopened with full retroactive effect at any time. See section 6.2.2(c)(7)

Example 2: The examiner denies the claimant a disability annuity citing a “medical vocational rule" which assumes the employee is under age 50. The claimant never appeals the decision. The evidence of record at the time of the denial clearly shows that the claimant was age 55 and the applicable "medical vocational rule" would indicate a finding of disabled. Same result as in Example 1.

Example 3: The examiner denies a claimant a disability annuity on the basis that she can perform unskilled light work with the result that the appropriate "medical vocational rule" dictates a denial. The decision is not appealed. Five years later the claimant submits another application for a disability annuity. She submits no new evidence. A different examiner finds on the same evidence that the claimant can only perform unskilled sedentary work, which applying the "medical vocational rule" applicable at the time of the first application would have produced a finding of disabled. The fact that a different examiner reached a different conclusion based on the same evidence does not mean that the initial denial in this case was based on an obvious adjudicative error. The examiners merely weighed the evidence differently and exercised their appropriate discretion. The denial is not required to be re-opened. Note, however, that the denial could have been re-opened within 4 years under section 6.2.2.B if it was not consistent with the evidence at the time of the denial.

NOTE: A decision can be inconsistent with the evidence of a record at the time of a decision, but not based on an obvious adjudicative error.

Example 4: The examiner determines vested status for an annuitant and pays a VDB. An audit later determines that the vested status determination was incorrect. However, 8 years have passed since the decision and the reopening would be unfavorable to the annuitant. Apply administrative finality to the vesting determination; set an administrative finality code on PREH following RCM 6.2.10.F.2.B.

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6.2.20 Decisions Involving Fraud or Other Fault

A. Fraud is when a person makes or causes to be made any false statement or claim for the purpose of causing an award or payment under the Act. The elements of fraud are:

- That the person made or aided in making a statement or claim or caused a statement or claim to be made;
- That the statement or claim was false;
- That when the statement was made, the person knew it to be false or made it recklessly without any knowledge of its truth; or
- That the person made the statement or claim with the intention that it should be acted upon so as to cause benefits to be paid.

The term "with intent to defraud" means a conscious attempt at deception or misrepresentation for the purpose of obtaining an authorized benefit. Intent is a mental attitude which can seldom, if ever, be proven by direct evidence. "Intent to commit a crime" is a state of mind existing when a person commits an offense and may be proven by the offender's acts and by reasonable inference therefrom, as well as from other acts, declarations and circumstances.

B. Similar fault means an act which approximates fraud. Similar fault exists when person knowingly conceals information that is material to the determination. The main distinction is that fraudulent intent is not required. However, the incorrect or incomplete statement must have been made knowingly or material information concealed knowingly.

C. Failure to report, without evidence that the annuitant had knowledge of the duty to report, does <u>not</u> constitute "similar fault". Knowledge can be established by evidence such as certification in the file that the annuitant was explained and understood the reporting requirement or where the circumstance indicate that it was a knowing failure to report.

<u>Example</u>: Mary believes that her prior husband secured a divorce and that her marriage to the employee is valid. However, as she does not know where such divorce was obtained and does not wish her first husband contacted, she fails to list the prior marriage on her application. We later establish that her prior marriage was not terminated. The award of wife's benefits must be reopened, since she knowingly concealed her prior marriage, even though she had no fraudulent intent.

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D. The following elements are common to fraud and other fault:

- "Material" as applied to a false statement, false representation or deceitful withholding of information where there is a duty to disclose the truth means that the deceit must relate to a matter that is of significance and would tend to influence Operations to pay benefits not authorized by the RR Act; permit a beneficiary to keep benefits previously paid which were not authorized; or otherwise influence Operations in determining rights to payment. Courts have said that the tests of whether a statement is material is the capability of the statement to mislead, rather than whether it was possible for the intended deception to attain its end.

  For example, if a woman applies for a widow's insurance annuity and falsely states that she was married to the deceased employee, her statement is material even through no annuity could have been paid to her erroneously because of our requirement that she furnish proof of marriage. Examples of situations where a false statement or representation would not be material, because it does not tend to affect payment of benefits, are as follows:

- An applicant for a disability annuity falsely states that he is age 45 when in fact, he is only 40 years of age.

- A widow falsely claims she married the employee a few months earlier than she actually did so that it will appear that her child was conceived after, instead of before, the marriage.

- "Knowingly" as used in a criminal statute generally means that state of mind which exists when the accused person is in possession of the facts under which (s)he is aware (s)he cannot lawfully do a particular act, but nevertheless proceeds to do it. It is intended to exclude unwitting or unconscious actions contrary to law, such as mistake of fact or accidents. The RRB should also consider any physical, mental, or linguistic (including lack of facility in English) disabilities which the claimant may possess. For example, an honest belief that a prior marriage has been dissolved is a good defense to a charge of "knowingly" making a false statement regarding termination of the marriage.

- "Willfully" means voluntarily, purposely, deliberately, and intentionally, as opposed to accidentally, inadvertently, or carelessly. It involves actual knowledge of the existence of a legal obligation and the intent to evade that obligation.

6.2.21 Examples Of Fraud And Similar Fault Determinations

A. Examples of Situations where Fraud may be an Issue:

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Example 1: The claimant applies for a spouse benefit and informs the Board on her application that she is receiving a civil service pension. The RRB pays the spouse annuity without a public pension offset. In this case there is an initial determination which is incorrect. After 4 years from the notice of this determination, the tier 1 may only be adjusted in accordance with section 6.2.2.C.10. (prospective application). Within 4 years, the tier 1 may be adjusted retroactively (RCM 6.2.2.B.)

Example 2: Same facts except the claimant incorrectly indicates on her application that she was not receiving a civil service pension. The RRB discovers the pension 5 years later. In this case, the tier 1 can be adjusted at any time retroactive to the annuity beginning date, since the initial decision, which was incorrect, was obtained by fraud or similar fault.

Example 3: Same facts as example 2, except that the questions on the application concerning public pension are left blank. The RRB may only adjust the tier 1 prospectively as in example 1. There is insufficient evidence that the incorrect decision was obtained by fraud or similar fault.

Example 4: Same facts, except that the claimant becomes eligible for a civil service pension 1 year after her annuity beginning date, but fails to inform the RRB. The RRB learns of the pension 5 years after its initial decision. In this case the initial decision was correct, but a post-adjudicative event, of which the RRB was unaware, caused an incorrect rate to be paid. The RRB's failure to adjust the rate at the time the pension was commenced was not a decision to which reopening applies. The RRB could adjust the tier 1 retroactive to the commencement of the pension and assess an overpayment. This is not a reopening, but a new initial decision.

Example 5: A widow is receiving a widow's annuity based upon her caring for the minor child of a deceased employee. She advises the RRB when the child turns 18. The child is not disabled. This is noted in her claim file, but no action is taken. The payment continues for a period of 5 years before the error is discovered. The RRB may terminate the benefit retroactive to the month before the month the child attained age 18. The failure to take action in this case is not a decision subject to the reopening procedures.

B. Examples of Situations where Similar Fault may be an Issue:

Example 1: The claimant applies for an annuity and states that he intends to work for employer A, a non-railroad employer. Based upon his expected earnings work deductions are applied. The following year he reports that he will not earn over the exempt amount and work deductions are removed. Later in the

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year it is clear to the annuitant that he will earn considerably more than the exempt amount, but does not report this to the RRB. The RRB discovers the excess earnings 5 years later. Based on the circumstances, the RRB can presume in this case that the employee knowingly concealed his earnings and that the decision to remove work deductions was obtained by similar fault. Consequently, the RRB may apply work deductions in the year in question and assess an overpayment.

Example 2: Same as the above except that the employee had no intention of working at the time of his application but then later decides to return to work. He earns over the exempt amount but never reports his earnings. Since the RRB never made a decision with respect to the application of excess earnings, it may adjust the annuity rate for the period in question and assess an overpayment at any time. This is not a reopening but is a post-adjudicative action.

6.2.30 Decisions Involving New and Material Evidence

New and material evidence includes any evidence which was not a part of the claim file when the decision was made, which was unavailable to the agency when the decision was made, and which the claimant could not reasonably be expected to have submitted at that time. This evidence must relate to facts or circumstance existing at the time of adjudication although the evidence itself may have been acquired subsequently.

Within 4 years of the date of the notice of a decision, you may reopen a decision on the basis of new and material evidence if:

Additional service and/or compensation, regardless of when claimed, is verified by employer records, or, in the case of service, by affidavits; or

- The evidence submitted is acceptable under the regulations of the Board, provided there is no conflicting evidence or a previous conflict is satisfactorily explained; or
- The age evidence is of a higher probative value than the evidence previously relied upon.

6.2.31 Reopening Denials

Denials are subject to the same reopening rules as is any other decision we make. RCM 5.1.47 covers the reopening of denials.

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6.2.40 Reopening A D/A Claim After Reduced A&SA Awarded

Reopen for certification under the disability provisions of the Act any case in which we awarded a reduced A&SA to an employee after he filed a claim for a disability annuity if:

- Before the annuitant appeals, we find that disability began as of a date before the expiration of the appeals period; and
- If the disability ABD is later than the ABD of the initial award, all payments made for the period before such later ABD are recovered.

If we reopen a prior decision under this section and we make a new award, the ABD of the new award is the first day we found the applicant to be disabled but not earlier than 12 months before the filing date of the application.

6.2.41 Later ABD Or Cancellation Of Application Is Requested

When an employee, spouse, or survivor annuitant requests an ABD which is later than the ABD previously established, or he requests cancellation of his application, reopen the award if:

- The annuitant shows that it is to his advantage to select the later ABD or cancel the application (see NOTE); and
- Such person is alive at the time the request cancellation is filed; and
- All payments made for the period before the later ABD or on the basis of the cancelled application are recovered by cash refund or set-off.

However, an employee awarded a reduced A&S or disability annuity with an ABD before July 1, 1974, may not cancel his application or request an ABD of July 1, 1974, or later to qualify himself for an unreduced A&S annuity on the basis of having attained age 60 and completed 30 years of service or to qualify his spouse for an annuity at age 60.

NOTE: Usually, Headquarters will become aware of a request to cancel an award or application when the field office sends in the applicant's request to be imaged. No further action will be required when the request is received. If the initial request for cancellation is received in Headquarters, forward the request to the Retirement or Survivor Customer Service Group for handling.

Take special care when the applicant claims the rate will increase by postponing the annuity beginning date to eliminate age reduction. If social security benefits, public

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service pension, railroad retirement dual entitlement, etc. is involved, eliminating age reduction may not increase the net annuity. If the applicant's net rate will not increase, contact the applicant to explain that age reduction is not the only factor reducing the annuity.

6.2.42 M/S Eliminated From Award

We may reopen an award when M/S had been included in the computation of an annuity and we later find that the elimination of the M/S will benefit the annuitant. That portion of past annuity payments attributable to M/S must be recovered.

NOTE: SSA will not allow credit for M/S if we used it in our award as compensation. SSA applies this restriction even if the M/S is later removed. If an annuitant requests us to remove the M/S as compensation in order to receive credit for it under the SS Act, explain fully to the annuitant that the removal will not benefit him

6.2.43 Finality Of DOB Established

Once a DOB has been established and it is material to an award (even though only a partial award has been made) or is the basis for a determination of entitlement to Medicare, the DOB is final for the purpose(s) for which it was established and may be changed only if the claim is reopened because:

- The determination was caused by fraud or other fault of the applicant (do not develop these factors if the claim folder does not indicate them), or
- There is a clear and obvious mistake of fact or a clear and obvious mistake of law, or
- New and material evidence received after the determination would result in a decision favorable to the applicant. Do not consider the decision favorable if establishing an earlier DOB changes an employee's closing date and disqualifies him from receiving a SUP ANN.

In those cases in which it is determined after the award of an employee annuity and/or the determination of entitlement to Medicare is made that new evidence, superior to the original birth-date evidence, established that the employee is younger than was previously believed, apply administrative finality to the existing award(s) and/or entitlement determination(s), unless the original determination was caused by fraud or other fault of the annuitant. Use the DOB established by the superior evidence for determining any new entitlement to an annuity or Medicare.

For further discussion of finality of DOB established, see sec. 4.2.17.

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6.2.44 Switching To An Employee D/A After A Reduced A & S Award

If an employee qualifies for both an age annuity and a disability annuity when an application for an age annuity is filed, the application may be reopened to award a disability annuity based on a notice from the Social Security Administration that a period of disability has been established. When the disability notice is received, an application for a disability annuity should be developed. However, the beginning date of the disability annuity is not restricted to twelve months before the disability application is filed. The disability annuity can be paid based on the filing date of the application for the age annuity, even if the disability notice is received more than one year after the age annuity is awarded. If notice of disability is received from another source, forward the file to P&S-RAC.

Notify DMG and BTRS of this change in annuity type using a G-59.

6.2.45 Re-opening A Disability Award to a Denial

Part of the definition of disability is that the claimant must have a severe and permanent medical condition. For total and permanent employee disability annuities and for survivor disability annuities, the condition must be severe enough to prevent substantial gainful activity (SGA). For employee occupational disability annuities, the condition must be severe enough to prevent the performance of occupational duties of the regular railroad occupation. “Permanent” is defined as lasting for at least 12 months or resulting in death.

There is a distinction between disability annuities that are terminated because the annuitant recovered from the disability and annuities that are re-opened and denied because the annuitant’s medical condition did not meet the 12-month duration requirement. When the claimant returns to work at the SGA level (or at regular railroad occupation in occupational disability cases) during the waiting period and after the final determination, and this work continues, the disability examiner will re-open the determination of allowance on the claim and revise it to a denial. The disability examiner will:

- Enter the decision on OLDDS.
- Send disability denial letter.
- Do a FAST termination, using termination code 08 for employees or code 42 for survivors, and using the ABD from the original decision as the termination date.
- Notify RPS or SPA of denial action and that overpayment must be calculated.

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- Notify BIS, Supervisor Data Management Group that annuity and DF information must be removed from PREH, annuity awarded in error.

6.2.50 Tolerance Rules

To eliminate the recertification of an award solely to pay or recover a negligible amount, the Board established rules of tolerance.

6.2.51 Definition

Tolerance is considered to be a final decision to an annuitant's rate (recurring, OPO, or for a closed period) if a letter is released containing appeal rights and:

- An award is vouchered; or
- A PREH update award is certified.

6.2.52 Overpayment tolerance

The tolerance amount for a newly established overpayment is $25.00. Do not recover an overpayment that is $25.00 or less. Do not enter the overpayment on the Program Accounts Receivable (PAR) system.

Once tolerance has been applied to an overpayment, the Railroad Retirement Board will not "seek" recovery. This means that the amount of the tolerance overpayment will not be added to future overpayment amounts or recovered from future accruals.

Follow the instruction in 6.2.54 or 6.2.55 if the monthly rate is changing. This applies to the recurring rate and for a closed period.

6.2.53 Underpayment Tolerance

The tolerance amount for underpayments is $5.00. Do not issue an accrual payment or lump sum award when the accrual is $5.00 or less. This only applies to one payment only situations, i.e., tax refund, SALSA, LSDP, and residual payments. The underpayment will not be included on any future adjustment for a subsequent period being paid to either the underpaid annuitant or to the eligible survivor(s) of that annuitant.

Previously, when tolerance was applied to an underpayment, a form G-114 (3-94), Folder Record of Underpayment Tolerance, was completed to document the

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underpayment. Form G-114 is no longer necessary and is obsolete. Previous forms in file can be ignored.

If you are adjusting annuity components for reasons described in 6.2.54 or 6.2.55, issue the accrual payment even if the accrual is $5.00 or less.

Note: When the $5.00 tolerance is applied to a lump sum award, the amount not paid is still deductible from the gross residual. Place a note in the file of the amount payable should an eligible person request the payment.

6.2.54 Monthly Rate Tolerance

Monthly rate tolerance refers to a change in the annuity rate at the effective date of the adjustment. This applies in a recurring situation or in a closed period, i.e., adjustment is needed from 1/1/99 then you consider tolerance as of 1/1/99.

- If the change in the monthly annuity rate is $1.00 or less, do not reopen the case unless an exception applies as specified in 6.2.55.
- If the change in the monthly rate is more than $1.00, adjust the case as follows.

Monthly rate change is	And	Then
More than $1.00	Overpayment $25.00 or less	• Correct rate • O/P is tolerance • No PAR entry • Use paragraph 444.1 • Do not complete tier summary - Complete payment summary only
More than $1.00	Overpayment more than $25.00	• Correct rate • Recover O/P • Enter onto PAR

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		• Complete tier summary
More than $1.00	Underpayment exists(any amount)	• Correct rate • Issue accrual • Complete tier summary

Note: For a closed period adjustment, complete a PREH update award or OPO.

6.2.55 Exceptions To Tolerance

Monthly rate tolerance does not apply in the following situations.

- An annuitant requests that his/her annuity be increased or a beneficiary requests payment of a lump sum amount.
- A partial award was made and the annuitant died before a final award could be processed.
- For purposes of establishing the computation change in an O/M to RR or a RR to O/M switch, tolerance should not be considered when deciding to do an award. Examiners should always do an award to show when the RR or O/M rates became effective. Tolerance will be determined at the effective date of any potential change. For example, if the Tier 1 is due a recalculation from the ABD, tolerance is determined at the ABD. If the tier 1 is due a recomputation, tolerance is determined at the effective date of the recomputation. If tolerance applies the rates, pay the current RR rate on the record when doing an O/M to RR switch.
- A STAZA award can be made.
- A simultaneous RR/SS adjustment is required due to an increase in the SS benefit rate. (In such a case, the recurring rate tolerance will not apply. However, if an RR overpayment exists after the SS accrual has been used as an offset, overpayment tolerance should be considered.)
- Recovery of Medicare premium arrearages.
- Cost-of-living, RAIL, SSA COLA rejects
- RESCUE rejects if the EDM activity is a railroad lag service/compensation posting

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- Applying DRC's (based on age or work)

The following chart only applies in exception cases as described above.

Monthly rate change is	And	Then
$1.00 or less	Overpayment $25.00 or less	• Correct rate • O/P is tolerance • No PAR entry • Use paragraph 444.1 • Do not complete tier summary - Complete payment summary only
$1.00 or less	Overpayment more than $25.00	• Correct rate • Recover O/P • Enter onto PAR • Complete tier summary
$1.00 or less	Underpayment exists(any amount)	• Correct rate • Issue accrual • Complete tier summary

Note: For a closed period adjustment, complete a PREH update award or OPO.