



FROM THE DESK OF

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## **Railroad Retirement Survivor Benefits**

Monthly benefits may be payable under the Railroad Retirement Act to the surviving widow(er), children, and certain other dependents of a railroad employee if the employee was “insured” under that Act at the time of death. Lump-sum death benefits may also be payable to qualified survivors in some cases.

The following questions and answers describe the survivor benefits payable by the Railroad Retirement Board (RRB) and the eligibility requirements for these benefits.

### **1. What are the general service requirements for railroad retirement survivor benefits?**

With the exception of one type of lump-sum death benefit, eligibility for survivor benefits depends on whether or not a deceased employee was “insured” under the Railroad Retirement Act. An employee is insured if he or she has at least 120 months (10 years) of railroad service, or 60 months (5 years) performed after 1995, and a “current connection” with the railroad industry as of the month the annuity begins or the month of death, whichever occurs first.

### **2. How is a “current connection” determined under the Railroad Retirement Act?**

Generally, an employee who worked for a railroad in at least 12 months in the 30 months immediately preceding the month his or her railroad retirement annuity begins will meet the current connection requirement. If an employee dies before retirement, railroad service in at least 12 months in the 30 months before the month of death will meet the current connection requirement for the purpose of paying survivor benefits.

If an employee does not qualify on this basis, but has 12 months of service in an earlier 30-month period, he or she may still meet the current connection requirement. This alternative generally applies if the employee did not have any regular employment outside the railroad industry after the end of the last 30-month period which included 12 months of railroad service and before the month the annuity begins or the month of death, if earlier.

Full or part-time work for a nonrailroad employer in the interval between the end of the last 30-month period including 12 months of railroad service and the beginning date of an employee’s annuity or the month of death, if earlier, can break a current connection.

Self-employment in an unincorporated business will not break a current connection; however, self-employment can break a current connection if the business is incorporated. All self-employment will be reviewed to determine if it meets the RRA’s standards for maintaining a current connection.

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Working for certain U.S. Government agencies -- Department of Transportation, National Transportation Safety Board, Surface Transportation Board, Transportation Security Administration, National Mediation Board, Railroad Retirement Board -- will not break a current connection. State employment with the Alaska Railroad, so long as that railroad remains an entity of the State of Alaska, will not break a current connection. Also, railroad service in Canada for a Canadian railroad will neither break nor preserve a current connection.

A current connection can also be maintained, for purposes of survivor annuities, if the employee completed 25 years of railroad service, was involuntarily terminated without fault from his or her last job in the rail industry, and did not thereafter decline an offer of employment in the same class or craft in the rail industry, regardless of the distance to the new position.

A current connection determination is made when an employee files for a railroad retirement annuity. If an employee dies before applying for an annuity, it is made when an applicant files for a survivor annuity. Once a current connection is established at the time the railroad retirement annuity begins, an employee never loses it no matter what kind of work is performed thereafter.

### **3. What if these service requirements are not met?**

If a deceased employee did not have an insured status, jurisdiction of any survivor benefits payable is transferred to the Social Security Administration and survivor benefits are paid by that agency instead of the RRB. Regardless of which agency has jurisdiction, the deceased employee's railroad retirement and social security credits will be combined for benefit computation purposes.

### **4. What are the age and other eligibility requirements for widow(er)s who haven't remarried?**

Widow(er)s' benefits are payable at age 60 or over. They are also payable at any age if the widow(er) is caring for an unmarried child of the deceased employee under age 18 or a disabled child of any age who became permanently disabled before age 22. Widow(er)s' benefits are also payable at ages 50-59 if the widow(er) is totally disabled and unable to work in any regular employment. The disability must have begun within 7 years after the employee's death or within 7 years after the termination of an annuity based on caring for a child of the deceased employee. In most cases, a 5-month waiting period is required after the onset of disability before disability payments can begin.

Generally, the widow(er) must have been married to the employee for at least 9 months prior to death, unless she or he was the natural or adoptive parent of their child, the employee's death was accidental or while on active duty in the U.S. Armed Forces, the widow(er) was potentially entitled to certain railroad retirement or social security benefits in the month before the month of marriage, or the marriage was postponed due to State restrictions on the employee's prior marriage and divorce due to mental incompetence or similar incapacity.

### **5. Can surviving divorced spouses and remarried widow(er)s also qualify for benefits?**

Survivor benefits may be payable to a surviving divorced spouse or remarried widow(er). Benefits are limited to the amount social security would pay (tier I only) and therefore are less than the amount

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of the survivor annuity otherwise payable (tier I and tier II) by the RRB. A tier II benefit is **not** provided for a surviving divorced spouse or a remarried widow(er).

A surviving divorced spouse may qualify if she or he was married to the employee for at least 10 years immediately before the date the divorce became final, and is age 60 or older (age 50 or older if disabled). A surviving divorced spouse who is unmarried can qualify at any age if caring for the employee's child and the child is under age 16 or disabled, in which case the 10-year marriage requirement does not apply.

A widow(er) or surviving divorced spouse who remarries after age 60, or a disabled widow(er) or disabled surviving divorced spouse who remarries after age 50 may also receive the portion of a survivor annuity equivalent to a social security benefit (tier I); however, remarriage prior to age 60 (or age 50 if disabled) would not prevent eligibility if that remarriage ended. Such social security level benefits may also be paid to a younger widow(er) or surviving divorced spouse caring for the employee's child who is under age 16 or disabled, if the remarriage is to a person entitled to railroad retirement or social security benefits, or the remarriage ends.

#### **6. When are survivor benefits payable to children and other dependents?**

Monthly survivor benefits are payable to an unmarried child under age 18, and to an unmarried child age 18 in full-time attendance at an elementary or secondary school, or in approved homeschooling, until the student attains age 19 or the end of the school term in progress when the student attains age 19. In most cases where a student attains age 19 during the school term, benefits are limited to the two months following the month age 19 is attained. These benefits will be terminated earlier if the student marries, graduates or ceases full-time attendance. An unmarried disabled child over age 18 may qualify if the child became totally disabled before age 22. An unmarried dependent grandchild meeting any of the requirements described above for a child may also qualify if both the grandchild's parents are deceased or found disabled by the Social Security Administration.

Monthly survivor benefits are also payable to a parent at age 60 who was dependent on the employee for at least half of the parent's support. If the employee was also survived by a widow(er), surviving divorced spouse or child who could ever qualify for an annuity, the parent's annuity is limited to the amount that social security would pay (tier I).

#### **7. How are railroad retirement widow(er)s' benefits computed?**

The tier I amount of a two-tier survivor benefit is based on the deceased employee's combined railroad retirement and social security earnings credits, and is computed using social security formulas. In general, the survivor tier I amount is equal to the amount of survivor benefits that would have been payable under social security.

December 2001 legislation established an "initial minimum amount" which yields, in effect, a widow(er)'s tier II benefit equal to the tier II benefit the employee would have received at the time of the award of the widow(er)'s annuity, minus any applicable age reduction.

However, such a tier II benefit will not receive annual cost-of-living increases until such time as

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the widow(er)'s annuity, as computed under prior law with all interim cost-of-living increases otherwise payable, exceeds the widow(er)'s annuity as computed under the initial minimum amount formula.

A widow(er) who received a spouse annuity from the RRB is guaranteed that the amount of any widow(er)'s benefit payable will never be less than the annuity she or he was receiving as a spouse in the month before the employee died.

The average annuity awarded to widow(er)s in fiscal year 2020, excluding remarried widow(er)s and surviving divorced spouses, was \$2,333 a month. Children received \$1,549 a month, on the average. Total family benefits for widow(er)s with children averaged \$4,395 a month. The average annuity awarded to remarried widow(er)s or surviving divorced spouses in fiscal year 2020 was \$1,301 a month.

**8. Are survivor benefits subject to any reduction for early retirement or disability retirement?**

A widow(er), surviving divorced spouse or remarried widow(er) whose annuity begins at full retirement age or later receives the full tier I amount unless the deceased employee received an annuity that was reduced for early retirement. The eligibility age for a full widow(er)'s annuity is gradually rising to age 67 for those born in 1962 or later, the same as under social security. The maximum age reduction is also rising to 20.36 percent, depending on the widow(er)'s date of birth. For a surviving divorced spouse or remarried widow(er), the maximum age reduction is 28.5 percent. For a disabled widow(er), disabled surviving divorced spouse or disabled remarried widow(er), the maximum reduction is also 28.5 percent, even if the annuity begins at age 50.

**9. Are these benefits subject to offset for the receipt of other benefits?**

Under the Railroad Retirement Act, the tier I portion of a survivor annuity is subject to reduction if any social security benefits are also payable, even if the social security benefit is based on the survivor's own earnings. This reduction follows the principles of social security law which, in effect, limit payment to the highest of any two or more benefits payable to an individual at one time.

The tier I portion of a widow(er)'s annuity may also be reduced for the receipt of certain Federal, State or local government pension based on the widow(er)'s own earnings. The reduction generally does not apply if the employment on which the public pension is based was covered under the Social Security Act throughout the last 60 months of public employment. However, most military service pensions and payments from the Department of Veterans Affairs will not cause a reduction. Pensions paid by a foreign government or interstate instrumentality will also not cause a reduction.

For those subject to the public pension reduction, the tier I reduction is equal to 2/3 of the amount of the public pension.

A survivor annuitant should notify the RRB promptly if she or he becomes entitled to any such benefits.

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**10. What if a widow(er) was also a railroad employee and is eligible for a railroad retirement employee annuity as well as monthly survivor benefits?**

If the widow(er) is entitled to a railroad retirement employee annuity and neither the widow(er) nor the deceased employee had any railroad service before 1975, the survivor annuity (tier I and tier II) payable to the widow(er) is reduced by the total amount of the widow(er)'s own employee annuity.

If a widow or dependent widower is also a railroad employee annuitant, and either the widow(er) or the deceased employee had at least 120 months of railroad service before 1975, the tier I reduction may, under certain circumstances, be partially restored in the survivor tier II amount.

If either the deceased employee or the widow(er) had some railroad service before 1975 but less than 120 months of service, the widow(er)'s own employee annuity and the tier II portion of the survivor annuity would be payable to the widow(er). The tier I portion of the survivor annuity would be payable only to the extent that it exceeds the tier I portion of the widow(er)'s own employee annuity.

**11. What types of lump-sum death benefits are payable under the Railroad Retirement Act?**

A lump-sum death benefit is payable to certain survivors of an employee with 10 or more years of railroad service, or less than 10 years if at least 5 years were after 1995, and a current connection with the railroad industry if there is no survivor immediately eligible for a monthly annuity upon the employee's death.

If the employee did not have 10 years of service before 1975, the lump sum is limited to \$255 and is payable only to the widow(er) living in the same household as the employee at the time of the employee's death.

If the employee had less than 10 years of service but had 5 years after 1995, he or she must have met social security's insured status requirements for the lump sum to be payable.

If the employee had 10 years of service before 1975, the lump sum is payable to the living-with widow(er). If there is no such widow(er), the lump sum may be paid to the funeral home or the payer of the funeral expenses. These lump sums averaged \$1,030 in fiscal year 2020.

If a widow(er) is eligible for monthly benefits at the time of the employee's death, but the widow(er) had excess earnings deductions which prevented annuity payments or for any other reason did not receive monthly benefits in the 12-month period beginning with the month of the employee's death totaling at least as much as the lump sum, the difference between the lump-sum benefit and monthly benefits actually paid, if any, is payable in the form of a deferred lump-sum benefit.

The average for all types of lump sums was \$933 in fiscal year 2020.

The railroad retirement system also provides, under certain conditions, a residual lump-sum death benefit which ensures that a railroad family receives at least as much in benefits as the employee paid in railroad retirement taxes before 1975. This benefit is, in effect, a refund of an employee's pre-1975 railroad retirement taxes, after subtraction of any benefits previously paid on the basis of the employee's service. This benefit is seldom payable.

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**12. How does a person get an estimate of, or apply for, survivor benefits?**

As all of the RRB's 53 field offices are physically closed to the public until further notice because of the COVID-19 pandemic, the best way to obtain a survivor's annuity estimate is to call the agency's toll-free number (1-877-772-5772).

Under normal circumstances, applications for survivor benefits are generally filed at one of the RRB's field offices, with an RRB representative at one of the office's Customer OutReach Program (CORP) service locations, or by telephone and mail; however, while RRB field offices remain physically closed, applications can be filed solely by telephone and mail by first calling 1-877-772-5772. It is important to note that callers may experience lengthy wait times due to increased call volume caused by COVID-19 related issues.

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