

2301 Provisions of Law and Board Regulations

2301.01 Railroad Retirement Act

Section 12 of the Railroad Retirement Act provides, in part, that:

- "(a) Every individual receiving or claiming benefits, or to whom any right or privilege is extended, under this Act or any other Act of Congress now or hereafter administered, in whole or in part, by the Board shall be conclusively presumed to have been competent until the date on which the Board receives written notice, in a form and manner acceptable to the Board, that he is an incompetent, or a minor, for whom a guardian or other person legally vested with the care of his person or estate has been appointed: Provided, however, that regardless of the legal competency or incompetency of an individual entitled to a benefit administered by the Board, the Board may, if it finds the interest of such individual to be served thereby, recognize actions by, and conduct transactions with, and make payments to a relative or some other person for such individual's use and benefit.
- "(b) Every guardian or other person legally vested with the care of the person or estate of an incompetent or minor who is receiving or claiming benefits, or to whom any right or privilege is extended, under this Act or any other Act of Congress now or hereafter administered, in whole or in part, by the Board shall have power everywhere, in the manner and to the extent prescribed by the Board, but subject to the provisions of the preceding subsection, to take any action necessary or appropriate to perfect any right or exercise any privilege of the incompetent or minor and to conduct all transactions on his behalf under this or any other Act of Congress now or hereafter administered by the Board. Any payment made pursuant to the provisions of this section shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment."

In as much as section 12 of the Railroad Retirement Act applies to "any other Act of Congress now or hereafter administered, in whole or in part, by the Board", the provisions of section 12 apply to payments under the Railroad Unemployment Insurance Act.

2301.02 Regulations

See 20 CFR 266.

2301.03 Board Order 75-8

Item 12 of Basic Board Order 75-8 provides:

"In the absence, or prior to receipt, of written notice of the appointment of a guardian or other person legally vested with the care of the person or estate of an individual to

whom benefits are payable under the Railroad Unemployment Insurance Act, the office of the Board adjudicating the individual's claims for benefits is authorized to certify payment of such benefits to another for the use of the individual if, in accordance with instructions issued by the director of unemployment and sickness insurance, it finds that the individual is unable, because of incompetence, to endorse checks and that such certification is in the best interest of the individual. In the absence of special circumstances, consideration of the proper person to be designated in the certification as the payee should be limited to the following persons, who are listed in order of preference: (a) the spouse; (b) a child who has gained majority; (c) a parent; (d) a brother or sister; (e) the head of the institution where the individual is receiving treatment."

2302 Considerations in Applying the Provisions

2302.01 Presumption of competence

It is to be presumed that an individual is competent and able to sign forms unless (a) a guardian or other legal representative has been appointed by a court, or (b) a written statement has been submitted that the individual is not able to sign forms.

2302.02 Persons who may act for individual

Ordinarily the person who is to act for an individual in claiming benefits under the Act should be (a) the guardian or other legal representative appointed by a court or (b) a person whose relationship to the employee/claimant is such that it can be reasonably inferred that he or she will act in the best interest of the individual.

2302.03 Accepting forms and paying benefits

- a. A guardian or other legal representative may take all actions necessary to file and perfect a claim for benefits in behalf of an individual who is unable to sign forms or endorse checks. Benefits are to be certified for payment to a guardian or other legal representative for the use of the individual entitled to payment. (See AIM-2303.)
- b. In the absence of a guardian or other legal representative, another person may file claims in behalf of an individual who is unable to sign forms. A properly executed Form SI-10, Statement of Authority to Act for Employee, is sufficient evidence of an individual's inability to sign forms. However, benefits are to be certified for payment to the individual entitled unless there is additional evidence to show that the individual is unable to endorse checks. (See AIM-2304.)

2303 Guardian or Other Legal Representative Appointed

2303.01 Recognition

When a certified transcript of a court order showing the appointment of a guardian or other legal representative of an individual has been received:

- a. All correspondence and forms concerning the individual's rights under the Railroad Unemployment Insurance Act are to be sent to the guardian or other legal representative,
- b. Required forms or documents completed in behalf of the individual by the guardian or other legal representative are to be accepted.
- c. Any amounts to which the individual is found to be entitled are to be approved for payment to the guardian or other legal representative for the use of the individual.

Note: Use a type 1 payee legend in order to mail computer-generated correspondence, claim forms and benefit payments to the guardian or other legal representative for the claimant. For example, enter the legend and address as follows:

J A JOHNSON FOR	Type 1 legend
I M CLAIMANT	Name of claimant
123 MAIN ST	Address of guardian or legal representative
CHICAGO IL 60611	

2303.02 Termination of Appointment

When notice of termination of the appointment of a guardian or other legal representative of an individual is received, a certified copy of the court order terminating the appointment should be obtained. Upon receipt of a copy of the court order, any required correspondence or forms should be sent to the individual and any amounts to which the individual is found to be entitled are to be approved for payment to him or her. A request for opinion should be submitted when there is information that an individual may have regained competence and appointment of a guardian or other legal representative has not been terminated.

2304 Recognition of Person Other Than Guardian or Legal Representative

2304.01 Requirement

Ordinarily, it will be necessary to recognize a person to act for an individual for whom no guardian or other legal representative has been appointed when such individual:

- a. May be entitled to benefits; and
- b. Is so sick or injured that he or she cannot sign forms.

2304.02 Qualification of person to act

A person may properly act in behalf of an individual when such person:

- a. Is willing to undertake to transact in the individual's best interests all business relating to applications and claims;
- b. Is related to the individual by blood or marriage, or in the event there is no such relative available, has some other relationship from which it might reasonably be inferred that he or she would act in the individual's best interests; and
- c. Has furnished the information required by Form SI-10 and has properly executed such form.

2304.03 Form SI-10

The information required by Form SI-10, and the action to obtain needed information which has not been furnished, should be determined as provided below.

a. Identity of individual

There should be sufficient information in section 1 of Form SI-10 to identify the individual in whose behalf a person is to claim benefits. When this information has not been furnished or is not sufficient, it should be obtained from the person who signed section 1.

b. Description of individual's condition

When this information has been omitted from section 1, it should be obtained, unless medical information shows that the individual is in no condition to act for himself or herself.

c. Relationship

Section 1 should contain information indicating the relationship to the individual of the person who is to claim benefits in his or her behalf. If information concerning relationship has not been furnished, or if it is not clear that the person who signed section 1 will act in the individual's best interests, an investigation should be initiated to obtain the required information.

d. Signature in Section 1

The signature of the person who is to claim benefits in behalf of the individual is required in section 1. The form is not acceptable if the signature has been omitted, and action should be initiated to obtain a proper signature.

e. Address in Section 1

When the address has been omitted from section 1, the address shown on forms filed in behalf of the individual should be used.

f. Signature in Section 2

The signature of a doctor or other person qualified or designated to execute statements of sickness is required in section 2. To be acceptable the doctor or other person must have examined the individual entitled to benefits during the period when he or she was unable to sign forms because of sickness or injury for which benefits are claimed.

Where there is no signature in section 2, a signature of the individual's doctor should be obtained. When a signature that has been entered in section 2 is not acceptable because there is no information that a person qualified to execute statements of sickness examined the claimant, such information or an acceptable Form SI-10 should be obtained.

2304.04 Application and claim forms

Application and claim forms should be sent to the person recognized to act for the individual who may be entitled to benefits. The forms should be signed by that person.

Note: Unless it has been determined that the employee/claimant is unable to endorse checks, use a type 2 address legend in order to mail computer-generated correspondence and claim forms to the claimant in care of the person recognized to act in behalf of the claimant. For example, enter the address as follows:

I M CLAIMANT	Name of claimant
C/O J A JOHNSON	Type 2 legend
123 MAIN ST CHICAGO IL 60611	Address of individual recognized to act for claimant

See AIM-2303.01 for an example of how to enter an address for a claimant who is unable to endorse checks.

2304.05 Payment of benefits

Benefits are to be certified in the name of the employee/claimant entitled to payment unless it has been found that he or she is unable to endorse checks. It may be considered that an employee is not able to endorse checks when a written statement, other than Form SI-10, has been received indicating that he or she cannot endorse checks and such statement is supported by the medical evidence submitted.

In cases in which it is determined that the employee/claimant cannot endorse checks, benefits may be certified to one of the following persons, provided such person has executed Form SI-10. The following are listed in order of preference:

- a. The spouse of the individual to whom payment is due, or
- b. A child who has gained majority, or
- c. A parent, or
- d. a brother or sister, or
- e. The head of the institution where the individual is receiving treatment.

In any other circumstances, a request for opinion should be submitted and payment should be withheld until an opinion is received.

2304.06 Termination of recognition

Payment to the person recognized to act for an individual is to be discontinued immediately upon receipt of information that such individual may be able to endorse checks. Upon receipt of evidence that an individual can act for himself or herself in claiming benefits, required forms should be sent to the claimant and should be signed by him or her rather than by the person who had been recognized to act for him.

Appendices

Appendix A

Additional Examples of Unacceptable Statements of Authority To Act For Employees Form (SI-10):

See AIM 2304.03 Form SI-10, for a description of an unacceptable Form SI-10. Below are additional examples. . Use Form ID-23 Notice of Authority To Act For Employee to notify claimant and designee of an unacceptable Form SI-10.

- When a claimant is physically able to sign either the Application for Sickness Benefits (SI-1A) or Claim for Sickness Benefits (SI-3), but is confined to a hospital or similar institution.

- When a claimant is physically able to sign our forms but is receiving medical treatment away from home and requests that spouse be able to sign forms.
- When a claimant is physically able to sign our forms but does not understand the English language.

