

2.5.1 Parent Defined

In order to qualify for a parent's insurance annuity, a person must be:

- A. The employee's natural mother or father entitled to share as a parent in the employee's intestate personal property under the law of the state in which the employee was domiciled at death; or
- B. A stepparent of the employee by a marriage entered into before the employee attained age 16; or
- C. An adopting parent who legally (not equitably) adopted the employee before (s)he attained age 16.

2.5.2 Eligibility Requirements (General)

In addition to being the parent of a deceased employee who dies completely insured for payment of survivor benefits under the 1974 RR Act, a parent must meet all the following requirements:

- A. Age - The parent must have attained age 60.
- B. Remarriage - The parent must not have married after the employee's death except as outlined in RCM 2.5.8.
- C. Application - The parent must file an annuity application and proofs as outlined in RCM 2.5.7.

2.5.3 Eligibility For Both A Tier I And A Tier II

To be eligible for an RR Act annuity tier I and tier II, a parent must meet the requirements listed in RCM 2.5.2 and all the following requirements:

- A. Other survivors - The employee must not be survived by a widow(er), divorced widow or child who could ever qualify for monthly benefits (a posthumous child born alive is deemed to survive the employee).
- B. One-half support - The parent must have been receiving one-half support from the employee at the time of the employee's death.

2.5.4 Eligibility For Tier I Only

The 1983 Amendments to the RR Act provided that an annuity consisting of a tier I only may be paid to a parent even though the employee was survived by a widow(er)-type beneficiary or child who could qualify for monthly benefits provided the parent meets the conditions in RCM 2.5.2 and also meets, both of the following conditions:

- A. The parent was receiving at least one-half support from the employee at the time of the employee's death or, if the employee had a period of disability which did not end before death, either at the beginning of the period of disability or at the time of the employee's death.
- B. The parent is not entitled to an RIB equal to or exceeding the amount of the parent's tier I before reduction for the maximum but after consideration of the sole survivor minimum computation.

2.5.5 Entitlement Requirements

The parent must:

- A. Meet all of the requirements for eligibility, and
- B. File an application and proofs as outlined in RCM 2.5.17.

2.5.6 When Parent Is Entitled To More Than One Insurance Annuity

When a parent of an insured employee is also entitled to another parent's insurance annuity or a WIA based on the earnings record of another employee, (s)he will normally receive the higher of the two annuities. However, at the parent's election, (s)he may receive benefits on the record that results in a LOWER monthly annuity rate. For example, it may be to a parent's advantage to elect to receive the lesser annuity because of an RLS that would be payable on the other record if such an election were made. When it does not appear to be to the parent's advantage to receive the smaller annuity, the higher annuity will be paid and the current lower annuity will be terminated.

Election of Lesser Annuity

The election to receive a smaller annuity is revocable and may be made on a month-by-month basis. A signed statement by the applicant is sufficient proof of election. This differs from an election to receive an RLS, which is an irrevocable election.

If it appears that it would be to a parent's advantage to receive the lesser annuity, release a memo to the field office with the facts of the case and request that the office contact the applicant. If the parent wants the smaller annuity, have the field office secure a signed statement establishing that the parent is aware that (s)he is electing the smaller benefit.

If the parent wishes to elect the smaller annuity in order to receive an RLS on another account, the statement should include the fact that the election of the smaller annuity is made in order to receive the RLS and that the applicant does not intend to revoke it. A G-126 election form is not needed.

Revocation of Election

If the annuitant later changes his mind and withdraws his election of the smaller annuity, the RLS previously paid on the other account must be recovered from the larger annuity. No annuity would be payable until the RLS is recovered.

LSDP Entitlement

An LSDP is not payable on the account that the annuity is not paid on because there is eligibility to a monthly benefit, whether or not it is paid.

2.5.7 Marriage Before Entitlement To A Parent's Annuity

There is no future entitlement to a parent's annuity if a parent marries after the employee's death but before (s)he becomes entitled to a parent's annuity.

A parent who marries after the employee's death may, however, be entitled to a parent's annuity for some months before the marriage took place. The number of months the annuity would be payable depends on when the marriage occurred and how long after the marriage the parent files an application.

EXAMPLE: A parent meets all the requirements for a parent's annuity in 9/91. The parent marries in 11/91 and files an application for a parent's annuity in 1/92. Because a parent's annuity application can retroact up to six months, the parent's annuity can be paid for the months of 9/91 and 10/91, the months before the marriage took place.

2.5.8 Marriage After Entitlement To A Parent's Annuity

If a parent marries after entitlement to a parent's annuity, the annuity will terminate unless the marriage is to an individual entitled as a divorced spouse, widow(er), mother, father, parent or disabled child under the Social Security Act, or the Railroad Retirement Act. If the parent's marriage is to a qualifying individual, the parent will be entitled to a tier I only. If the parent is receiving a tier I and tier II, the tier II portion of the annuity will be terminated and tier I reinstated with the new beneficiary symbol (LP) or (LF). If the parent is only receiving a tier I, the tier I annuity will continue.

If a parent marries an SS beneficiary that permits tier I entitlement to continue, request the field office to:

- Secure proof of marriage;
- Secure the SS number of the spouse;
- Secure the SS number and type of benefit the spouse receives at SSA;
- Forward all information to BSB; and
- Advise a parent who is receiving both a tier I and tier II annuity to return any annuity payments received after the date of marriage; an adjustment is required in the

annuity rate since now only a tier I is payable. A parent who is only receiving a tier I annuity does not have to return any payments since there will not be a change in the annuity rate.

2.5.9 Parent's Marriage Annulled

When a marriage that terminated a parent's entitlement is annulled, payment of the parent's annuity is possible if the annulled marriage was a void or voidable marriage and no alimony is actually awarded.

When a parent, whose annuity was terminated because of marriage, reports that the marriage was annulled, secure a copy of the annulment decree. If the decree does not state the grounds on which annulment was based, obtain a copy of the complaint filed in the proceedings. A new application is not required. Refer to attorney advisor.

2.5.10 Beginning Date

The beginning date and retroactivity of a parent's insurance annuity (WIA) is explained in FOM-I-111.20, FOM-I-111.51 and FOM-I-112.9.4.

2.5.11 Amount Of Annuity

A. Annuity Components

1. Tier I

- a. Two Parents - The tier I component is 75% of a PIA based on the EE's combined wages and compensation. It is reduced for SS benefit entitlement and entitlement to any RR retirement annuity.
- b. One Parent - The tier I component is 82 1/2% of a PIA based on the EE's combined wages and compensation. It is reduced for SS benefit entitlement and entitlement to any RR retirement annuity.

Parents who qualify for a parent's annuity under the provisions of the 1983 Amendments are entitled to tier I only. Their tier I is subject to reduction for the family maximum.

Payment of tier I may be affected by certain SSA nonpayment provisions. Refer to SAPT any cases in which alien nonpayment provisions, conviction of a felony, conviction for subversive activities, deportation, (including deportation of the deceased employee due to associations with the NAZI government of Germany during World War II), or other nonpayment provisions of the SS Act are involved.

2. Tier II - The tier II component is equal to:

- a. 30% rate (1974 Act tier II): If the employee began receiving an RRA retirement annuity before October 1, 1981, or the employee died before October 1, 1981, the tier II component is equal to 30% of the gross tier I after any reduction for the maximum.
 - b. Share of EE's tier II (1981 Amendment tier II): If the employee began receiving an RRA retirement annuity on October 1, 1981 or later, the employee died on October 1, 1981 or later, or the voucher date of the initial survivor award is 10-1-86 or later, the tier II component is based on a percentage of the EE tier II which would be payable if the employee were alive on the parent's OBD. The basic tier II is reduced for entitlement to the vested dual benefit, but it is not reduced for age. A parent is entitled to a 35% share of the employee's tier II.
- B. Sole Survivor Minimum - The sole survivor minimum benefit should be considered in the computation of a parent's annuity. Refer to RCM 8.9, G-364.1 instructions for detailed information.

2.5.12 Work Restrictions

- A. Restricted Employment - A parent's insurance annuity is not payable for any month the parent works for an employer covered by the RR Act.
- B. Earnings Restrictions - A parent under age 70 is subject to the regular survivor earnings restrictions. (Age 72 prior to 1-1983.)

2.5.13 When Entitlement Ends

A parent's insurance annuity ends with the month before the month in which the parent:

- A. Dies, or
- B. Remarries, except:
If a parent marries certain railroad retirement annuitants or social security beneficiaries, entitlement to tier I may continue. (Refer to RCM 2.5.8.)
- C. Becomes entitled to another insurance annuity under the RR Act which exceeds the current parent's insurance annuity, or
- D. Becomes entitled to an RIB which equals or exceeds the amount of the parent's tier I before reduction for the maximum, if the parent is entitled to a tier I only benefit under the 1983 Railroad Retirement Act Amendments.

2.5.17 Evidence Requirements

| Evidence | When Required |
|-------------------------------------|---|
| Application (AA-20) | Always. If 2 parents claim dependency, each must file an AA-20. |
| Proof of One-Half Support of Parent | Always. (Use G-134.) |
| Age of Parent | Always. |
| Relationship | Always. |
| Proof of Age of Employee | <p>In "A" cases POA is required only if the employee's DOB has not been previously verified</p> <p>Effective 03-01-2004 POA of deceased employee is required in all "D" cases when a survivor recurring application is filed.</p> |
| Death of Employee | Always. |
| Employee's Compensation Record | Always. |
| Amount of Parent's RRA | Employee Annuity Always. |
| Marriage of Parents | If claimant is stepparent. |
| Adoption | If claimant is an adopting parent or is a stepparent through marriage to an adopting parent of the employee. |
| Amount of SSA Benefits | Always. |
| Guardianship (AA-5) | If a guardian is selected as representative payee. |
| M/S | If employee's M/S after 1936 would be credited either as compensation under the RR Act or wages under the SS Act. |

2.5.18 Filing Proof Of Support

- A. Filing Requirement - Each parent who claims to have been receiving at least one-half support from the employee must submit proof of support. A G-134 is required before final action can be taken on the parent's application even though the parent has indicated on his AA-20 that he was not receiving at least one-half support from the employee.

If a parent is eligible for both a tier I and a tier II, there is no time limit for filing proof of support.

If a parent is eligible for a tier I only (1983 Amendments), proof of support must be filed within two years after:

- The month in which the employee filed an application for a period of disability, if support is being established as of the beginning of that period of disability; or
- The date of the employee's death, if support is being established at that point.

The point at which proof of support must be established determines the period within which proof of support must be filed. There can be no interchange of such periods, e.g., if the support requirement is met at the beginning of a period of disability and not at the time of death, proof of support is not timely filed because it was filed within two years after the date of the employee's death.

Proof of support must be filed within the appropriate period even though the parent may not become immediately entitled, i.e., he or she has not attained age 60. Proof of support which was not filed within the prescribed two-year period may be filed at any time thereafter provided there is a "good cause" for the claimant's failure to file in the prescribed period. Individuals who were first eligible for a parent's annuity 9-1-83 because of the 1983 Amendments will be considered to have established "good cause" for not filing proof of support within the prescribed period if this was the first time they could establish eligibility by proving dependency.

EXAMPLE: The employee died in 1975. We are paying a mother and child. The employee was supplying one-half support to his mother at the time of his death. The mother may file an application and proof of support in 9-83.

"Good cause" for failure to file within the specified period may be found when the parent establishes that such failure was caused by:

- Circumstances beyond the individual's control; or
- Incorrect or incomplete information furnished by the RRB; or

- Unusual or unavoidable circumstances under which the individual could not reasonably be expected to have been aware of the need to file timely.

If the field office is developing a parent's proof of support outside the specified two-year period, also request them to secure a statement from the parent regarding the reason(s) for untimely filing proof of support.

Appendices

Appendix A - Legislative History

| Effective Date | Parent's Insurance Annuity Provisions |
|-----------------------|---|
| 1-1-47 | Survivor annuity provided for dependent parents at age 65 if no eligible widow or children survive employee. Each parent received 1/2 of the Basic Amount under RR Formula. |
| 10-30-51 | Benefit amount increased to 2/3 of the BA. |
| 11-1-51 | Survivor O/M computation for parent annuitants. |
| 9-1-54 | Eligibility age for parent annuity lowered to age 60. |
| 9-1-58 | Dependent parents (male at age 65 and female at age 62) can be included in Survivor O/M as IPI even if eligible widow or children survive employee. |
| 8-1-61 | Eligibility age for male parents in Survivor O/M lowered to 62. |
| 10-5-72 | Dependent parents (male at age 65 and female at age 62) can no longer be included in Survivor O/M as IPI when eligible widow or children survive employee. |
| 1-1-75 | The 1974 RRA revised the annuity calculation to Tier 1 and Tier 2. |
| 9-1-83 | Dependent parent may be entitled to tier I even if a widow(er) or child are entitled to an annuity. Retroactivity of parent's annuity application changed from 12 to 6 months. |
| 1-1-2002 | Parent may qualify for a survivor annuity based on the earnings record of a deceased employee who had less than 120 months of railroad service, but at least 60 months of |

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| | railroad service after 1995 and a current connection with the railroad industry. Tier 1 is payable only when the employee had sufficient quarters of coverage based on combined railroad compensation and SSA wages for an insured status under the SS Act. |
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