

2800 Provisions of the Acts and Board Regulations

2800.01 Provisions of the Acts

Section 2(g) of the Railroad Unemployment Insurance Act provides that:

"Benefits accrued to an individual but not yet paid at death shall, upon certification by the Board, be paid, without necessity of filing further claims therefore, to the same individual or individuals to whom any accrued annuities under section 3(f)(1) of the Railroad Retirement Act of 1937 are paid. In the event that no such accrued annuities are paid, and if application for such accrued benefits is filed prior to the expiration of two years after the death of the individual to whom such benefits accrued, such accrued benefits shall be paid, upon certification by the Board, to the individual or individuals who would be entitled thereto under section 3(f)(1) of the Railroad Retirement Act of 1937 if such accrued benefits were accrued annuities. If there is no individual to whom all or any part of such accrued benefits can be paid in accordance with the foregoing provisions, such benefits or part thereof shall escheat to the credit of the account."

Section 3(f)(1) of the Railroad Retirement Act provides that:

"Annuities under section 2(a) which will have become due an individual but will not have been paid at the time of such individual's death shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and to have been living with such individual at the time of such individual's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such individual, and to the extent that he or they will not have been reimbursed under section 5(f)(1) for having paid such expenses. If there be no person or persons so entitled, or if the total of such annuities exceeds the amount payable under this paragraph to such person or persons, such total, or the remainder thereof, as the case may be, shall be paid to the children, grandchildren, parents, or brothers and sisters of the deceased individual in the same manner as if such unpaid annuities were a lump sum payable under section 5(f)(2)."

2800.02 Provisions of the Regulations

Refer to CFR 20, Part 335.5 of the RRB's regulations, Death of Employee.

2801 Considerations as to Payment of Benefits

2801.01 When accrued benefits may be due

Benefits may be due in the case of a deceased employee if a claim has not been fully processed, or a benefit check has been returned, or if there is an inquiry or other communication regarding sickness or unemployment benefits which apparently would be payable if a form or forms that had not been filed were to be timely filed.

2801.02 Application for accrued benefits

A person will be considered to have made application for accrued benefits due but not paid at death for an employee if person's name is shown in any portion of a timely application for any type of benefit provided under the Railroad Retirement Act. If the person to whom accrued benefits should be paid has not been named in such an application under the Railroad Retirement Act, Form UI-63, Application for Accrued Benefits Due Under the Railroad Unemployment Insurance Act and Unpaid at Death, is required.

2801.03 Outstanding recoverable amount

If there is an outstanding amount recoverable which cannot be completely recovered by set-off against additional benefits otherwise payable under the Railroad Unemployment Insurance Act, immediately refer the case to the Bureau of Fiscal Operations - Debt Recovery Section(BFO-DRS) for advice. BFO-DRS will determine whether the deceased employee left an estate from which recovery can be made before the estate is closed.

2801.04 Persons to whom benefits are to be paid

Unemployment or sickness benefits accrued to an individual but not paid at death are to be paid:

- a. To those persons to whom accrued annuities under Section 3(f)(1) of the Railroad Retirement Act are paid.
- b. If no accrued annuities are due under Section 3(f)(1) of the Railroad Retirement Act, then to those persons who would be entitled to such annuities if any were due, provided an application for the accrued benefits is filed within two years after the employee's death.

RUIA benefits due but unpaid at the time of an employee's death are payable under Section 3(f)(1) to survivors in the following priority order:

1. Widow or widower "living with" the employee at the time of death who will not have died before receiving payment.

2. Person or persons equitably entitled (payer of the employee's burial expenses).
 3. Children (full amount if only one, equal shares if more than one).
 4. Grandchildren (full amount if only one, equal shares if more than one).
 5. Parents (full amount if only one parent, equal shares if both survive).
 6. Brothers and sisters (full amount if only one, equal shares if more than one).
- c. If there are no persons who would be entitled to receive all or part of the accrued annuities if any were due, then any accrued benefits or part thereof shall return to the RUIA account.

2801.05 Amount of Accrued Benefits Payable

Sickness benefits are payable through the date of death. Unemployment benefits are payable through the date prior to the date of death.

2802 Receipt of Notice of Death

2802.01 Notice Received in Operations

If a notice is received that a railroad employee has died, develop the case in accordance to DPOM/FOM-II-280.

2802.02 Notice Received at a Field Office

If a notice is received that a railroad employee has died, develop the case in accordance to DPOM/FOM-II-328.

2803 Certification of Accrued Benefits

2803.01 Certifying Authority

The Sickness and Unemployment Benefit Section (SUBS) is authorized to certify to whom the payment of accrued benefits not paid at death on the basis of information developed by the field office. However, if the surviving widow(er) is not considered to have been "living with" the deceased and the deceased employee had at least 120 cumulative service months prior to 1975, Operations-Survivor Benefits Division (SBD) is authorized to certify the person to whom benefits will be paid. SBD may also certify where neither an accrued annuity nor a lump-sum death payment is payable but there is sufficient information to

support a determination as to the person or persons entitled to receive the accrued benefits.

2803.02 Supporting evidence required

Certification based on information developed by a field office must be supported by:

- a. An application on Form UI-63 for the payment of accrued benefits to the person or persons found to be entitled to them or advice on Form UI-64 from the field office that the required application has been filed under the Railroad Retirement Act.
- b. A completed Form UI-64 showing the following:
 1. That acceptable proof of death has been examined.
 2. That acceptable proof of marriage has been examined.
 3. That the surviving widow or widower was "living with" the employee when the death occurred.
 4. That acceptable proof of payment of the burial expenses has been examined to certify the payment of accrued benefits to someone other than a "living with" widow or widower (payer of burial expenses).
- c. Any required forms not filed before the death of the claimant.

2803.03 Certification Form

The Form UI-65 shall serve as documentation for the certification for payment of accrued unemployment and sickness benefits.

2803.04 Action If No Certification Can Be Made

If certification cannot be made, the claims folder shall be retained until a date two years after the employee's death. At some convenient time thereafter, the claims folder shall be forwarded to storage files.

2804 Proofs

2804.01 Form UI-64

A report from the field office on Form UI-64, indicating that it has examined the following proofs and has taken no exception to them, shall be accepted as evidence sufficient to support certification on Form UI-65 by SUBS.

2804.02 Death Certificate

A public record of death (Death Certificate) or a coroner's report of death, or a certified copy of either, is acceptable as proof of death of the claimant.

2804.03 Relationship of widow or widower

Any one of the following is acceptable as proof of relationship of the widow or widower to the claimant:

- a. A copy of, or statement as to, a public record of the marriage duly certified by the custodian of such record or by an RRB employee.
- b. A copy of or statement as to, a church record of the marriage duly certified by the custodian of such record, or by an RRB employee.
- c. The original certificate of the marriage.

2804.04 "Living with" Defined

The surviving widow (or widower) shall be considered to have been "living with" the employee, at the time of the employee's death, if:

- a. She (he) and the employee were members of the same household, or
- b. The employee was contributing to her (his) support, or
- c. The employee was under court order to contribute to her (his) support.

Ordinarily, the survivor's statement, on her (his) application for benefits under the Railroad Retirement Act or on Form UI-63, showing that she (he) was living with the deceased employee at the time of the employee's death is acceptable. If the survivor and the employee were not residing at the same address when the application was filed or at the time of the employee's death, proof of "living with", must be established.

2804.05 Payment of Burial Expenses

A receipt or other statement from a funeral home director identifying the payer of burial expenses and showing a zero balance is acceptable as proof of payment of the burial expenses.

2805 Required Forms Not Filed Before Death

2805.01 General

If an employee dies before an application for sickness or unemployment benefits, a statement of sickness or a claim is filed, such a form may be filed by or in

behalf of the individuals to whom any benefits accrued but not paid at the employee's death would be payable.

2805.02 Obtaining required forms

The person (or one of the persons) determined to be entitled to accrued benefits, or a person who can properly act in that person's behalf, shall be requested to submit or have the required form or forms submitted. If there are two or more such persons, direct the request to one of the persons and pend the case for reply. If no reply is received within a reasonable time, a request shall be made of the other person (or one of the other persons).

Note: If it appears reasonably certain that the employee was survived by a spouse, child or parent, and that such person would be entitled to accrued benefits, the field office may be asked to secure the required forms in connection with developing the case.

2805.03 Examining forms

Forms obtained in accordance with the foregoing subsection shall be examined to determine whether they were properly executed and whether all needed information was submitted. The form on the reverse side of Form UI-63 shall be regarded as properly executed if signed by a person found to be entitled to accrued benefits or by a person who can properly act in such a person's behalf. With respect to Form SI-1b and Form SI-3, the usual filing requirements for statements of sickness and claims for sickness benefits must be met.

2806 Payment of Accrued Benefits

2806.01 General

Except as provided in Subsection .03, payment is to be made to the person or persons named in Part B of Form UI-65 and in the proportion indicated when certification in Part B has been made by SUBS personnel. Any amount due with respect to claims on file shall be certified regardless whether an additional amount may become payable upon receipt of additional claims.

2806.02 Payer of burial expenses

If the person who paid the burial expenses of the claimant is certified by SBD, the accrued benefits, to the extent of the difference between the burial expenses and the lump-sum death payment, shall be paid to such person. If the accrued benefits are more than such difference, payment shall not be made for the excess and the Director of Unemployment and Program Support shall be informed of the amount not paid.

2806.03 Non-payment to beneficiary living in restricted country

When the address of a person entitled to payment is other than the United States or Canada, brief the case for opinion to the Payment Analysis and System section in Policy and Systems for a determination as to whether payment may be made to the country indicated. If the address of a person entitled to payment is in a restricted country or area, payment shall be withheld and notice shall be sent to the Director of Unemployment and Programs Support

2806.05 Notice to person who is to receive benefits

Prepare a special letter for each person determined to be entitled to accrued benefits. The letter should inform them that they have been acknowledged as the beneficiary of the deceased claimant and the amount of benefits that they will receive.

2807 Requests for Guidance

Form UI-51, Brief of Case and Request for Opinion, shall be submitted to P&S-RIS in any case where benefits are due and (a) information received from a field office is not sufficient to support certification to a widow or widower or, (b) the address of the nearest surviving relative, or in the absence of information as to surviving relatives, the last address of the claimant, is not within the territory of any field office. In addition, questions concerning the validity of the marriage or whether the survivor was "living with" the employee at the time of death should also be referred to P&S-RIS for advice.

