

415.5 General

This chapter contains specific information regarding widow(er)'s current insurance annuities (WCIA), annuities for mothers/fathers who have minor or disabled children of a deceased employee in their care.

General information applicable to ALL types of widow(er)'s insurance annuities such as the definition of a legal widow(er), de facto widow(er), remarried widow(er), or surviving divorced spouse can be found in FOM1_405.

General information regarding child(ren)'s insurance annuities, for minor and disabled children who qualify a widow(er) for a WCIA, can be found in FOM1_420.

Since general information is contained in other chapters, various sections of this chapter are cross-referenced to the more detailed instructions in other FOM chapters.

415.10 Eligibility And Entitlement Requirements

415.10.1 Eligibility Requirements

In addition to being the legal widow(er), de facto widow(er) or surviving divorced spouse of a deceased employee who died completely insured for survivor benefits under the 1974 Act (see FOM1_230.15), an applicant must meet the following requirements:

- A. Age - The mother/father must be under full retirement age (FRA) when entitlement begins.

NOTE: A mother/father at FRA is awarded an aged widow(er)'s insurance annuity regardless whether (s)he has children in care.

- B. Marriage - A legal or de facto widow(er) must meet one of the requirements listed in [FOM1 405.5.1B](#) to qualify for a WCIA. A surviving divorced mother/father need not meet the 10-year marriage requirement to qualify for a WCIA, but (s)he must meet one of the following four tests:

(S)he must be the natural parent of the employee's child; or

(S)he must have legally adopted the employee's child while (s)he was married to him and before the child attained age 18 (equitable adoption will not qualify a surviving divorced spouse); or

(S)he must be the parent of a child who was legally adopted by the employee while (s)he was married to him and before the child attained age 18 (equitable adoption will not qualify a surviving divorced spouse); or

(S)he must have been married to the employee at the time both of them legally adopted a child under age 18 (equitable adoption will not qualify a surviving divorced spouse).

- C. Child in care - At the time of filing or sometime within the retroactive period, a mother/father must have care and custody of a qualifying child less than 18 years of age (minor) or disabled child. In order for a mother/father to qualify on the basis of a disabled child, the mother/father must perform personal services for the child. Refer to [FOM1 945.15.1](#) for additional information. A legal, de facto or remarried widow(er) must have care and custody of a child as defined in [FOM1 420.5](#). A surviving divorced mother/father must have care and custody of either a natural or legally adopted child of the deceased employee. Note: If the mother/father was previously entitled based on having a disabled child in his/her care and the annuity terminates due to the child's recovery, it is possible to become entitled again if the child meets the re-entitlement requirements as explained in [DCM 3.10.10](#). If the re-entitlement requirements are first met more than 7 years after the termination of the previous annuity, the mother/father will be entitled to tier 1 only. In such cases, the APPLE application must be marked for manual review.

NOTE: When a child is or will be separated from the mother/father for no more than 6 months, the widow(er) may continue to be paid during the period of separation provided the child can be considered to be in care during the period of separation. For more information on this subject, refer to FOM1, Article 9, Proofs.

The 1974 Railroad Retirement Act (RRA) defines tier I of a WCIA as the equivalent of the benefit the Social Security Administration would pay if it had jurisdiction of survivor benefits. Consequently, changes in the Social Security Act affecting entitlement to a mother's/father's insurance benefit can impact on the tier I of a WCIA under the RRA. Amendments to the Social Security Act enacted in 1981 changed the entitlement requirements for a mother's/father's insurance benefit based on minor children. There is no change in the payment of a child's annuity which remains payable until a child attains age 18. The amendments provide that for:

Initial entitlement September 1981 or later, a mother/father must have care and custody of a child who is under age 16. Mother/father may qualify for a WCIA based on a child age 16-18 who is disabled.

Initial entitlement before September 1981 (includes spouse to widow conversions where entitlement to a spouse annuity began before September 1981), a mother/father may be entitled through the month before the youngest child attains age 18 if the child attains age 18 before September 1983. If the youngest child attains age 18 after August 1983, a mother/father may be entitled until the child attains age 16 or September 1983, whichever is later. A mother/father may be entitled based on a child age 16-18 who is disabled.

The Social Security amendments have the following impact on entitlement to a WCIA under the RRA:

1. WCIA entitlement began under the 1937 Railroad Retirement Act (Filing date and ABD before 1/75) - The 1981 amendments have no impact on WCIA entitlement. Full WCIA based on minor children is payable until youngest child attains age 18, provided no other terminating event occurs. SS amendments do not impact on this type of case because the 1974 RRA defined tier I for an annuity converted to the 1974 Act as the deceased employee's pass-thru PIA, instead of a social security equivalent benefit.
2. Initial WCIA entitlement began under the 1974 Railroad Retirement Act before September 1981 - For months before September 1983, tier I entitlement exists if widow(er) has care and custody of a minor child under age 18. For months beginning September, 1983, tier I entitlement exists if mother/father has care and custody of a minor child under age 16 (or a disabled child age 16 or older).

Tier II in these cases would be zero when tier I entitlement ends because it is based on the tier I amount. However, a young widow(er) may continue receiving that tier II if one of the following conditions is met:

The young widow(er) has filed for benefits based on the care and custody of a child between the ages of 16 and 18, but no denial was processed.

The young widow(er) has been referred for termination because the youngest child is 16, but no termination was processed.

Reconsideration or an appeal of reconsideration of a decision denying an application based on the care and custody of a child between ages 16 and 18 has not been finalized.

EXCEPTION: If a mother/father was entitled to a spouse annuity in the month before the employee's death, (s)he would be entitled to the spouse annuity rate payable in the month before the employee's death until the youngest child attains age 18.

3. Initial entitlement begins after August 1981 and before August 1992 - A mother/father must have care and custody of a minor child under age 16, or a child age 16-18 who is disabled for entitlement to a tier I amount. Tier II entitlement may continue until the youngest child attains age 18.
4. Initial entitlement begins August 1, 1992 or later - The Tier I is again payable until the last child attains age 18.

A remarried mother/father or surviving divorced mother/father cannot qualify for a WCIA based on a minor child age 16-18 unless the child is disabled since such a widow(er)'s entitlement is based on Social Security Act provisions.

NOTE: If a legal or de facto widow(er) was entitled to a spouse annuity in the month before the employee's death, (s)he would be guaranteed to receive the spouse annuity rate payable in the month before the employee's death until the youngest child attains age 18.

- D. Living with - Living-with is required only if the widow(er) is a de facto widow(er). Refer to FOM1_405.5.2 and 405.10.1C.
- E. Marital status - A mother/father must be unmarried to establish entitlement for an annuity.

EXCEPTION: A legal or de facto widow(er) who remarries after attaining age 60 retains eligibility for an annuity. Refer to FOM1_415.10.2 for information regarding the effect of remarriage on a widow(er)'s entitlement to a WCIA.

- F. Application - To establish entitlement to a WCIA, a mother/father who meets the above eligibility requirements must file an appropriate application as described in [FOM1 415.20](#).
- G. RIB entitlement - A surviving divorced mother/father or a remarried mother/father may not be entitled to an RIB which exceeds 75% of the deceased employee's death PIA.

415.10.2 Effect of Remarriage on Entitlement to an Annuity

- A. Remarriage occurs before entitlement to an annuity - If a widow(er) or a surviving divorced mother/father remarries before entitlement to an annuity, (s)he cannot be entitled to a WCIA until the marriage terminates. She may, however, qualify for an annuity based on age or disability. (See [FOM1 405.10.2](#) and [410.10.2](#).)
- B. Remarriage occurs after entitlement to an annuity
1. Effective 1-1-84 or later.
 - a. A widow(er) or a surviving divorced mother/father may continue to receive a WCIA consisting of only a tier I component if (s)he remarries after age 60 (age 50 if disabled).
 - b. A widow(er) or a surviving divorced mother/father may continue to receive a WCIA consisting of only a tier I component if (s)he marries an individual entitled to a retirement or disability benefit, a widow(er)'s, mother's/father's, parent's or disabled child's benefit under the Railroad Retirement Act or the Social Security Act.
 - c. A widow(er)'s or a surviving divorced mother's/father's annuity terminates if (s)he remarries and the conditions in a or b above are not met. (S)he can become re-entitled if the marriage terminates.

2. Before 1-1-84.
 - a. A widow(er) could continue to receive a WCIA consisting of only a tier I component if (s)he remarried after age 60.
 - b. A widow(er) or a surviving divorced mother/father could continue to receive a WCIA if (s)he married an individual entitled to a retirement or disability benefit, a widow(er)'s, mother's/father's, parent's or disabled child's benefit under the Railroad Retirement Act or the Social Security Act.
 - c. A widow(er)'s or a surviving divorced mother's/father's annuity terminated if (s)he remarried and the conditions in a or b above were not met. (S)he could not become re-entitled unless the marriage terminated.

- C. Action required upon notice of a mother/father's remarriage - HQ should be advised promptly of the remarriage of any mother/father so proper adjustment or termination action can be taken. Certain information regarding the mother/father's marriage will be required. Refer to [FOM1 415.20.2](#) for additional information about development requirements.

415.15 Amount Of A Widow(er)'s Current Insurance Annuity

This section contains basic information about the components of a widow(er)'s current insurance annuity (WCIA). For additional information, refer to FOM1, Article 10, Computations.

415.15.1 Tier I

A mother/father under FRA with eligible children in her care is entitled to a tier I component equal to the lesser of:

75% of the deceased employee's PIA based on wages and compensation; or

A 75% share of the maximum family benefit.

NOTE: A surviving divorced mother/father's share is included in the family maximum.

The tier I of a WCIA is reduced for entitlement to certain other benefits. The tier I is reduced by the following:

Amount of any SS benefit to which the mother/father is entitled.

Amount of the net tier I of any RR retirement annuity to which the mother/father is entitled if the reduction for the employee tier I is first applied on an award with a final voucher date of 10-1-88 or later, or the case is reopened 10-1-88 or later.

Amount of the tier I before age reduction of any RR retirement annuity the mother/father is entitled to through 9-30-88, and the net tier I of any RR retirement annuity the mother/father is entitled to 10-1-88 and later, if the reduction for the employee tier I is first applied on an award vouchered prior 10-1-88.

Amount of any public service pension payable to:

1. Non-dependent fathers who filed for an annuity after 11-30-77.
2. Non-dependent mothers who become eligible for a public service pension after 11-30-82.
3. Non-dependent surviving divorced mothers married to the employee for at least 20 years who become eligible for a public service pension after 11-30-82.
4. Non-dependent surviving divorced mothers married to employees less than 20 years regardless of when they become eligible for the public service pension.
5. Non-dependent surviving divorced fathers.
6. Non-dependent remarried mothers/fathers who become eligible for a public service pension after 11-30-82.
7. Dependent mothers/fathers who become eligible for a public service pension after 6-30-83.
8. Dependent remarried mothers/fathers who become eligible for a public service pension after 6-30-83.
9. Dependent surviving divorced mothers/fathers who become eligible for a public service pension after 6-30-83.

Note: For months prior to 12-1-82, the tier I of any surviving divorced father and for a dependent surviving divorced mother who was married to the employee for less than 20 years was subject to reduction for a public service pension. However, beginning 12-1-82 any reduction is removed providing the survivor submits proof of dependency.

The tier I of annuitants subject to a PSP reduction are reduced for 100% of the PSP if they first became eligible for the PSP before 7-1-83. Annuitants who became eligible for a PSP 7-1-83 or later are subject to a tier I reduction of 66 2/3% of the PSP.

Refer to FOM1_405.35 or FOM1_120.40 for additional information on public service pension reduction.

415.15.2 Tier II

Only unremarried legal or de facto mothers/fathers are eligible for a tier II. Remarried mothers/fathers or surviving divorced mothers/fathers are not eligible for a tier II. Once a legal or de facto widow remarries (s)he is no longer eligible for a tier II regardless of whether the marriage subsequently terminates.

EXCEPTION: If a legal or de facto widow(er) remarries and the marriage is subsequently annulled, a tier II may be payable if the marriage was void or voidable, and where applicable, no alimony has been awarded.

A young mother's/father's tier II is equal to 30% of the tier I before reduction for entitlement to other benefits when the annuity is awarded before 10-1-86, and the employee died or retired before 10-1-81. In all other cases the tier II is equal to 50 % of the employee annuity tier II computed as of the WCIA beginning date. When the tier II is based on the employee annuity tier II, there is a maximum family tier II amount which equals 80% of the employee's tier II. Consequently, when a mother/father and more than two children are entitled to a tier II, their shares will be reduced. An additional amount may be payable in a mother's/ father's tier II when the spouse minimum guarantee applies or when the mother/father is entitled to an RR annuity based on her own earnings and qualifies for an employee restored amount computation.

Effective February 1, 2002, a young mother/father who is paid under the 1981 Amendments may receive an additional tier II amount called the "Widower(er)'s Initial Minimum Amount", (WIMA). The WIMA guaranty provides that the young mother's/father's annuity will be calculated using 100 percent of the tier II that would have been used to compute the annuity for the deceased employee on the survivor OBD. When this provision applies, the tier II family maximum benefit payable is 130 percent of the employee's tier II.

Note: If the mother/father was previously entitled based on having a disabled child in his/her care and the annuity terminates due the child's recovery, it is possible to become entitled again if the child meets the re-entitlement requirements as explained in [DCM 3.10.10](#). If the re-entitlement requirements are first met more than 7 years after the termination of the previous annuity, tier II is not payable.

415.15.3 Vested Dual Benefit

Only an unremarried legal or de facto widow can be entitled to a vested dual benefit (VDB) based on WCIA entitlement. A widower entitled to a WCIA is not eligible for a VDB. Remarried mothers/fathers or surviving divorced mothers/fathers also are not eligible for a VDB. Once a legal or de facto widow remarries she no longer qualifies for a VDB regardless of whether the marriage subsequently terminates.

EXCEPTION: If a legal or de facto widow remarries and the marriage is subsequently annulled, a VDB may again be payable.

The VDB is basically a guarantee for an eligible mother/father that her annuity will not be reduced below the rate she would have received if the 1974 Railroad Retirement Act had not been enacted. No new VDBs can be awarded after August 12, 1981, because amendments to the Railroad Retirement Act have eliminated VDB entitlement for all widows not entitled to a VDB by that date.

415.20 Evidence And Development

415.20.1 Evidence Requirements

Evidence	When Required
Application (Form AA-18)	Always, when mother/father has never previously been entitled to a WCIA. Not required in conversions when widow(er) previously received a WCIA.
Application for Determination	When mother/father will qualify for child Disability (Form AA-19a) on the basis of having care and custody of a disabled child.
Proof of employee's death	Always.
Proof of child's age	Always.
Proof of child's relationship to the deceased employee	Always.
Proof of child being in widow(er)'s care	Always. Ordinarily, the mother's/father's statement on the application that the child lives with him/her will be sufficient. No additional proof of living with is required if the widow(er) received a spouse annuity in the month before the month the employee died.
Proof of marriage to employee	Always.
Public Service Pension (Form G-208)	Required if indicated by the information on Form AA-18. Also secure when an annuitant remarries and is continuously entitled with no break, unless the annuitant has been continuously entitled to an annuity based on the employee's record since before 12-1-77.
Proof of widow(er)'s age	Always, except from a surviving divorced mother/father married to the employee less than

	10 years. Although a WCIA can be paid without the widow(er)'s POA, the proof will be needed to convert the widow(er) to a WIA if (s)he attains age 60 before the WCIA ends. To prevent additional development later, when it may be more difficult for the widow(er) to secure POA, the proof is secured when the widow(er) files for a WCIA.
Proof of divorce from employee	Always from a surviving divorced mother/father.
Proof of remarriage(s)	Always from: <ul style="list-style-type: none"> • legal or de facto widow(er) who remarries after attaining age 60. • mother/father when annuity is not terminated by remarriage.
Proof of termination of subsequent marriage(s)	Always from mother/father when entitlement or re-entitlement is based on termination of marriage.
SS number for mother/father	Always. Request development for and child(ren) all annuitants, unless they live outside the U.S.
Proof of employee's age	In "A" cases POA is required only if the employee's DOB has not been previously verified Effective 03-01-2004 POA of deceased employee is required in all "D" cases when a survivor recurring application is filed.
Proof of child's legal adoption	Only when mother/father will qualify on that basis.
Proof of child's disability	When mother/father claims child 16 or over is disabled.
Proof of termination of prior marriage	Only when there is <u>reasonable</u> doubt whether prior marriage of employee or widow(er) was ended and the mother/ father cannot qualify as a de facto widow(er).
Proof of military service	Only when the employee's M/S after 1936 would be creditable either under the Railroad Retirement Act or under the Social Security Act.

Application for substitution of payee (Form AA-5)	Required when a person is newly selected as representative payee for the mother/father and child(ren).
Proof of living-with	Only if mother/father will qualify as a de facto widow(er). The widow(er)'s statement on the application will usually be sufficient to establish living-with.
Check list (Form G-659a)	Always. Forward original to SBD; retain copy for field office file.

415.20.2 Developing from a Mother/Father Who Has Remarried

Certain mothers/fathers can continue to receive an annuity after remarriage. The following mothers/fathers can receive an annuity after remarriage:

Legal or de facto widow(er)s who remarry after age 60.

Widow(er)s, including surviving divorced spouses, receiving a WCIA who marry individuals entitled to RR or SS benefits.

Beginning 1-1-84, a surviving divorced spouse annuitant who remarries after age 60, or a disabled widow(er) or disabled surviving divorced spouse annuitant who remarries after age 50.

Mothers/fathers, including remarried or surviving divorced mothers/fathers, whose marriages have terminated.

A. Development when mother/father is in receipt of an annuity at time of remarriage
- The field office should notify SURVIVOR BENEFITS promptly of the mother's/father's remarriage including the date of the remarriage and develop as follows:

1. If WCIA entitlement will terminate (mother/father under age 60 or new spouse not receiving RR or SS benefits) advise mother/ father that (s)he no longer qualifies for an annuity and must return any annuity payment (s)he receives for herself/himself after the date of remarriage. Further advise the mother/father that (s)he cannot again qualify for an annuity unless the marriage terminates. Notify SURVIVOR BENEFITS by memo of date of marriage and that the mother/father can no longer qualify for WCIA. HQ will then adjust other family members as necessary.
2. If WCIA entitlement can continue (widow(er) marries after age 60 or marries an RR or SS beneficiary, or a surviving divorced spouse marries 1-1-84 or later,) develop as follows:

Secure proof of remarriage.

Secure new spouse SS number if it appears entitlement on the account is possible.

Secure the SS number and type of benefit spouse receives from the RRB or Social Security Administration when mother's/father's eligibility is based on spouse entitlement to benefits.

Forward all information to SURVIVOR BENEFITS using Form G-115a as the transmittal.

Advise a legal or de facto widow(er) that she should return any annuity payment (s)he receives for herself after her marriage because an adjustment is required in the annuity rate since she is no longer eligible for a tier II or vested dual benefit amount.

A mother/father who is receiving only a tier I amount before remarriage need not be advised to return payments since there will not necessarily be a change in her annuity rate until or unless (s)he receives a benefit or annuity based on her new spouse's earnings record.

B. Development when mother/father not receiving an annuity when remarriage occurs - Secure information from widow(er) to determine whether (s)he can qualify for an annuity. Basically, only the following mothers/ fathers who remarry can qualify for an initial annuity:

Legal or de facto widow(er)s who remarry after attaining age 60; or

Widow(er)s, including surviving divorced spouses, whose marriage(s) since their marriage to the deceased employee have been terminated.

1. If mother/father cannot qualify for an annuity (widow remarried before age 60, or marriage has not terminated), advise mother/ father of eligibility requirements and why (s)he does not meet requirements. Further advise mother/father that (s)he cannot qualify for an annuity unless the marriage terminates. Do not develop an application.
2. If it appears mother/father can now qualify for an annuity, develop the following information and evidence:

Application (Form AA-18).

Proof of the widow(er)'s age if widow(er) claims (s)he remarried after age 60.

Proof of remarriage(s).

Proof of termination of marriage(s) if such termination is the basis for eligibility.

Public service pension information if indicated by the response on the Form AA-18.

Submit all the above information to SURVIVOR BENEFITS via Form G-659a.

415.20.3 Developing from a Mother/Father Whose Entitlement Is Based on a Child Age 16-18

- A. Legal or de facto widow(er) - Develop a Form AA-18 and proofs in initial cases as usual even if it appears mother's/father's annuity rate may be zero. The application protects the widow(er)'s prescribed period should disability later become a factor. If the widow(er) does not file a Form AA-18, the prescribed period would end 7 years after the employee's death. However, if the widow(er) does file a Form AA-18, the prescribed period may extend to 7 years after the child attains age 18. Further, if it appears the child age 16-18 is disabled and the mother's/father's eligibility for an annuity is dependent on the child being rated disabled, develop immediately for child's disability including a Form AA-19a and medical evidence. Additional development will not generally be required when the child attains age 18 if he is rated disabled between age 16-18.

If the widow(er) was receiving a widow(er)'s current insurance annuity and her rate was reduced to zero, the tier II rate, or the spouse minimum rate when the youngest child attained age 16, and she claims to have a disabled child in her care, develop a Form AA-19a and medical evidence. A Form AA-18 is not required as long as there is no break in entitlement. If the widow(er) claims that she is disabled, she must submit Form AA-17b and proof of her disability (see [FOM1 410.30.1](#)). A Form AA-17 is not required as long as there is no break in entitlement.

- B. Remarried or surviving divorced mother/father - A remarried or surviving divorced mother/father may not qualify for an annuity based on a minor child age 16-18 unless the child is disabled. Consequently, only develop a Form AA-18 in initial cases if it appears the child is disabled. Also, if eligibility of the remarried or surviving divorced mother/father depends on the child's disability, develop a Form AA-19a and medical evidence as you would for a disabled child's annuity. Additional development will not generally be required when the child attains age 18 if he is rated disabled between age 16-18.

If a remarried or surviving divorced mother's/father's annuity ended when the youngest child attained age 16, and she claims to have a disabled child in her care, develop a Form AA-19a and medical evidence. A Form AA-18 is not required as long as there is no break in entitlement. If the remarried mother/father claims that she is disabled, she must submit Form AA-17b and proof of her disability (see [FOM1 410.30.1](#)). A Form AA-17 is not required as long as there is no break in entitlement.

415.20.4 Developing as a Result of Form RL-175 When Last Child Attains Age 16

When the last child on the rolls is within 4 months of attaining age 16, a computer-printed letter, Form Letter RL-175, is automatically released if the mother/ father

beneficiary is under age 60. This letter notifies the payee that mother's/father's benefits will be adjusted or end when the child attains age 16.

The letter also explains that:

The child's annuity will continue until the child attains age 18.

Full mother's/father's benefits can continue if the payee has in her care an unmarried disabled child under age 22 or a child who became disabled before age 22.

The payee can receive a disability annuity if she is at least age 50 and disabled for all work.

If the payee claims that she has a disabled child in her care, she must submit Form AA-19a and proof of the child's disability (see [FOM1 415.20.3](#)). If the payee claims that she is disabled, she must submit Form AA-17b and proof of her disability (see [FOM1 410.30.1](#)).

415.25 Annuity Beginning Date

The beginning date of a young mother's/father's annuity (WCIA) is explained in [FOM1 111.20](#), [FOM1 111.51](#), and [FOM1 112.9.3](#).

415.30 Annuity Conversions

415.30.1 Conversion of Spouse Annuity to a Widow(er)'s Current Insurance Annuity

To prevent interruption in benefits, the widow(er) of an employee who died completely insured for survivor benefits under the 1974 Act (see [FOM1 230.15](#)) is deemed to have filed an application for a WCIA. The widow(er) will continue to receive the spouse annuity until the WCIA is awarded, unless evidence in file creates doubt as to the eligibility for an annuity. If an application is not filed within 6 months after the employee's death, the spouse annuity will be suspended. Examiners will request that the field office investigate why the widow(er) has not filed.

If the widow(er) meets all requirements for entitlement to and receipt of a WCIA, other than the filing of an application, the spouse payments made before filing an application are not erroneous. This rule applies regardless of the reason for failure to file (i.e., whether (s)he died or merely neglected to file) and, if (s)he died, regardless of the date (s)he died. Spouse annuity payments made after the employee's death are deducted from the WCIA accrual. If the widow(er) died before filing an application, the WCIA accrual less any spouse annuities paid after the employee's death represent survivor annuities due but unpaid at death. Refer to FOM1, Article 6, for information regarding annuities due but unpaid at death.

If the widow(er) is not eligible for a WCIA, the spouse annuity is terminated and any overpayment recovered.

415.30.2 Conversion of Disabled Widow(er)'s Insurance Annuity (DWIA) to a Widow(er)'s Current Insurance Annuity (WCIA)

If a widow(er) is currently receiving a DWIA, and later qualifies for a WCIA, the DWIA is converted to a WCIA. A Form AA-18 is required when converting a DWIA to a WCIA only when the widow(er) never previously qualified for a WCIA. It is usually to a widow(er)'s advantage to be paid a WCIA instead of a DWIA. As long as the widow(er) has an entitled child in care, and is under FRA, (s)he may receive a WCIA. When the widow(er) attains FRA, or ceases to have care and custody of an entitled child, the annuity may be converted back to a DWIA if the widow(er) is under age 60 and is still disabled. If the widow(er) is age 60 or older when WCIA entitlement ends the annuity will change to a WIA; but the age reduction in tier I will be based on the widow(er)'s first eligibility for a DWIA. The widow(er)'s annuity will be adjusted at age 62 and/or FRA to remove the age reduction for months (s)he was entitled to a WCIA.

EXCEPTION: A surviving divorced spouse may continue to be paid a DWIA when the family maximum is involved since a DWIA for a surviving divorced spouse is not considered in the family maximum, but a WCIA is considered in the maximum.

415.35 Widow(er) Age 60-FRA When Entitlement To WCIA Begins

A widow(er), age 60-FRA with a minor or disabled child in care, can be paid either as a young mother/father (75% share of the PIA or family maximum) or as a widow(er) (100% share of the PIA or family maximum).

It is the RRB's policy to pay the annuitant the most advantageous rate when initially awarding benefits. At times it is not readily apparent which rate would be most advantageous. When this occurs, the widow(er) will be given the option of receiving either annuity.

415.35.1 Initial Development Action

When a widow(er) age 60-FRA with entitled children in care contacts a field office regarding benefits, take action as follows:

- A. Develop a Form AA-18 from the mother/father as an application for benefits for herself and for the entitled child(ren). Also develop a Form AA-19a on behalf of any disabled child.

EXCEPTION: If a widow(er) in a family group consisting of more than one child (minor, disabled, or student) is working and expects to have excess earnings, it may be advantageous to file an application(s) only for the children. When a family member who is entitled to an annuity has excess earnings, his share of the maximum is not payable and is not redistributed among other family members. If mother/father does not wish to file for an annuity because of earnings, secure a Form AA-19 and advise in remarks section of application that mother/father is not filing for benefits on own behalf because of earnings. Further advise that

mother/father is aware that a new application must be filed should (s)he ever wish to be included in the family group.

- B. When a mother/father and two or more children will be entitled to benefits:

Tell widow(er) that (s)he will probably be paid an annuity as a mother/father because three beneficiaries generally cause maximum benefits to be paid; and

EXCEPTION: A surviving divorced spouse will probably be paid a WIA because then his/her share will not be included in the family maximum.

Advise widow(er) to contact the field office when only one minor or disabled child remains entitled so that (s)he can be furnished family rates payable if (s)he is paid a WIA. If widow(er) does not contact the RRB for information, (s)he will be converted to a WIA on the earlier of the following:

Month entitlement to WCIA ends; or

Month mother/father attains FRA.

- C. When mother/father and one child will be entitled to benefits advise as follows:

Tell widow(er) that Headquarters will determine the most advantageous rate to pay. If the advantage is not apparent, the widow(er) will be paid as a mother/father and in the award letter will be furnished the WIA rates so (s)he can choose if (s)he wishes to be paid a WIA.

- D. Write in the remarks section of the Form AA-18 and/or Form G-659a that widow(er) wishes to be advised if any advantage could be gained by widow(er) being paid a WIA instead of a WCIA.

415.35.2 SBD Processing

SBD will process and pay cases involving a widow(er) age 60-FRA with entitled children in care as follows:

- A. SBD will pay widow(er), except a surviving divorced spouse, a WCIA whenever the family maximum applies.

The widow(er) will not be advised of the WIA rate in these instances since it is clearly to the widow(er)'s and family's advantage for the widow(er) to be paid as a mother/father.

- B. SBD will pay widow(er) a WIA whenever the situations in A above does not exist, and

A surviving divorced spouse is eligible for a WCIA or a WIA and the family maximum is involved; or

The WCIA will terminate before the widow(er) attains FRA; or

The WIA is restricted because the employee was awarded an age reduced annuity under the RRA; or

The widow(er) will be FRA within 12 months of the annuity beginning date.

When SBD pays the widow(er) a WIA in these cases, a memo is released to the servicing field office advising the advantage of the widow(er) being paid the WIA rate, and asking that a statement be secured from the widow(er) requesting to receive the reduced age rate. The Mod controls the file after paying the WIA rate for receipt of the widow(er)'s statement.

- C. Whenever the situations listed in A. and B. above do not exist, Headquarters will pay the widow(er) a WCIA and furnish the widow(er) with the following information:

The WIA rate she could currently receive; and

The WIA rate she will receive if she waits until FRA or when her WCIA entitlement ends.

The widow(er) can then elect to receive the WIA rate by submitting a statement over her signature asking to be paid the reduced age annuity. Otherwise, the widow(er) will continue to be paid a WCIA until the earlier of the month (s)he attains FRA or the first month (s)he ceases to have an entitled child in care.

415.40 Work Restrictions

415.40.1 Restricted Employment

A WCIA is not payable for any month the mother/father works for an RR employer. There are no last person service prohibitions for survivor annuities.

415.40.2 Earnings Restrictions

The entire annuity of a mother/father entitled to a WCIA is subject to a deduction of \$1 for every \$2 by which his/her earnings in a calendar year exceed the exempt amount. Refer to FOM1, Article 11 for more detailed information regarding work deductions.

415.45 Widow(er) Also Entitled To Other Railroad Retirement Act Annuity

415.45.1 Entitled to Railroad Retirement Act Retirement Annuity

An unremarried legal or de facto widow(er) may receive both a WCIA and a retirement annuity under the Railroad Retirement Act, but the tier I of the WCIA must be reduced by:

- a. The net tier I of the RR retirement annuity if the reduction for the employee tier I is first applied on an award with a final voucher date of 10-1-88 or later, or the case is reopened 10-1-88 or later.
- b. The tier I amount after any social security reduction but before age reduction of any RR retirement annuity the WCIA is entitled to through 9-30-88, and the net tier I of any RR retirement annuity the WCIA is entitled to 10-1-88 and later, if the reduction for the employee tier I is first applied on an award vouchered prior to 10-1-88.

In many cases an employee restored amount may be payable. A widow who is entitled to a WCIA is eligible for an employee restored amount computation if:

The widow is the unremarried legal or de facto widow of the deceased employee; and

The widow is entitled to an employee annuity; and

Either the widow or the deceased employee completed 10 years of RR service before 1-1-75.

The employee restored amount is not payable if both the widow and the deceased employee started railroad service after 1974. In addition, the full amount of the survivor annuity is reduced by the full amount of the employee annuity.

A young widower, remarried widow(er) or surviving divorced spouse is not eligible for an employee restored amount computation.

415.45.2 Entitled to Railroad Retirement Act Spouse Annuity And/Or Other Survivor Annuity

A widow(er) may not receive more than one survivor annuity, or both a survivor and spouse annuity; normally (s)he will receive only the higher annuity. A widow(er) may elect to receive benefits on the record that results in a LOWER monthly annuity rate. For example, it may be to a widow(er)'s advantage to elect to receive the lesser annuity so that other entitled beneficiaries can receive higher benefits. When it does not appear to be to a widow(er)'s advantage to receive the smaller annuity, the higher annuity is paid and the current lower annuity is terminated. The examiner will initiate development when it may be advantageous for a widow(er) to elect the lower annuity.

- A. Election of lesser annuity - The election to receive a smaller annuity is revocable and may be made on a month-by-month basis, but it can never be retroactive. 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.

When it appears that it would be to the widow(er)'s advantage to receive the lesser annuity, the examiner will release a memo to the field office with the facts in the case and request that the office contact the annuitant. If the widow(er)

wants the smaller annuity, secure a signed statement that establishes that the widow(er) is aware that (s)he is electing the smaller benefit.

- B. Revocation of election - If the widow(er) later wishes to receive the higher annuity, (s)he may withdraw the election by signing a statement requesting to be paid the higher annuity.
- C. 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.

415.50 When Entitlement Ends

A WCIA ends with the month before the month in which any of the following events occur:

The mother/father dies;

The mother/father remarries;

EXCEPTION: If a mother/father marries an individual entitled to retirement, disability or survivor benefits under the Railroad Retirement Act or the Social Security Act, her WCIA may continue. Refer to [FOM1 415.20.2](#) for information on development required when a mother/father remarries.

The mother/father attains FRA;

The mother/father elects to receive a parent's insurance annuity;

The mother/father ceases to have any qualifying minor or disabled children of the deceased employee in care. The entitlement of a legal or de facto widow(er) continues until a minor child attains age 18 even if the annuity rate is zero. The entitlement of a remarried widow(er) or a surviving divorced spouse based on a minor child ends when the child attains age 16;

NOTE: If a WCIA is being paid on the basis of having care of a disabled child, and the child recovers from disability, the WCIA is paid for 2 months after the month in which the child recovers.

The remarried mother/father or surviving divorced mother/father is entitled to an RIB which equals or exceeds 75% of the deceased employee's PIA.

415.55 Vested Dual Benefit Entitlement

Vested dual benefit (VDB) entitlement for a widow entitled to a WCIA is based on the same criteria as a widow(er) entitled to a WIA. Refer to [FOM1 405.75](#) for detailed information.

NOTE: A widower entitled to a WCIA is not eligible for a VDB because he could not qualify for benefits on 12-31-74.

415.60 When Entitlement To A Vested Dual Benefit Ends

The terminating events for vested dual benefit (VDB) entitlement applicable to aged widow(er)s as described in [FOM1 405.80](#) also apply to widows entitled to a WCIA. In addition, VDB entitlement ends when entitlement to the WCIA ends.

