

## 3.1 Introduction

### 3.1.1 General Information

Information concerning Railroad Retirement Act requirements for a disability annuity is contained in the Code of Federal Regulations (CFR) Title 20, Chapter 2. Information concerning Social Security Act requirements for a disability benefit is contained in CFR Title 20, Chapter 3. Click on [CFR on-line](#) to get to the website containing the CFR.

Four types of disability annuities are expressly created by the Railroad Retirement Act (RR Act). They are occupational disabilities 2(a)(1)(iv), total and permanent disabilities 2(a)(1)(v), Widow or Widower's disability annuities 2(d)(1)(i)(B), and child's disabilities 2(d)(1)(iii)(C). The RR Act also created the disability overall-minimum benefit and benefits for disabled children included in an age and service overall minimum benefit. These annuities are governed by the RR Act and the regulations and procedures which emanate from the Act. In addition, a spouse who is under FRA can qualify for an unreduced annuity based on having a disabled child over age 18 in their care. The criterion for which an "in care" determination is made is described in [RCM 4.7.95](#) through 4.7.100.

In addition to its authority to decide whether a claimant is disabled under the RR Act, the Board has authority, in certain instances, to decide whether a claimant is disabled under the Social Security Act (SS Act). In making these decisions the Board must apply the regulations of the Social Security Administration in the same manner as does the Secretary of Health and Human Services.

The SS Act governs benefits allowed under Title II of the Act. These benefits include the disability insurance benefit, the disability freeze, and Medicare eligibility.

## 3.2 Disability Annuities Under The RR Act

### 3.2.1 Requirements for Annuity Entitlement

- A. Occupational disability annuity - To be entitled to an occupational disability annuity, an employee must have
1. A current connection.
  2. Filed an application for disability annuity.
  3. Acquired 240 service months (234 service months if application filed before April 1, 1982), or 120 service months and attained age sixty.
  4. Been rated permanently disabled for work in his regular occupation.
  5. Stopped compensated service to an employer under the Railroad Retirement Act.

- B. Total and permanent disability annuity - To be entitled to a total and permanent disability annuity, an employee must have
1. Filed an application for disability annuity.
  2. Acquired 120 service months,  
  
or  
  
60-119 service months, and at least 60 months are after 1995, and his ABD is 1-2-2002 or later; however:
    - Tier 1 is not payable unless the applicant has enough quarters of coverage (based on RR and SS earnings) to have an insured status under the SS Act. If under age 62, the applicant must have 20 QC's in the 10 years immediately preceding the onset of disability.
    - Tier 2 is not payable until age 62.
    - If the applicant is under age 62 and does not have enough QC's to be insured under the SS Act, nothing is payable and the application must be denied.
  3. Been rated permanently disabled for all work;
  4. Stopped compensated service to an employer under the Railroad Retirement Act.

### 3.2.2 Definition of Work Under The RR Act

- A. Regular railroad occupation - For the purpose of receiving an occupational disability annuity, an employee's regular railroad occupation is one in which
1. He has been engaged in railroad service for hire in more calendar months than he has been engaged in service for hire in any other occupation during the last preceding five calendar years (not necessarily consecutive), or
  2. he has been engaged in railroad service for hire in not less than one-half of all the months in which he has been engaged in service for hire during the last preceding 15 consecutive calendar years.
- B. Regular employment - Regular employment is defined as any substantial gainful activity (SGA). Substantial work activity being work that involves doing significant physical or mental activities regardless if it is done on a part-time basis or if the pay is less than when the claimant worked before. Gainful activity is work that the claimant does for pay or profit whether pay or profit is realized.

### 3.2.3 Definition of Disability Under The RR Act

- A. Permanent Physical or Mental Condition - A physical or mental impairment that has lasted, or can be expected to last, for 12 consecutive calendar months or result in death.

Disability Benefits Division (DBD) interprets whether or not such a condition exists or has existed and will or has already prevented work. The reason for the existence of the condition is not considered.

Some conditions by their very nature can be expected to improve at some time in the future. However, this does not affect whether or not disability is established; it only affects the date annuity payments, periods of disability or Medicare coverage terminate. Further, there are conditions that can be controlled by prescribed treatment to a level considered not disabling. Whether or not an employee is availing themselves of medical treatment to correct or control their condition will be evaluated in each case by DBD in accordance with 20 CFR 220.12 and 20 CFR 220.115.

- B. Occupational Disability - An employee is deemed permanently disabled for work in their regular railroad occupation if the employee has a permanent physical or mental condition that prevents them from performing the duties of their regular railroad occupation. The employee may have been disqualified from service in their regular railroad occupation because of disability by their employer, or been rated disabled for work in their regular railroad occupation by DBD according to established standards for his/her or a similar occupation.

If the employee's last occupation was as an officer or employee of a railway labor organization, including a subordinate unit "employer," and continuance in that occupation is unavailable to the employee, the disability standards used in an occupational disability annuity decision are those that apply to the position to which the employee holds seniority rights or from which they left to assume a position with the labor organization.

If the employee is found medically disqualified from their union work and is told by the union that they may no longer perform that job then the job is no longer available to the employee. However, if the employee is medically disqualified from the railway labor organization job, but is not told by the union that they must give up the job, then the job remains available to the employee. A railway labor organization position would be considered to be no longer available where:

- The employee is not reappointed to the position,
- The employee does not run for reelection,
- The employee loses the election, or

- The position is abolished.

The railway labor organization position remains available if the employee quits during their term.

If the employee is removed for cause from their railway labor organization job, the employee has no option to remain in that job and it therefore is no longer available to the employee. Therefore the employee's regular railroad occupation would then be the position to which the employee holds seniority rights or the position that the employee left to work for a railway labor organization.

It is also possible for an employee to work in self-employment and retain their current connection. In some instances a significant lapse of time may expire between when the employee last worked for the railroad and when the employee files for an application for a disability annuity. In cases such as these disability claims examiners need to carefully review the employee's vocational history and determine whether or not the employee has a regular railroad occupation based on the 5 or 15 year rule (See FOM I 1305.10.1).

Disability claims examiners are to use the information provided on Forms G-251, *Vocational Report*, and the G-251A, *Railroad Job Information* in determining the job duties performed.

**EXAMPLE 1:** An employee worked for CSX railroad as a conductor from 1979 through July 1995. The employee then works as a locomotive engineer from August 1995 through July 2001. In August 2001, the employee then starts their own business. In January 2017, this employee files a disability application with the RRB. It is determined that the work done for this business is self-employment and allows the employee to keep their current connection. Based on the information provided, the employee cannot be found to have a regular railroad occupation under the 5 or 15 year rule due to having worked in self-employment for at least 16 years following his DLW-RR. As a result of not having a regular railroad occupation, this annuitant is not entitled to an occupational disability annuity under the Railroad Retirement Act (RRA). Disability examiners will therefore need to review and determine whether the annuitant qualifies for a Total and Permanent Disability annuity under the RRA.

According to Legal Opinion L-2013-08, dated March 11, 2013, an individual will not lose their current connection if their only employment after leaving railroad employment is with a non-covered railroad employer (i.e., any railroad that is not covered by the Railroad Retirement Act) or with certain governmental agencies listed below:

- Department of Transportation;
- Interstate Commerce Commission;

- National Mediation Board;
- Railroad Retirement Board;
- National Transportation Safety Board;
- Surface Transportation Board.

(See FOM1 225.35 Regular Employment Exceptions).

Legal Opinion L-2013-08 also makes clear that although work with these employers does not break the employee's current connection, work in these occupations **is** to be considered the same as work for any other non-covered employer when making a determination for regular railroad occupation.

**EXAMPLE2:** An employee files for an occupational disability annuity on October 20, 2008. The employee last worked for a railroad employer on July 30, 1988 as a locomotive engineer. The employee then worked as a safety inspector for the Federal Railroad Administration (FRA), a government agency, from March 1, 1990 through August 31, 2007. Since the employee worked for a governmental agency they would still maintain their current connection, however in determining their regular railroad occupation it would be necessary to consider their work for the FRA. In this example the employee would not have a regular railroad occupation as they have not worked in the railroad industry for over 20 years. Thus the employee would not be entitled to an occupational disability at the RRB.

**Example 3:** An employee worked for the BNSF railroad (covered employer) as a Carman from January 21, 1985 through December 22, 2005. The employee then worked for Alaska Railroad (non-covered railroad employer) as a locomotive engineer from January 2, 2006 through December 31, 2011. The employee files an occupational disability application on January 5, 2012. The work for the non-covered railroad employer would not break the employee's current connection. The employee's regular railroad occupation would be as a Carman based on the 15 year rule. .

- C. Total and Permanent Disability - An employee is deemed permanently disabled for work in any regular employment if they have a permanent physical or mental condition that prevents them from performing in the usual and customary manner the substantial and material duties of any regular and gainful employment.

A condition substantiated by medical evidence that meets the standards listed in the SS regulation (20 CFR Part 220, Appendix 1, "List of Impairments"), or combination of such conditions, is considered disabling for all regular employment for annuity purposes.

**NOTE:** See DCM 6.3.3 for "Disability Definition Under SS Act."

### 3.2.4 Annuity Beginning Date

When an employee meets the disability annuity requirements, the annuity can begin on the latest of the following dates:

- A. The earliest date permitted by law, or
- B. The day designated by the employee.

To determine the correct ABD see the instruction in [RCM 1.7](#).

If the employee is subject to a disability waiting period (see [DCM 3.2.5](#)), the beginning date of a disability annuity cannot be earlier than the first day of the sixth month after railroad retirement disability onset. If the employee is not subject to a disability waiting period, the beginning date of a disability annuity cannot be earlier than the first day of the month of railroad retirement disability onset.

Reconciliation of any work in service for hire performed by the applicant within one month after the effective date of disability shown on Form G-325 will not be required. When the applicant worked later than one month after the effective date of disability, a decision should be made as to whether the employment can be reconciled with the disability should be made.

### 3.2.5 Disability Waiting Period

The 1983 Railroad Retirement Amendments provide a five month waiting period for employee disability annuity applicants before their annuity may begin. The waiting period applies to employee disability annuity applications filed September 1, 1983 and later. The railroad retirement disability waiting period is used only to determine the disability annuity beginning date.

The waiting period does not apply to employee disability annuity termination. If an employee is re-entitled (new onset) within sixty months of previous disability annuity termination, no waiting period must be served. This is true whether or not a waiting period was fulfilled before the previous disability annuity began. If an employee does not become re-entitled before the expiration of the prescribed period, a five month waiting period must be fulfilled before the disability annuity may begin.

The waiting period begins with the month after the month in which railroad retirement disability onset occurs, and continues for five calendar months. The duration of the railroad retirement waiting period will differ from the social security waiting period when the onset date is the first day of the month.

**EXAMPLE:** The railroad retirement and social security disability onset date is January 1, 1984. The railroad retirement waiting period begins February 1, 1984 and continues through June 30, 1984. The social security waiting period begins January 1, 1984 and continues for five full calendar months through May 31, 1984.

### **3.2.6 Employee in Compensated Service Filing a Disability Application**

In most cases under the Railroad Retirement Act, an employee who is actively working for a railroad employer at the time of filing is, by definition, not disabled. The fact that they are working any railroad job shows that they are able to work. However, the definition of compensated service includes not only compensation with respect to active service performed by an employee for an employer, but also includes pay for time lost, wage continuation payments, certain employee protection payments, and any other payment for which the employee will receive additional creditable service.

#### **For applications filed on or after January 1, 2006**

An employee is allowed to still be in compensated service while filing a disability application provided that the compensated service terminates within 90 days from the date of filing and the compensated service is not active service. When an employee files a disability application while in compensated service, it is necessary for the employee to provide an identifiable ending date of the compensation. In cases where the compensated service exceeds 90 days the disability application will be denied. Any request for reconsideration or appeal from such a denial is to be limited to the issue of whether the employee was in compensated service to an employer within 90 days of the filing date. Under these circumstances, a disability application may be filed under the same rules and procedures used for advanced Age and Service applications. On APPLE, the field representative will enter the expected ending date of the compensation, as provided by the applicant, in the Employment Ended field. The field representative will code the application for manual review and indicate in Remarks that the disability application is being filed in advance. It will also be noted in Remarks if the case is being submitted for denial based on the employee filing while in active service or if the employee is filing more than 90 days from the date of last compensated service. The DLW (or in this case, the date creditable compensation ended) will be verified by the appropriate retirement unit through the monthly G-88a.1 listings sent to individual employers.

In addition, when a case is received in DBD that the field has coded for manual review due to advanced filing, DBD claims examiners can begin their development action and can render a decision immediately, even if it is before the projected date of the last compensated service. If the case was submitted for denial or before a decision is rendered and it is determined that the last day of compensated service is after 90 days, DBD is responsible for taking the necessary denial actions.

### **3.3 Evidence Requirements**

#### **3.3.1 Evidence Requirements For An Employee Disability Annuity**

- Application (AA-1): Always.
- Application (AA-1d): Always.

- Field Office Personal Observation Record (G-626A): Always.
- Age: Always; however, a D/A may be awarded before establishment of DOB when age is not a factor of eligibility.
- Job information: Always from employee; for occupational disability job information will be requested from the railroad employer.
- Service and Compensation Reported After 1936: Always. Request a DEQY from SSA. (See DCM 3.4.205)
- Cessation of RR Service: For Occupational disability (2(a)(1)(iv)).
- Cessation of all Service: For Total and Permanent disability (2(a)(1)(v)).
- Disability (Medical Evidence): Always.
- Service and Compensation Before 1937: If claimed and employee has less than 360 months of S/S.
- Current Connection: In all Occupational disability (2(a)(1)(iv)).
- Military Service: If M/S is to be included in the years of service.
- SSA Benefit Data: If employee worked under SS Act or has filed for SS Benefits.
- Joint and Survivor Annuity: Only if joint and survivor election made before 7-31-46 is operative.
- Capability to Manage Payments (G-478): If incompetency is alleged or employee is in mental institution.
- Guardianship (AA-5): If guardian or other legal representative is selected as representative payee.
- Marriage: If joint and survivor election is operative.

**NOTE:** For evidence required in order to increase the Disability Annuity (D/A) under the overall-minimum (O/M), see evidence requirements as shown in appropriate RCM Chapters 1.1, 1.3, or 1.5.

### **3.4 Initial Development and Processing Of Claims**

Procedure in DCM 3.4 is presented in the following general categories:

3.4.1 to 3.4.99 - General Processing Information

3.4.100 to 3.4.199 - Medical-Related Information



### 3.4.200 to 3.4.299 - Earnings-Related Information

Beginning at 3.4.300 - Claim Authorization-Related Information

#### **3.4.1 Development of A Disability Application And Evidence**

The normal development of a disability claim and evidence is summarized in this section. (For detailed information on the development of medical evidence, see [DCM 4](#).)

##### A. Initial Development of an Employee Disability Application

A disability claim will be developed by the field if all of the following conditions exist:

- The applicant claims to be disabled, and
- a determination of disability within the meaning of the RR Act would cause an annuity to be payable that otherwise would not, or would cause an annuity to be payable at a higher rate, and
- all other eligibility requirements are met.

**NOTE 1:** The employee who is eligible for an age and service annuity (60/30) is normally encouraged to apply for an annuity based on age and service rather than disability. This encouragement is based mainly on the advantage for the employee in receiving more prompt benefit award and the reduction of reporting and follow-up responsibilities. For most employees, there is also an immediate financial advantage in the calculation of Tier 1 of the annuity. In addition, the employee can still file an application for a period of disability ("Disability Freeze") and early Medicare coverage.

**NOTE 2:** When Form AA-1d is completed, signed and filed by an employee who dies without filing an AA-1, the AA-1d meets the application filing requirement. The employee's survivors, as listed in [FOM1 615.5.2](#), may file an AA-1 so that a disability determination may be made. Use the date the AA-1d is received as the official filing date for the application. If the employee is found to be disabled prior to death and death did not occur during the waiting period or the first month after the waiting period, annuity entitlement is established. Survivors may then file Form AA-21 for annuities due but unpaid at death, as outlined in [FOM1 615.5.5](#).

**NOTE 3:** Disability Applications Secured by the Field Office - Any follow-up work to a disability application should be sent to the developing field office, and not to the closest zip code of the applicant. Please refer to [RCM 10.3.6](#) for more information.

## B. Initial Development of Medical and Non-Medical Evidence

The field offices will develop medical and non-medical evidence for all disability applicants. Please see [FOM 1 1330.5](#) for additional information.

1. Medical evidence consists of such items of a clinical nature as reports of medical examination, x-ray, or laboratory tests; hospital records; psychiatric or psychological tests; personal physician records; etc. Some acceptable medical sources include the following:

- Licensed doctors of medicine and osteopathy,
- Licensed optometrists,
- Licensed or certified clinical psychologists,
- Hospital or clinical records, and
- Social Security medical records or other government agency medical records.

2. Non-medical factors are items which are not purely medical in nature, but which can assist in determination or disability. Examples of non-medical factors are:

- Job duties,
- Personal observations of the applicant,
- Work Experience,
- Education achievement, and
- Special training.

### 3.4.2 Examiner Handling Of an Occupational Disability Annuity Filed Prior To 1-1-1998

DBD usually considers an employee disabled for work in his or her regular railroad occupation if the employer does not allow the employee to continue working in that occupation for a medically documented reason and DBD has evidence that supports the conclusion that the employee is unable to perform the duties of his or her regular occupation because of a permanent physical or mental impairment. DBD uses the following evaluation process in determining disability for work in the regular railroad occupation:

A. DBD evaluates the employee's medically documented physical and mental impairment(s) to determine if the employee has an impairment which is listed in the Listing of Impairments. That listing describes impairments which are

considered severe enough to prevent a person from doing any substantial gainful activity. If the Board finds that an employee has an impairment which is listed or is equal to one which is listed, it will find the employee disabled for work in his or her regular railroad occupation without considering the duties of his or her regular railroad occupation.

- B. If DBD finds that the employee does not have an impairment described in A above, it will:
1. Review the occupation which the employee has held in the last 5-15 calendar years in which they were employed, to determine they were regular railroad occupation (see DCM 3.2.2); and
  2. Determine if the employee has an impairment that is listed or equal to one that is listed in the Provisional Occupational Disability Rating Schedule (PODRS). If the impairment is listed, DBD will find the employee disabled for work in his or her regular railroad occupation. If the impairment is not listed in the PODRS, DBD will do the following:
  3. Determine what the physical and mental demands of the employee's regular railroad occupation are. In making this determination, DBD will consider the employee's own description of his or her regular railroad occupation and all information obtained from his or her employer(s). DBD may also take administrative notice of reliable job information available from various governmental and other publications; and
  4. Evaluate the employee's physical and mental impairment to determine what limitations these impairments cause. DBD may consider the effect of all of the employee's medically documented impairments to determine whether they retain the capacity to meet the physical and mental commands of this or her regular railroad occupation.

### **3.4.3 Examiner Handling Of an Occupational Disability Annuity Filed After 1-1-1998**

Occupational disability claims filed after January 1, 1998, are handled in accordance with the Disability Manual for Assessment of Occupational Disability Claims (DM). Refer to chapter 13 for the DM.

The DM contains information on how to adjudicate claims according to Federal Regulations. The DM contains the steps of sequential evaluation followed for occupational disabilities, how to evaluate claims with employer disqualification, and test descriptions and protocols.

### **3.4.4 Evaluating Disability Cases Under Section 2(A)5**

DBD will rate a disability case under section 2(a)5 if annuitant does not meet the eligibility requirements for an annuity under section 2(a)4. This occurs when the

applicant is less than 60 years of age and would have less than 20 years of service. The sequential evaluation process should be used for this evaluation.

### **3.4.5 RR Act (Annuity) And SS Act (Disability Freeze/Early Medicare) Decisions**

Whenever possible, simultaneous ratings under the RR and SS Acts should be made on current disability claims. However, claims examiners should not defer the processing and certification of claims for award of an annuity under the RR Act for determinations under the SS Act. If the RR Act and SS Act (disability freeze) determinations are made simultaneously, a determination of the medical improvement classification must be made. In most instances, a diary must be set for a continuing disability review. Refer to [DCM 8.5.4](#) for further information.

The annuitant has the right to request that a disability freeze not be granted. This could occur for a number of reasons (e.g. employee and spouse would get better coverage under private insurance than under Medicare.) In such cases, have the field obtain a signed statement from the employee that all of the advantages of the disability freeze (early Medicare, O/M, possible tier 1 increase, tax advantage, possible survivor benefit increase) have been explained to him and he still does not want to be granted a disability freeze. Once the statement is received, prepare a technical denial of the disability freeze even if there is sufficient medical evidence to warrant a favorable decision. Make a notation in the remarks section of OLDDS that the DF was denied per employee's request. Use RL-260c as a notification letter. This can be done even if the case would ordinarily be a joint freeze decision.

### **3.4.6 Awarding A Disability Annuity Prior To Establishing DOB**

A. Initial Action - A D/A can be certified for payment even though the DOB has not been established provided the applicant:

1. Is rated disabled under section 2(a)(1)(iv) of the Act, and has at least 234 months of service, a C/C, and is otherwise entitled; or
2. Is rated disabled under section 2(a)(1)(v) of the Act and is otherwise entitled.

If POA has not been requested prior to placing the case in payment channels, take appropriate action to request POA.

Use the claimed DOB on the award form. Code a "14-01" call-up on Form G-662 for two months from the current date to trace POA development.

B. Subsequent Actions When Different DOB Established After D/A Award - When a D/A was certified without establishing a DOB, and the POA that is later submitted establishes a different date than was originally claimed, notify BIS-DSS by Form G-59 of the change (even if it is only one day if an award form will not be prepared because no adjustment in the annuity is required).

### 3.4.7 Handling Cases Previously Denied

- A. If Rating Is Changed - As a result of a new evidence or correspondence, determine whether a new application is required in accordance with RCM 5.1, "Applications." If a new application is required, DBD will initiate development through the D/O and control for a 30 day call-up.
- B. If Rating Is Not Changed - When Form AC-1 is not in file, DB will release an informal letter to the applicant indicating his case has been reconsidered and he is still not shown disabled. Include Code Paragraph 189 if applicant's appeals rights have not expired. If such rights have expired, advise applicant that if he feels his condition is not adequately described by medical evidence submitted, he should file additional medical evidence, and a new application at the nearest Board office (a formal denial is not made unless a new application is filed).

### 3.4.8 Applicant Dies During Waiting Period Or Month After Waiting Period Ends

When a waiting period is applicable, the annuity beginning date cannot be earlier than the first day of the sixth month after the month of the railroad retirement disability onset date. An application for disability benefits must be denied if the applicant dies during the waiting period or the first month after the waiting period (the month in which the annuity would have begun) since benefits are not payable for the month of death.

#### 3.4.8.1 Action To Be Taken By The Disability Rating Examiner

If notice of death is matched with the folder, have the application dumped from RASI, if necessary.

If the disability rating can immediately be completed take the following actions:

1. Develop for the cause of death and death certificate if that information is not already in file.
2. If the folder contains a previous OLDDS printout on which the applicant was rated disabled before notice of death was received, mark that OLDDS printout "superseded" and review the onset date determination.
  - a. If the actual onset date can be revised to a date early enough to fulfill the waiting period and allow payment for a period before the month of death, complete OLDDS and G-325.1 in the usual manner.
  - b. If the actual onset date cannot be revised to a date early enough to fulfill the waiting period and allow payment for a period before the month of death, complete OLDDS and the G-325.1.

On OLDDS, complete items 1 through 16 as usual; enter the "not disabled" code in both item 17, 18, 19, or 20 and item 24, 25, or 26. In the "Remarks" section on the first screen enter the actual onset date and date

of death, indicate that this OLDDS printout supersedes the previous OLDDS printout and provide the date of the previous OLDDS printout. Complete item 22a by entering a "2" and item 28 by entering "7"; item 27 should be blank. The examiner should then enter "Y" for submitted and then submit the case for authorization.

**NOTE:** If the previous OLDDS printout was a denial, check to ensure the denial letter has been released and the G-661 completed and the claim coded out. Then forward the folder to the appropriate survivor section if necessary.

3. If a rating was not previously done, make the disability determination on D-BRIEF and complete OLDDS and G-325B as usual. If death occurred during the waiting period or the month following the waiting period, entries should be completed in the same manner as for cases in which the applicant is not disabled, except that the actual onset date and the date of death must be entered in remarks section of the OLDDS screen. The examiner should then enter "Y" for SUBMIT, the date and a "Y" for REVIEW.

If the disability rating cannot be done immediately, route the folder to the appropriate survivor section for any survivor benefit payments. Enter the date of death in the "Remarks" section of the route slip and remind the survivor unit that the disability determination is pending and the file must be returned to DBD when the survivor actions are complete. When the file is returned, complete steps 1 through 4 above.

### **3.4.9 Setting Disability Onset Dates**

Medical evidence and other factors need to be analyzed to determine the appropriate onset date. Examiners need to use sound judgment and completely explain their reasons for determining a disability onset date in their rationale. When the onset date is different from that alleged, the reasons must also be explained on the Form RL-121f, Notification of Rating.

#### **3.4.9.1 Development For Possible Earlier Onset Date**

When more development is needed to establish an earlier onset date, but there is sufficient medical evidence in file to allow a restricted onset date, it is DBD policy to make a favorable decision with the information in file. Request the additional information for a subsequent rating. For example, the claimant alleges an onset date of March 1, 2003, but the earliest medical evidence in file that supports a finding of disability is from November of 2003. Rate the case using an onset date in November, 2003 and request additional medical evidence for the period March through October. Explain the reasons for the restricted onset date and that additional medical evidence is being requested in the RL-121f. When an earlier onset date cannot be allowed after the request for additional evidence, either because no further medical evidence was submitted, or because the medical evidence submitted did not support an earlier onset

date, an RL-121f must be sent with an explanation of the reasons for not allowing the earlier onset date.

### **3.4.9.2 Onset Date Different From The Date Alleged**

The disability onset date is determined by medical evidence, DLW and other factors. The applicant cannot designate the disability onset date. Allow the claim and base the onset date on the evidence in file, whether it is earlier or later than the alleged onset date. If there is any indication in the file that an earlier onset date may be possible, but more development is needed, contact the field office for further development. If the claimant chooses not to submit additional evidence, an earlier onset date cannot be allowed.

### **3.4.9.3 Setting An Onset Date That Is Earlier Than The DLW**

For occupational disability annuities, there are certain situations in which an onset date can be set prior to the DLW. The most common situations would be those in which ·

- the person was unable to perform full job duties and performed light duties because of the impairment; or
- the person was assisted by another to perform duties that would normally be performed alone; or
- the person had frequent absences because of the impairment; or
- the person returned to work, but had to stop after a very short period because of the impairment.

In most cases, information from the employee is sufficient documentation to set the onset date earlier than the DLW. The information needed is as follows:

- Items 7 through 11 of the AA-1d should be complete in order to determine that an onset date prior to the DLW can be established. These items must make it clear whether the claimant worked or if their condition caused a change in job duties, hours of work, attendance, etc. If you cannot determine the impairment caused any changes to work, then additional development is necessary.
- If the person alleges a period of light duty, a detailed description of the light duty must be obtained and compared to the regular duties. The employee's description is sufficient for both types of job duties. Verification with the employer is not necessary. Note, however, that if a G-251a or G-251b is received from the railroad employer with a description of duties that differs substantially from the employee's description of regular duties on the G-251, that discrepancy must be resolved.
- If an applicant claims someone is helping perform job duties, a detailed description should be provided of any assistance.

- If there is an indication of frequent absences, the employee needs to provide more information rather than just indicate a lot of time was missed. The employee should provide the number of days absent and the reasons (i.e., due to the impairment or being laid off). The reason for the absence must be related to the impairment in order to support an earlier onset date. The employee may provide copies of time cards or pay stubs that show the days not worked. This information does not need to be verified by the employer.

**EXAMPLE 1:** A track laborer suffers a heart attack. After time off to recover he attempts to return to work on light duty. After a month back on the job he still is experiencing fatigue and shortness of breath regularly doing light duty. Rather than try to return to his regular job duties as a track laborer he files for an occupational disability. The employee's description of the difference between his regular job duties and the light duty is sufficient to allow the onset date to go back to the heart attack. Verification is not required from the employer.

**EXAMPLE 2:** An employee is injured on the job June 1, 2000. He returns to work July 7, 2000, but he can only work 2 days and has to stop because of the injury. The employee's claim that he only worked 2 days is sufficient to give an onset date of June 1, 2000.

**EXAMPLE 3:** A claimant states on the AA-1d that he was injured on February 1, 2000 and returned to work on June 28, 2000. He worked until July 5, 2000 when he had to stop because of the injury and filed for a disability. In the doctor's notes it mentions that the claimant returned to work February 8, 2000 and worked until the time of filing. Further development will be necessary to resolve the discrepancy.

For total and permanent disability annuities, an onset date that is earlier than the DLW in substantial gainful activity (SGA) can be set if the criteria for an unsuccessful work attempt (UWA) is met. For more information about UWA, see [DCM10.5.3](#)

#### **3.4.9.4 Inferring a Disability Onset Date**

In some cases, it may be possible, based on the medical evidence and non-medical evidence in file, for a RRB disability examiner or consultative physician or psychologist to infer that a disabling level of severity existed prior to the date of a first recorded medical examination, procedure, or test. In these situations the disability examiner or consultative physician or psychologist will count back a number of months, as determined by the facts of the case, to arrive at the month of disability onset. Notwithstanding any conflicting evidence, the last day of the month of disability onset shall be the inferred day of onset.

An inferred disability onset date is an estimated date when disability began which must be fully rationalized in D-Brief (Form G-325B) or a rationale (Form G-325.1).

Disability examiners should be cognizant of inferred disability onset dates and insured status requirements for disability freeze (DF) determinations. If a claimant was last



insured within a couple of months of an inferred disability onset date, it may be reasonable to conclude that disability began on the last day that insured status requirements were met.

In situations in which an inferred onset date and DF insured status requirement could be factors, the disability examiner should notify the consultative physician or psychologist to consider those facts when completing their medical opinion.

If a medical opinion(s) was already obtained but an inferred onset date and DF insured status requirement were not requested to be considered, the examiner would be justified in sending the claim folder back for a new medical opinion (a new accounting obligation would be required).

**EXAMPLE 1:** A claimant underwent a medical examination on March 12, 2010. The RRB consultative physician provides a RFC and indicates that the RFC applies “back six months from the date of the March 2010 exam”. The onset date would be determined by counting back 6 months from the March 12, 2010 examination. Once the month is determined (September), use the last day of that month to determine the inferred date of the onset. In this example the onset date for this situation is September 30, 2009.

**EXAMPLE 2:** A claimant claims that he became disabled on July 1, 2010 based on both physical and mental impairments. Although the medical evidence indicates that he suffered from his physical impairments on his claimed onset date, it also shows that he did not begin psychotherapy treatments for depression until May 23, 2011. The RRB obtains consultative medical opinions for both his physical and mental impairments. The RFC provided for his physical impairments does not allow the disability examiner to determine that he was disabled based strictly on those impairments. The RFC provided for his depression indicates that the mental RFC applies “back three months from the date of the May 2011 exam. The combination of physical and mental impairments allows a rating of disabled. The inferred onset date would be February 28, 2011.

**EXAMPLE 3:** Same situation as Example 2 except the claimant was last insured for a DF on December 31, 2010. Presuming there are no other medical, non-medical, or administrative factors which would prevent December 31, 2010 from becoming the inferred disability onset date, the disability examiner should notify the consultative physician or psychologist that the claimant is last insured for a DF on that date and that they may provide an inferred onset date, if warranted.

### **3.4.100 Terminally Ill (TERI) and Compassionate Allowance (CAL) Claims**

This procedure has been formulated to allow the Railroad Retirement Board to more expeditiously process claims for applicants who have a medical impairment which:

- Is generally expected to result in death;
- Involves a high probability that the applicant can be rated disabled;

AND

- The evidence of the applicant's allegations is expected to be easily and quickly verified.

The procedure standardizes the identification, development and processing of terminally ill (TERI) and compassionate allowance (CAL) claims. The coordinated efforts of field office and headquarters employees to timely handle TERI / CAL claims in accordance with this procedure will greatly improve our responsiveness to the needs of these individuals.

TERI and CAL claims both involve a high probability of allowance. While TERI claims generally involve an illness which cannot be reversed and is expected to result in death, not all CAL claims involve terminal illness.

There is no relevance if the claim meets the TERI criteria, the CAL criteria, or both. Once identified as a TERI / CAL claim, that designation remains on the case until all administrative appeals of that claim are exhausted or it is obvious that the TERI / CAL criteria are no longer met.

#### A. Identifying TERI Claims

Disability claims with an indication of a terminal illness will receive priority handling because of their sensitivity. TERI claim procedure became effective on September 1, 1991.

A claim may be identified as a TERI claim by using the following criteria:

1. There is an allegation from the claimant, friend, family member, doctor, representative payee, attorney, court or other medical source that the illness is terminal;
2. There is an allegation or confirmed diagnosis of Acquired Immune Deficiency Syndrome or Acquired Immunodeficiency Syndrome (AIDS);

**NOTE:** All claims involving an allegation or a confirmed diagnosis of Human Immunodeficiency Virus (HIV) infection must also be handled expeditiously but should generally not be labeled as a TERI claim. An individual alleging or having a confirmed diagnosis of HIV infection may or may not be prevented from performing work under applicable sections of the Railroad Retirement Act (RR Act) or Social Security Act (SS Act) depending on the severity of the residual effects. Conversely, an individual who has AIDS has reached a progressively advanced stage of HIV infection with accompanying medical signs and symptoms which result in a poor prognosis and a reasonable expectation in eventual death.

3. The claimant is receiving in-patient hospice care or is receiving home hospice care, such as in-home counseling or nursing care;

4. There is an allegation or diagnosis of Amyotrophic Lateral Sclerosis (ALS), known as Lou Gehrig's Disease. **Note:** Individuals who are medically determined to have ALS and are found disabled on or after July 23, 2020, are not subject to a 5-month waiting period before they are entitled to their first payment. This only applies to disability decisions made under the Social Security Act only. This is consistent with the provisions of the ALS Disability Insurance Access Act of 2019 as amended on March 23, 2021;
5. The claimant has a condition which medical records indicate is untreatable, cannot be reversed and is expected to end in death. These conditions would include but are not limited to the following:
  - a. Chronic dependence on a cardiopulmonary life-sustaining device;
  - b. Awaiting a heart, heart/lung, or bone marrow transplant (excludes kidney and corneal transplants);
  - c. Chronic pulmonary or heart failure requiring continuous home oxygen and the claimant is unable to care for personal needs;
  - d. A malignant neoplasm (e.g. cancer) which is:
    - Metastatic (has spread);
    - Stage IV (final stage);
    - Persistent or recurrent following initial therapy; or
    - Inoperable or unresectable.
  - e. An allegation or diagnosis of:
    - Cancer of the esophagus;
    - Cancer of the liver;
    - Cancer of the pancreas;
    - Cancer of the gallbladder;
    - Mesothelioma;
    - Small cell or oat cell lung cancer;
    - Cancer of the brain; or
    - Acute Myelogenous Leukemia (AML) or Acute Lymphocytic Leukemia (ALL).

- f. Comatose for 30 days or more.

The above list **is not** intended to be all-inclusive. Rather, it should be used as general guidance in the identification of TERI cases. Other cases may be considered TERI cases as long as the medical condition is untreatable and is expected to result in death.

Both field office and headquarters personnel are equally responsible for identifying TERI claims. DBD examiners should consult with a lead examiner or supervisor if, while adjudicating a disability claim, the examiner thinks that a case may qualify as a TERI case but has not been designated as such. A claim may also be identified and designated as a TERI claim during the reconsideration or appeals process when the evidence indicates a medical condition has developed or worsened as shown by the above guidance.

## B. Identifying CAL Claims

Compassionate Allowance is a Social Security Administration (SSA) initiative to quickly identify diseases and other medical conditions that invariably qualify under the Listing of Impairments ([DCM 4.12](#); [POMS: DI 34001.000](#)) based on minimal but sufficient objective medical information that is readily available and can be obtained quickly. The RRB adopted this initiative effective on January 15, 2009 as a way of providing for the needs of individuals whose medical condition is so serious that it obviously meets the disability standards. Accordingly, conditions in the CAL list may be considered when adjudicating all disability claims under the Social Security Act (SS Act) as well as Railroad Retirement Act (RR Act).

The list of conditions that SSA has developed under this initiative is a result of information received from internal and external medical, legal, and scientific professionals, the public, and disability claims specialists throughout the country. SSA is solely responsible for and continues to evaluate conditions to be included in or removed from the list. Accordingly, since SSA adds and removes impairments from the CAL list, refer to [POMS: DI 23022.080](#) for the most current list.

[POMS: DI 23022.080](#) contains web links to summaries of all the CAL conditions. The summaries include information about:

- Alternate impairment names, if any;
- A detailed description of affected body systems and how each impairment incapacitates an individual;
- Diagnostic tests that are usually performed, if any;
- Physical and/or mental findings generally associated with each impairment;
- Onset and progression;

- Treatments, if any; and
- Suggested evidence to support the claimed impairment.

The list of CAL conditions is all-inclusive and contains adult, child, and infant-related medical conditions. An individual can be rated disabled as a result of having any condition in the CAL list regardless of age presuming that individual continues to be affected by that condition and sufficient medical evidence to support the claim has been obtained.

Both field office and headquarters personnel are equally responsible for identifying claims involving conditions in the CAL list. Adjudicating personnel are required to check SSA's CAL list if you see evidence of a medical condition which you are unfamiliar with or do not recognize the name of a medical condition which the applicant claims to have or has been diagnosed as having. DBD examiners should consult with a lead examiner or supervisor if, while adjudicating a disability claim, the examiner thinks that a case may qualify as a CAL claim but has not been designated as such. A claim may also be identified and designated as a CAL claim during the reconsideration or appeals process when the evidence indicates a medical condition has developed or worsened as shown by the above guidance.

#### C. General Handling, Development, Adjudication, and Disposition

The supervisor of the Initial Section of DBD (DBD-DIS) will secure the claim folder or have one created upon receiving notification from a field office that a TERI or CAL claim is being submitted. The claim folder will be marked with a special label (RRB Form G-20) marked "TERI / CAL CLAIM."

All TERI / CAL claims received in DBD will be controlled on Universal STAR (USTAR) using the appropriate USTAR code. (See FOM1 15120.5 for information about USTAR.) TERI / CAL claims shall be closed out on USTAR when a disability determination is effectuated **or** it is obvious that the TERI / CAL criteria are no longer met.

DBD rating examiners are to discuss with their lead examiners or supervisor if it appears that a claim no longer meets the TERI / CAL criteria. DBD lead examiners or supervisors shall decide when a claim no longer meets the TERI / CAL criteria. If it is decided that a claim no longer meets the TERI / CAL criteria, the lead examiner or supervisor will remove it from USTAR and the rating examiner will notify the field office via E-mail within 3 days that the claim no longer meets the TERI / CAL criteria. (See below for actions to take when a disability determination is effectuated.)

Once labeled as a TERI or CAL claim, all aspects of development, adjudication, coordination (including situations involving joint freeze and dual eligibility claims), and disposition require tight controls and expedited handling.

Despite being labeled as a TERI or CAL claim, sufficient medical and non-medical evidence and, if necessary, a medical opinion, is required to support a disability determination. Requests for both medical and non-medical development will be made by E-mail marked as "High Importance" to the field office that initially notified DBD that a TERI / CAL claim was being submitted, even if it is not the same field office as the claimant's home field office.

Because the level of documentation differs for claims under the RR Act or SS Act, the adjudicator is only responsible for developing for information that is needed for the determination that (s)he is responsible for. If a TERI or CAL claim has not been previously adjudicated, efforts at development shall be limited to adjudication issues toward the disposition of the claim for a disability annuity. If the individual has already been approved for a disability annuity or full age and service annuity OR is not eligible for an annuity under the RRA, efforts at development shall be geared toward adjudication issues toward the disposition of the claim for disability freeze and/or Medicare coverage under the SS Act.

If required evidence is outstanding, DBD examiners and Reconsideration specialists are to follow the tracing schedule as shown in DCM 4.3.8 B by first checking Contact Log and any other online systems that are available to find out the status. All first requests for tracing will be made by the claims examiner or specialist via E-mail directed to the field office manager responsible for the claim. Second requests for tracing will be made by the claims examiner or specialist via E-mail directed to the responsible network office manager. All E-mails shall have a "High Importance" setting and be notated at the beginning of the message that it refers to a TERI or CAL claim.

Claim folders that are referred to medical consultants shall be designated by adjudicating personnel as "URGENT" and will be handled first by the reviewing doctors. All clerical functions including photocopying and typing will also be handled with priority.

TERI or CAL claims shall be notated as such in the Remarks section of OLDDS, the Remarks section of Form SSA-831, *SSA Disability Determination and Transmittal (DCM 11 SSA-831)*, and at the beginning of the Summary of Medical Findings section of Form G-325B (*Disability Briefing Document*) (DCM 12.5.6.2) or Basis for Decision section of Form G-325.1 (*Disability Decision Rationale*) (DCM 11 G-325.1). Every effort will be made to expedite authorization of these claims.

After any final decision has been effectuated, the authorizer will deliver the claim folder back to the DBD rating examiner or Reconsideration specialist who will notify the responsible field office of that decision through E-mail within 3 days of authorization.

If the disability decision was a rating by DBD-DIS, the rating examiner will then deliver the USTAR control record sheet to the DBD-DIS lead examiner to close out the USTAR record and the claim folder to a lead examiner in the DBD-Disability Post

Section (DBD-DPS) who will establish a new USTAR control record for the disability freeze (DF) or Medicare decision. After the new USTAR control record has been entered, the DBD-DPS lead examiner will then deliver the claim folder to the DBD rating examiner responsible for the DF or Medicare decision. DBD-DPS rating examiners shall close the USTAR record after the DF or Medicare decision has been effectuated. In the Reconsideration Section, USTAR control records will be closed by the section supervisor.

If the disability decision was a rating by DBD-DPS or Reconsideration Section, expedite all appropriate actions to complete the case including:

- Establishing an appropriate CDR call-up, if necessary (See [DCM 8.5.2](#) and [8.5.3](#));
- Sending Form G-405 to the Medicare Section as an E-mail attachment (See [RCM 11 G405](#)).

Once DBD or Reconsideration Section has completed all actions to effectuate a TERI / CAL claim, forward the claim folder (with the appropriate route slip notated "URGENT - TERI / CAL Claim") to the appropriate headquarters section, if necessary, for any additional required actions or back to storage (i.e. Claim Files).

### **3.4.200 Effect of Railroad Work on the ABD for a Disability Annuity**

In some disability cases an employee will attempt a return to railroad work. This return to work can affect the ABD depending on when the disability application was filed and when the return to railroad work was attempted.

- If the return to railroad work occurs after the disability application is filed, the railroad work can be considered an unsuccessful work attempt (UWA). If the railroad work is considered an UWA, it would not have an effect on the annuity beginning date. However no annuity is payable for any month the annuitant was in compensated service.
- If the return to railroad work occurs before the disability application is filed, that railroad work is considered the employee's date last worked. This would mean the ABD could be no earlier than the day after the DLW.

### **3.4.201 Self-Employment Cases**

Self-Employment is work performed in a person's own business, trade or profession, rather than for an employer. While self-employment is not LPE, some activities claimed by the applicant as self-employment may actually be employment for someone else (e.g., salesman or domestic worker). A person is not self-employed if he works in an incorporated business. The corporation is the person's employer. The fact that an applicant has reported earnings as self-employment to the Internal Revenue Service

does not make his work "self-employment." For more information on how to evaluate self-employment see [DCM 10.4.5](#).

In disability cases, DBD must evaluate all past relevant work (see [DCM 5.2.1](#)) in order to determine SGA and whether or not substantial services were performed. Therefore, in disability cases, the field should secure an AA-4, Self-Employment and Substantial Service Questionnaire, for work shown as self-employment. If the work does not affect C/C or LPE determination (e.g. the work covered on the AA-4 was performed more than 12 months before date last worked in RR or non-RR work), a determination by RBD or the field office is not necessary.

In some cases the information contained on the AA-4 will not be sufficient for an examiner to make a self-employment determination or may lead to the disability examiner having questions about the work being performed. In these instances, initial DBD examiners are to release Form G-252, Self-Employment/Corporate Officer Work and Earnings Monitoring to the applicant. The information provided on this form will provide additional information about the self-employed work being performed. See DCM 8.5.14 for additional information pertaining to Form G-252.

### **3.4.205 Wage Record Development During the Sequential Evaluation Process**

Accurate documentation and evaluation of a claimant's work history is vital to steps 4 and 5 of the sequential evaluation process ([DCM 3.6.1](#)) in disability claims under the Railroad Retirement Act (and all disability freeze/Medicare claims under the Social Security Act) and to prevent possible fraud and insure program integrity. When material inconsistencies (see [DCM 3.4.206](#)) appear in the documentation, the disability examiner must resolve them and explain the resolution in the rationale. The methods (example, DEQY, The Work Number (TWN)) to resolve these inconsistencies are to be used by the disability examiner. **Note:** Examiners must not use internet resources such as social media sites (example, Facebook) to resolve inconsistencies.

#### **Detailed Earnings Query (DEQY)**

Disability examiners are required to obtain a Social Security Administration (SSA) Detail Earnings Query (DEQY) wage record for all Railroad Retirement Act disability claims and all Social Security Act disability claims when each claim is initially developed. Prior to May 4, 2015, paper DEQY wage record printouts were obtained and filed on the right side of the claim folder. From May 4, 2015, through December 31, 2023, the DEQY wage record could be obtained and sent directly to Imaging using the G-180MF, Mainframe Screen Capture. This process electronically sends screen captures directly to Imaging. Effective January 1, 2024, the DEQY (along with its Employer Address Query) will no longer be functional on the SSA DTA database; the query will only be available by accessing SSA's Earnings Queries System web application. The DEQY and the Employer Address Query should be copied directly from the website and pasted onto +Imaging form found in RRAILS. Disability examiners must no longer print paper DEQY printouts.



**NOTE:** A DEQY provides detailed information from each source of income as reported by the Internal Revenue Service for any year since 1978.

A DEQY must be obtained covering the 15-year time span shown in DCM 5.2.9.

General information about SSA's computer system and databases is found in RCM 19.2. Specific instructions how to access and logon to SSA's main screen is shown in RCM 19.2.5. Specific instructions how to access and image a DEQY or employer address query is shown in RCM 19.2.15.

The following "details" should be obtained when completing a DEQY request:

- 1 Covered Details
- 2 Self-Employment
- 4 All Non-Covered Details
- 7 Special Wage Payment
- 8 Employer Address

Disability examiners should be mindful of possible changes in a wage record from approximately February 1 until June 30 of each year as a result of earnings information posted from the Internal Revenue Service (IRS). The Employment Data Maintenance (EDM) system should be routinely checked and compared to the DEQY to see if there were any changes in the amount of income in the previous year before authorizing a disability determination. If any EDM screen prints are necessary for documentation in the case, the EDM screens must be electronically sent directly to imaging using the G-180MF screen capture process. In addition, through December 31, 2023, SSA's SEQY can also be reviewed through the SSA DTA database to identify and compare earnings, and SEQY screens should be sent to imaging using the G-180MF screen capture process. Effective January 1, 2024, SSA's SEQY will be available only through the Earnings Queries System web application. The SEQY query results should be copied and pasted onto a RRAILS +Imaging form. Specific instructions how to access and image a SEQY are shown in RCM 19.2.15

### **The Work Number (TWN)**

The Work Number (TWN) allows the RRB to obtain income verification reports that contain basic employment information about an individual's job, title and employment status, as well as income. TWN provides the most recent income information since it is posted real-time to the TWN website. Income earned and posted within the year (i.e., past 12-16 months) should be shown on TWN. TWN is used in conjunction with other sources reporting income (earnings or wages) information (example, DEQY, EDM, and SEQY) which will enable us to obtain both past and recent income information.

Effective July 19, 2018, disability examiners must obtain and verify employment and income from TWN for all active and inactive status employers that are not on the DEQY and have not been reported on Form G-251, *Vocational Report*, prior to (just before) submitting a case for authorization. Information obtained from the TWN employment and income report must be taken into consideration when determining eligibility for disability benefits. Prior to this date, disability examiners were required to obtain and verify employment and income from The Work Number (TWN) for all Railroad Retirement Act disability claims and all Social Security Act disability claims when each claim was:

- Initially developed (upon case receipt or assignment); and
- Prior to (just before) the final disability decision is rendered to either award or deny.

TWN employment and income reports display a variety of information which includes, but is not limited to:

- Employee Name
- Employer Name
- Most recent hire date
- Termination date (if no longer employed)
- Job Title
- Rate of Pay
- Gross Earnings for current year, including base pay, overtime, bonuses, and commissions
- Total Net Earnings
- Hours Worked
- Average Hours Worked/Pay Period
- Workers' Compensation information

**Note:** Employment and income verification reports from TWN are not required when the only employer is a railroad employer and the railroad employer is listed on EDM, for inactive employers that are listed on the DEQY, or for cases that are denied due to 1) non-severity of all impairments; 2) failure to meet the 12 month duration requirement; 3) ability to perform past relevant work; and 4) application of medical vocation rule (i.e., generally a younger individual between ages 18-49).

If an error messages is received when initiating a TWN lookup, the DBD examiner should make at least two attempts to obtain the information. If the DBD examiner continues to receive an error message, they should consult with the supervisor, lead or other staff designated by the management official for resolution.

### **Cost to Use TWN**

There is a **cost for each lookup using TWN**. Since each disability case requires a TWN lookup (prior to submitting for authorization), except as noted above, there should

be a minimum of at least one lookup cost for each case. The RRB incurs a charge for each employer (non-railroad and railroad) that you select to view the detailed information.

### **Example**

RRB is charged \$9.72 for each employer lookup. An applicant has three active employers, the RRB will be charged a total of \$29.16 for that case (\$9.72 x 3 employers x 1 lookup). As such, disability examiners should not do any unnecessary additional TWN lookups since this increases the total cost to use TWN per case.

For more information on how to access TWN, the cost and how to obtain employment/income information disability examiners should follow the steps outlined in [FOM 15155.25](#).

### **Use of TWN for Recent Earnings**

TWN should be used for all active non-railroad employment and all inactive non-railroad employment that are not listed on the DEQY.

**Case Development** - The disability examiner should obtain a DEQY, EDM and TWN to verify employment and income. These reports must be reviewed with the AA-1 and AA-1D application and G-251, Vocational Report, for any inconsistencies.

### **Example**

John Smith files an AA-1 and AA-1D for a disability annuity in April 2018. Upon receipt of the disability case for adjudication in May 2018, the DBD examiner should obtain a DEQY through 2017 (the probability is that earnings through 2016 not 2017 will be shown on DEQY). Prior to submitting the disability case for authorization, the DBD examiner must review TWN for t recent earnings. The information obtained from TWN should be evaluated to determine if there are any inconsistencies that need to be resolved (example: recent earnings from an employer not listed on the AA-1 or AA-1D). Specifically, if non-medical factors submitted by the applicant are inconsistent with DEQY, EDM, TWN, additional development should be considered. For more information on how to resolve inconsistencies see [DCM 3.4.206](#).

**NOTE:** If the disability examiner accesses TWN and there are no active employers shown on the TWN screen, the examiner should image the screen using the G-180WC, Website Screen Capture, to document that they reviewed TWN. There is no cost for viewing this screen.

### **Example**

Using the example from above, the DBD examiner completes medical and non-medical development and determines that the case is ready to be rated in July 2018. The DBD examiner should request a DEQY through 2017 (probability is that earnings through 2017, instead of 2016, will now be shown on DEQY). Prior to submitting the disability

case for authorization, the DBD examiner must also review to ensure that no additional earnings have been reported. If additional earnings have been reported, consider if case should be denied. (For more information on compensated service, see [DCM 3.2.6](#). Refer to the NOTE above regarding no employer shown on TWN. For more information on how to resolve inconsistencies see [DCM 3.4.206](#).

Upon receipt of the disability case for review, the Disability Post examiner must confirm that the Initial Disability examiner reviewed TWN in order to identify any inconsistencies prior to authorization. The Disability Post examiner can confirm by checking Imaging for TWN screens and either the G-321, *Employee Initial Rating Checklist*; or G-321A, *Widow/Child Information Checklist*. Note: If the TWN results indicate “SSN Not Found”, the Disability Post examiner should check TWN to verify results. **Note:** If the case is returned to the DBD initial examiner and resubmitted for authorization, the DBD initial examiner must obtain a new TWN report if it has been three months since the last TWN report was obtained.

**Send copies of all TWN reports to Imaging using the G-180WC, Website Screen Capture.** This process electronically sends screen captures directly to Imaging for documentation and reference. Disability examiners should not print TWN reports. For more information on how to image, see [FOM 15155.30](#).

### **3.4.206 Assessing the Applicant’s Wage Record and Job Information**

The disability case should be reviewed to determine whether the work history and wage record are generally consistent for the purpose of determining past relevant work (PRW). ([DCM 5.2.1](#)) All evidence must be considered.

Remember when evaluating an applicant’s work activity for substantial gainful activity (SGA) purposes, be concerned with only those earnings that represent the individual’s own productivity ([DCM 10.4.4](#)) or whether the work represents an unsuccessful work attempt ([DCM 10.5.3](#)).

#### **A. Wage Record And Job Information That Is Generally Consistent**

In this scenario, the applicant’s reported occupations on Form G-251 generally coincide with the employers in the wage record. Earnings information shown on the applicant’s forms/applications and other sources reporting income (example, DEQY, TWN, etc.) are consistent and show no material discrepancies. Since all information is generally consistent, no further action is necessary for assessing job information.

#### **B. Wage Record And Job Information That Is Not Generally Consistent**

Inconsistencies between the applicant’s reported occupations on Form G-251 and the wage record must be reconciled only when they are material.

“Material inconsistency” is defined as the existence of evidence which reasonably prevents a disability adjudicator from making a sound disability decision regarding work history or if determining if a job should be considered PRW. Usually, this occurs when there is a significant unexplained omission or difference in the time frame that the applicant claims to have or not have worked in an occupation compared to the time frame which the wage record shows they were employed or self-employed. However, all reasonably questionable situations which may affect the disability decision require reconciliation of the wage record and occupational evidence regardless of the circumstances.

If material inconsistencies still exist after reasonable reconciliation efforts to contact the parties involved, the examiner should utilize other sources of job information to resolve the inconsistencies (DCM 5.2.2). Disability examiners are cautioned to not use data in the Dictionary of Occupational Titles (DOT) to fill in missing information about specific job at one workplace because the data in the DOT may represent an aggregate of the requirements of a job as workers perform it at a number of different workplaces. Also, internet resources such as social media (example, Facebook) sites must not be used to resolve inconsistencies.

**EXAMPLE:** An applicant indicates on Form G-251 that their only work in the 15-year relevant period was in non-railroad employment as a truck driver from July 2004 until April 2008 and as a carpenter from May 2008 until their claimed disability began in February 2012. The applicant’s claim is being adjudicated in June 2012.

The applicant’s DEQY wage record shows that they received income exceeding the SGA level from:

Freight Van Lines from 1997 until 2001,

School District 1 from 1999 until 2002,

World Truck Delivery from 2004 until 2008, and

Home Remodelers, Inc. from 2008 through 2011.

It also shows that the applicant received \$5,615 in income from McDonalds in 2003. It does not show any income earned in 2012.

It is reasonable to conclude that the applicant claimed occupation as a truck driver from July 2004 until April 2008 was for World Truck Delivery and their claimed occupation as a carpenter from May 2008 until February 2012 was for Home Remodelers, Inc. Therefore, a material inconsistency does not exist regarding this work.

However, material inconsistencies exist regarding the SGA earnings for Freight Van Lines from 1997 until 2001 and School District 1 from 1999 until 2002 as well as the possible SGA earnings for McDonalds in 2003.

Since the applicant didn't provide occupational information on Form G-251 about work for those employers, reasonable development for this information is required before the case is authorized.

Regarding the work for McDonalds, documentation would be sufficiently developed if it is reasonably shown that the time frame which the applicant worked would likely represent SGA or not. If the average monthly earnings are reasonably shown to be SGA, then the documentation would also be sufficiently developed if the G-251 reasonably provides adequate information by which to make a PRW decision. (See DCM 10.4 for information regarding SGA.) In this example, we would need to know how long the applicant worked for McDonalds in 2003. If the applicant worked 7 months or fewer in 2003, the income is likely SGA (because SGA in 2003 was \$800/month; \$800 x 7 months = \$5,600) and we would then need to consider the occupational information on Form G-251 to determine if that work could be considered PRW.

Lastly, unless there is evidence that the applicant may have worked in an occupation other than as a carpenter which may be considered PRW or for an employer in 2012 other than Home Remodelers, Inc., there is no material inconsistency because it is clear that their occupation as a carpenter is considered PRW regardless of whether the 2012 earnings were posted to their wage record.

### **3.4.300 Review and Authorization of Disability Determinations**

All disability determinations are required to go through the disability review process. This includes initial Occupational and T&P disability claims under the Railroad Retirement Act as well as disability freeze (DF) claims under the Social Security Act. Joint DF claims are reviewed and signed by staff at Great Lakes Program Service Center (PSC) of the Social Security Administration (SSA). This action satisfies the review requirement; therefore, these claims do not need to go through the DBD review process. In addition, continuing disability review (CDR) determinations in the Disability Benefits Division (DBD) and Reconsideration Section must be reviewed by a second individual before the determination is authorized and ultimately processed into the appropriate RRB systems. The authorization process is a team effort. Sometimes a reviewer may or may not agree with an adjudicating examiner's disability determination. In addition, although a reviewer may agree with an adjudicating examiner's disability determination, sometimes they may identify adjudicative issues which should be addressed by the adjudicating claims examiner before a disability determination is authorized and processed into a RRB system. After a disability claim has been submitted into the authorization process for review, adjudicating examiners and reviewers must be willing to listen and work together, when necessary, toward the goal of validating an accurate disability determination.

Instructions for handling disability claims authorization in the Reconsideration Section are found in DCM 7.1.5.

### 3.4.301 Guidelines For Preparing And Authorizing Disability Determinations

The adjudicating and reviewing examiners should use the following guidelines when preparing an award for authorization. These guidelines will aid in producing quality work and make it easier for the reviewer to authorize the award. In general, remember to examine the evidence, medical opinions, rationale, OLDDS screens, determination letters, and all other documentation for sufficiency and/or accuracy.

In no way do the following guidelines encompass all possible considerations when adjudicating or reviewing a disability determination. Specific issues include but are not limited to:

#### 1. Documents

- Are the application and ancillary documents properly signed?
- In the situation of an occupational disability claim, has it been 30 days since Form G-251A was released?
- Have sufficient proofs been provided or ordered if there is an issue of annuity eligibility?
- Have all contract examinations and medical opinions been paid for or cancelled as appropriate?
- Have all forms or other permanent documentation been sufficiently completed to allow anyone reviewing the case in the future to reasonably understand the determination or actions taken?
- Have all documents, information, and correspondence produced for the public been written in a clear and easily understood manner following the guidelines in the Plain Writing Act of 2010?
- Were all documents, information, and correspondence referenced in the final determination and part of the official file imaged to WorkDesk?

#### 2. Impairment severity

- Is the impairment severe?
- In the situation of an occupational disability claim, has the railroad medically disqualified the employee from performing his or her regular railroad occupation?
- In the situation of a disabled widow claim, does the medical evidence sufficiently show that disability began before the end of the prescribed period? (DCM 3.7.6)

- In the situation of a disabled child claim, does the medical evidence sufficiently show that disability began before they attained age 22?

### 3. Impairment duration

- Will the impairment last a continuous period of at least 12 months or is it expected to result in death?

### 4. Work activity and earnings

- In the situation of an occupational disability, has the correct job been selected as the regular railroad occupation? (DCM 3.2.2)
- Has/Is the individual worked/working in compensated railroad service?
- Has a DEQY or The Work Number (TWN) report been obtained and documented for each type of disability determination? (DCM 3.2.205)? (Prior to May 4, 2015, the paper DEQY printout was filed down on the right side of the claim folder. Effective May 4, 2015 and later, DEQY screens are electronically sent directly to Imaging). (Effective May 12, 2017, send copies of all TWN reports to Imaging using the G-180WC, Mainframe Screen Capture. Has/Is the individual worked/working in substantial gainful activity (SGA)? (DCM 10.4)
- In the situation of a disabled child claim, does the evidence show that the disabling impairment has prevented SGA continuously since attaining age 22? If not, does the evidence show that the child was unable to engage in SGA for a continuous period of time of at least 12 months since attaining age 22, but by the time the determination is made, improvement occurred and is no longer disabled (i.e. closed period of disability)?
- Has/Is the individual worked/working in self-employment or employment outside of the railroad industry?
- Has/Is the individual worked/working for a family-owned, controlled or managed business, including a business operated, managed, or owned by them, a family member, friend, or close associate, whether for pay or not, and without regard to how the business is organized (e.g. sole proprietorship, partnership, corporation, limited liability corporation (LLC), etc)?
- In the situation of railroad employee claiming a disability, has/is the individual earned/earning income in excess of the applicable disability work deduction threshold after their alleged onset date and/or annuity beginning date?



- Are there any special circumstances which allow the individual to work despite the presence of an impairment(s) which could be disabling? (DCM 10.4.4 A, DCM 10.5.3)
- Has all past relevant work (PRW) been properly documented and considered in the disability determination? (DCM 3.4.206; DCM 5.2)
- Has evidence of a settlement, judgment, or jury verdict involving pay for time lost involving railroad service been sufficiently been developed?
- Is the employee insured for a disability freeze? (DCM 6.3.2)
- Were all work activity and earnings documents, information, and correspondence referenced in the final determination and part of the official file imaged to WorkDesk?

#### 5. Multiple impairments

- Are multiple but unrelated severe impairments involved? (DCM 4.9.3 B)
- What is the combined effect of multiple concurrent severe impairments?
- What is the effect of multiple unrelated impairments which do not last for the same period of time?

#### 6. Change in medical condition

- Has the medical condition significantly improved or worsened? Has it generally remained the same?
- Is the claimant's condition likely to improve but the evidence insufficient to establish that (s)he could be expected to return to work within 12 months of onset? (DCM 4.3.7)

#### 7. Sufficiency of medical evidence and non-medical information

- Does the medical documentation sufficiently and reasonably support the proposed disability determination?
- Were there conflicting medical findings? If so, did the summary of medical findings identify the conflicts, discuss steps taken to resolve discrepancy and state the final decision on the conflicting medical evidence.
- Are there sufficient medical reports from or attributable to acceptable medical sources? (DCM 4.2)

- Have all medical-related reports which reasonably support a disability determination from or attributable to unacceptable medical sources been given due consideration?
- Were all medical-related reports received at the time of adjudication and referenced in the final determination as part of the official file imaged to WorkDesk? This includes imaging documentation, which reasonably support a disability determination including reports from unacceptable medical sources i.
- Has all non-medical information been given due consideration and does it reasonably support the disability determination being proposed?
- Was all non-medical information received at the time of adjudication and referenced in the final determination as part of the official file imaged to WorkDesk? All sources of information must be given due consideration including what reasonably supports the disability determination being proposed (see 20CFR 220.46)?

#### 8. Alleged limitations

- Have pain, fatigue, credibility, and other related issues been considered?
- Have activities of daily living been considered when necessary?

#### 9. Residual Functional Capacity (RFC)

- Does the RFC assessment appear reasonable based on the medical evidence and other related issues?
- Have all medical source opinions regarding a claimant's ability to do work-related activities, ability to reason, or make occupational, personal, or social adjustments, despite the claimant's impairment(s), been considered based on the medical evidence and other related issues?

#### 10. Sequential Evaluation

- Was the correct sequential evaluation process followed according to the standards for the type of claim for initial benefits or CDR?
- Has the Dictionary of Occupational Titles (DOT) been checked to find all PRW as it is commonly performed in the national economy? Have printouts of jobs in the DOT been placed in the claims folder?

#### 11. Rationale

- Has the disability determination been sufficiently rationalized with the medical and non-medical evidence?

- Does it show the correct Listing, Medical-Vocational rule, Occupational Table rule, or Dictionary of Occupational Titles (DOT) reference? The DOT reference(s) should include the 9 digit DOT job number(s), as well as the job title(s) as it appears in the DOT.
- Was the actual onset date explained if the alleged date was not afforded to the claimant?
- Have special situations (e.g. unsuccessful work attempts (DCM 10.5.3), transferability (DCM 5.5), past education (DCM 5.4), past arduous labor (DCM 5.2.10), etc.) been sufficiently explained?
- Since this is a formal document, does it make sense and does it use appropriate language?
- Does it show the name and/or signature of the adjudicating examiners?

#### 12. Onset and ending date

- Do all the factors previously listed support the proposed onset date?
- Has there been significant improvement in the disabling condition which clearly shows that disability lasted for a finite (closed) period of time?
- Does this disability determination invade a previously disability determination which cannot be reopened? (RCM 6.2)

#### 13. Diary actions

- If appropriate, has the correct CDR diary been established, revised, and/or removed?

#### 14. Determination letters

- Is the name and address on the letter correct?
- In the situation of disability denials based on lack of medical severity, are all sources of the medical evidence listed and the dates of the report shown?
- Are there any grammatical, typographical, or factual mistakes?
- Has SSA Publication 05-10058, *Your Right To Question The Decision Made On Your Claim*, been enclosed with the correct disability freeze letter in joint freeze cases?

#### 15. REQUEST

- Are all entries on REQUEST, including the name and address and date last worked, accurate when the claim is being finalized?
- Are there any outstanding RASI call ups that would prevent the claim from being finalized properly?
- Has the case been dumped from RASI before OLDDS processes if a constructive award is required? (DCM 3.5.1; FOM1 1582.10.1)

#### 16. OLDDS

- Is all the data shown and accurate, especially date of birth, date last worked, diagnostic code, and diagnoses in order from most to least severe correct?
- Are all important comments, such as settlements, terminally ill (TERI) or compassionate allowance (CAL) claims, LMO or Congressional interest, and changes in onset, shown in the Remarks section?

#### 17. Medicare issues

- Has Form G-405 (RCM 11 G-405) been completed or the claim folder been sent to the Medicare Section when required?
- Has the correct Medicare effective date been calculated?
- Has the correct Medicare termination date been calculated? (Consider the difference when disability ceased because of significant medical improvement vs. substantial gainful activity (SGA).)

#### 18. Miscellaneous Issues

- Has Form G-331, Trial Work Period and Earnings Breakdown Worksheet, been properly documented in the situation of an earnings CDR?
- Has the SSA examiner and physician/psychologist properly signed Form SSA-831 in joint freeze cases?
- Has USTAR been properly documented and/or closed out? (FOM1 15120.5)
- Is the claim folder being forwarded to the appropriate location or back to claims files after authorization?

### **3.4.302 Reviewing a Disability Determination and the Authorization Process**

#### A. Definition

Authorization is the act to review and approve a disability determination which:

- Grants or denies an entitlement to an annuity, disability freeze (DF), or Medicare coverage based on disability; or
- May affect an active entitlement to an annuity, DF, or Medicare coverage based on disability. This decision is generally known as a continuing disability review (CDR).

## B. Authorization Process

### 1. Submitting a Determination For Review

When a DBD adjudicating examiner completes a disability determination for initial entitlement for annuity, DF, Medicare, or CDR determination, the claim folder is logged into the TORE AFCS location and then placed in the designated holding area. Each workday, designated DBD personnel collect the claim folders from the holding area, record certain information, log the claim folder into the TORE AFCS location a second time, and distribute an equal number of claims to each reviewer.

**NOTE:** DBD-DPS claims examiners are the primary reviewers/authorizers. However, any senior examiner or supervisor in DBD, DBD Quality Analyst, and the Director of DBD can also review and authorize a disability determination.

### 2. Reviewing the Evidence

In general, a reviewer/authorizer is responsible for thoroughly examining all aspects of a proposed disability determination for sufficiency, accuracy, and content, including but not limited to: medical and non-medical evidence, all medical opinions, determination rationale, system entries, formal determination letters of notification, and any other forms and documentation relevant to the decision.

### 3. Authorizing a Disability Determination

**NOTE:** See DCM 3.4.303 for instructions about the reviewer return process if the reviewer/authorizer disagrees with the disability determination.

If the reviewer agrees with the disability determination, (s)he shall take the following actions to completely authorize a disability determination:

- Approve all appropriate systems inputs, such as OLDDS (DCM 12.1.4), D-Brief (DCM 12.5.9), and CDR Call-Up Program (DCM 12.3), and verify that they processed correctly into the system;
- Print the appropriate number of copies, send copies to imaging and release the formal disability determination notification letter(s) to the claimant/annuitant or rep payee:

- Two (2) copies of the appropriate RRB disability determination letter are printed. One (1) copy is released to the claimant/annuitant or rep payee. One (1) copy of Form AB-32 is also released when a disability freeze determination letter is released. (See DCM 3.4.301 B.3.d for instructions regarding the second copy.)
- Two (2) copies of Form SSA-810 or SSA-813.1 are printed if a joint freeze determination is completed. One (1) copy is released to the claimant/annuitant or rep payee with SSA Publication 05-10058, *Your Right to Question The Decision Made On Your Claim*. (See DCM 3.4.301 B.3.d for instructions regarding the second copy.)

**NOTE:** The adjudicating examiner and authorizer are each responsible to proofread the disability determination letter for correct name and address, content, spelling, and grammar before it is released to the claimant or rep payee.

**EXCEPTION:** DBD does not release a determination notification letter if the following claimants are rated disabled:

- A child previously rated disabled for Retirement purposes (i.e. DAC Conversion case; DCM 3.10.15) (Survivor Benefits Division notifies the child of annuity entitlement). Or
  - Medicare-only claims filed by a widow(er), surviving divorced spouse, or remarried widow(er) who are age 60 or older and receiving an annuity. (DCM 3.7.7) (Medicare section notifies the annuitant that (s)he has been or will be enrolled in Medicare.)
- c. Enter an appropriate CDR call up diary (DCM 8.5.2 and 8.5.3), if it is warranted, using the CDR call up program (DCM 12.3), and print one (1) copy;
- NOTE:** Existing medical diary call ups in the CDR call up program should be deleted.
- d. Take all appropriate actions to permanently document the disability determination and related information in the RRB Privacy Act Systems of Records. In general, this means that, where appropriate, documentation is permanently filed in the RRB claim folder and sent to imaging.
- Print one (1) copy of the D-Brief G-325B or RRAILS G-325.1 rationale and place it on the left side of the claim folder. Any rationale must also be sent to imaging.
  - Either physically sign the G-325 OLDDS printouts in ink OR make copies of each OLDDS screen showing both the rating examiner's and

authorizer's name signifying that the determination was authorized. The G-325 OLDDS printouts should be placed above the G-325B or G-325.1 rationale on the left side of the claim folder.

- If a CDR call up diary was entered into the CDR call up program, place the printout on the left side of the claim folder with the G-325 OLDDS and rationale.
- If an earnings CDR was completed, place Form G-331, Trial Work Period and Earnings Breakdown Worksheet, on the left side of the claim folder with the G-325a OLDDS and rationale.
- Place the remaining copy of the formal RRB disability determination notification letter(s) on the right side of the claim folder (RCM 5.12.10). The file copy shall be placed above all evidence that was received prior to the approval of the determination. All evidence received subsequent to the release of the letter shall be placed above the letter. Any RRB disability determination letter must also be sent to imaging.

**COMMENT:** When a joint freeze determination is completed, attach one (1) additional copy of the G-325.1 rationale to the remaining copy of either the SSA-810 or SSA-813.1 and release them to the Social Security Administration. Do not place a copy of either letter in the claim folder. However, the letter must be sent to imaging.

- e. If the Medicare effective date is in the previous month, the current month, or any of the five months following the award, notify the Medicare Section of the Medicare entitlement by either sending the claim folder to the Medicare Section or notify them via Form G-405 (See RCM 11 G405), whichever is appropriate.
- f. When all is complete, the claim folder is forwarded to the appropriate section for additional actions or returned the claims files, whichever is appropriate.

### 3.4.303 Reviewer Return Process

If a reviewer disagrees with the disability determination or identifies adjudicative issues which should be addressed by the adjudicating examiner before a disability determination is authorized, follow the process in this section.

The adjudicating examiner, reviewer, and, when necessary, senior examiners and DBD management must handle disagreements with high priority. Adjudicating examiners and reviewers should review write-ups and take action within one business day of receipt. Senior examiners will review write-ups within a reasonable amount of time.

The procedure set forth below should be followed in most situations. However, it is acknowledged that highly unusual situations may occur which may result in a deviation of this prescribed procedure. Regardless, a disputed disability determination should not

be authorized until the adjudicating examiner, reviewer, and when necessary, the DBD-DIS and DBD-DPS senior examiners have made reasonable efforts to come to a mutual agreement.

**NOTE:** Reviewers, adjudicating examiners, and senior examiners are reminded that AFCS locations must show the accurate folder location during the review process.

### **3.4.303.1 General Information**

Information in this section is applicable to claims adjudicated in either DBD-DIS or DBD-DPS.

#### **A. Reviewer Actions**

A reviewer is not required to authorize a disability determination if (s)he:

- Disagrees with that determination and can provide a reasonable explanation why it should not be authorized, or
- Identifies adjudicative issues which should be addressed by the adjudicating examiner before a disability determination is authorized.

#### **B. Resolutions of Disagreements**

The adjudicating examiner and reviewer may decide to try to informally resolve any minor adjudicative issue(s)/disagreement(s) in the same business day. If a minor issue(s)/disagreement(s) can be resolved in the same business day, Form G-383 does not need to be completed.

If a disagreement between the reviewer and adjudicating examiner cannot be informally reached or if the adjudicative issue(s) is generally more than minor, the reviewer shall complete "Authorizer Comments" section on Form G-383 (DCM 11 G-383) to formally identify adjudicative actions that may be incorrect, inconsistent, or incomplete with current procedure or provide reasons why authorizer disagrees with the proposed disability rating or continuing disability determination. The reviewer will then log the claim folder into the AFCS location of the adjudicating examiner and return it back to them.

### **3.4.303.2 Adjudicating Examiner Agrees With Reviewer Comments**

#### **A. Disability Determination Adjudicated in DBD-DIS**

1. All minor changes should be completed within one business day of receipt.
2. If development actions need to be initiated, they should be initiated on or the next business day that the case is returned.



3. If the adjudicating examiner needs to consult with their senior claims examiner, the consultation should be initiated within one business day of receipt.
4. When the adjudicating examiner completes all necessary changes, they shall return the claim folder to the reviewer.
  - If Form G-383 was not completed to address a minor adjudicative issue, the adjudicating examiner may return the claim folder directly to the reviewer.
  - If a G-383 was completed, the claim folder should be placed into the designated area near the DBD-DPS senior claims examiners. The DBD-DPS senior claims examiners will then distribute the claim folder back to the reviewer.
  - Regardless, the adjudicating examiner should ensure that the claim folder is logged into the T0RE AFCS location before moving it. (The DBD-DPS senior claims examiner will keep the claim folder logged into the T0RE AFCS location when distributing it back to the reviewer.)

**NOTE:** If the original reviewer can no longer authorize the determination, the adjudicating examiner shall give the claim folder to the DBD-DPS senior examiner, who will then distribute it to a new reviewer.

#### B. Disability Determination Adjudicated in DBD-DPS

1. All minor changes should be completed within one business day of receipt.
2. If development actions need to be initiated, they should be initiated on or the next business day that the case is returned.
3. If the adjudicating examiner wants to briefly consult with their senior claims examiner, the consultation should be initiated within one business day of receipt.
4. When the adjudicating examiner completes all necessary corrections, they shall log the claim folder into the T0RE AFCS location and return it directly to the reviewer.

**NOTE:** If the original reviewer can no longer authorize the determination, the adjudicating examiner shall give the claim folder to the DBD-DPS senior examiner, who will then distribute it to a new reviewer.

### **3.4.303.3 Adjudicating Examiner Disagrees With Reviewer Comments**

**NOTE:** Under no circumstance should the adjudicating examiner reinitiate the authorization process by resubmitting the claim folder, as described in DCM 3.4.302 B, or obtain another opinion by asking a different DBD-DPS claims examiner to review it.

#### A. Disability Determination Adjudicated in DBD-DIS

1. The adjudicating examiner must write a detailed rebuttal of the reviewer's comments in the "Examiner Comments" section on Form G-383 and attach it to the claim folder. The claim folder should then be logged to their assigned DBD-DIS senior examiner's AFCS location and placed in their cubicle.
2. The DBD-DIS senior examiner will review the comments from the reviewer and adjudicating examiner as well as the contents of the entire claim folder.

IF...	THEN...
DBD-DIS senior examiner agrees with the reviewer	<p>The DBD-DIS senior examiner shall:</p> <ul style="list-style-type: none"> <li>• Complete the "Senior (Initial) Examiner Comments" section in writing on Form G-383 with instructions on how the adjudicating examiner should proceed with the claim.</li> <li>• Log the claim folder into the adjudicating examiner's AFCS location and return it directly to them.</li> </ul> <p>After the changes are completed, the adjudicating examiner will log the claim folder into the T0RE AFCS location and place it into the designated area near the DBD-DPS senior claims examiners. The DBD-DPS senior claims examiners will return the claim folder back to the reviewer to authorize the decision. (The claim folder shall remain logged into the T0RE AFCS location.)</p>
DBD-DIS senior examiner agrees with the adjudicating examiner	<p>The DBD-DIS senior examiner shall:</p> <ul style="list-style-type: none"> <li>• Complete the "Senior (Initial) Examiner Comments" section in writing on Form G-383 by explaining their reason(s) for agreeing with the actions taken by the adjudicating examiner.</li> <li>• Log the claim folder into the AFCS location of the DBD-DPS senior examiner that the reviewer is assigned to and place it in the DBD-DPS senior examiner's cubicle.</li> </ul> <p>The DBD-DPS senior examiner shall:</p> <ul style="list-style-type: none"> <li>• Review the comments from the DBD-DIS senior examiner, reviewer, and adjudicating examiner as well as the contents of the entire claim folder.</li> </ul>

IF...	THEN...
<p>DBD-DPS senior examiner agrees with the DBD-DIS senior examiner</p>	<p>The DBD-DPS senior examiner shall:</p> <ul style="list-style-type: none"> <li>• Complete the “Senior (Post) Examiner Comments” section of Form G-383 explaining the reason(s) for agreeing with the opinion of the DBD-DIS senior examiner and actions taken by the adjudicating examiner.</li> <li>• Log the claim folder into the T0RE AFCS location and return it directly to the reviewer.</li> <li>• If the reviewer continues to disagree with the disability determination, (s)he will log the claim folder back into the to the DBD-DPS senior examiner’s AFCS location and return it directly to them. In this situation, the DBD-DPS senior examiner will be responsible for authorizing the disability determination as shown in <u>DCM 3.4.302</u>.</li> </ul> <p>If the reviewer agrees with the disability determination, the reviewer will authorize the disability determination as shown in <u>DCM 3.4.302</u>.</p>
<p>DBD-DPS senior examiner disagrees with the DBD-DIS senior examiner</p>	<p>The DBD-DPS senior examiner shall:</p> <ul style="list-style-type: none"> <li>• Complete the “Senior (Post) Examiner Comments” section of Form G-383 explaining the reason(s) for disagreeing with the opinion of the DBD-DIS senior examiner and actions taken by the adjudicating examiner.</li> <li>• Log the claim folder back into the DBD-DIS senior examiner’s AFCS location and return it directly to them.</li> </ul>

		<ul style="list-style-type: none"> <li>• Both senior examiners will confer to resolve the disagreement and may consult with the DBD-DIS and DBD-DPS supervisors if necessary.</li> <li>• If after conferring the DBD-DIS and DBD-DPS senior examiners agree with each other, the DBD-DIS senior examiner will log the claim folder to either: <ul style="list-style-type: none"> <li>➤ The adjudicating examiner's AFCS location (for any necessary changes) and return it directly to them,</li> </ul> <p style="text-align: center;">Or</p> <ul style="list-style-type: none"> <li>➤ The T0RE AFCS location and return it directly to reviewer.</li> </ul> <p>After the changes are completed, the adjudicating examiner will log the claim folder into the T0RE AFCS location and place it into the designated area near the DBD-DPS senior claims examiners. The DBD-DPS senior claims examiner will then return it back to the reviewer to authorize the decision. (The claim folder shall remain logged into the T0RE AFCS location.)</p> <p>If the reviewer continues to disagree with the disability determination, they will log the claim folder back into the to the DBD-DPS senior examiner AFCS location and return it directly to them. In this situation, the DBD-DPS senior examiner will be responsible for authorizing the disability determination as shown in <u>DCM 3.4.302</u>.</p> </li> </ul>
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		<p>If the reviewer agrees with the disability determination, the reviewer will authorize the disability determination as shown in <u>DCM 3.4.302</u>.</p> <ul style="list-style-type: none"> <li>• If the DBD-DIS and DBD-DPS senior examiners continue to disagree with each other, the DBD-DIS senior examiner will be responsible for authorizing the disability determination as shown in <u>DCM 3.4.302</u>.</li> </ul>
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**NOTE:** If the original reviewer can no longer authorize the determination, the adjudicating examiner shall give the claim folder to the DBD-DPS senior examiner, who will then distribute it to a new reviewer.

**B. Disability Determination Adjudicated in DBD-DPS**

1. The adjudicating examiner must write a detailed rebuttal of the reviewer’s comments in the “Examiner Comments” section on Form G-383 and attach it to the claim folder. The claim folder should then be logged into their assigned senior examiner’s AFCS location and place in their cubicle.
2. The senior examiner will review the comments from the reviewer and adjudicating examiner as well as the contents of the entire claim folder.

<p>DBD-DPS senior examiner agrees with the reviewer</p>	<p>The DBD-DPS senior examiner shall:</p> <ul style="list-style-type: none"> <li>• Complete the “Senior (Post) Examiner Comments” section in writing on Form G-383 with instructions on how the adjudicating examiner should proceed with the claim.</li> <li>• Log the claim folder into the adjudicating examiner’s AFCS location and return it directly to them.</li> </ul> <p>After the corrective actions are completed, the adjudicating examiner will log the case into the T0RE AFCS location and return the claim folder directly to the reviewer.</p>
<p>DBD-DPS senior examiner agrees</p>	<p>The DBD-DPS senior examiner shall:</p>

with the adjudicating examiner	<ul style="list-style-type: none"> <li>• Complete the “Senior (Post) Examiner Comments” section in writing on Form G-383 by explaining their reason(s) for agreeing with the actions taken by the adjudicating examiner.</li> <li>• Log the claim folder into the T0RE AFCS location and return it directly to the reviewer.</li> <li>• If the reviewer continues to disagree with the disability determination, they will log the claim folder back into the to the DBD-DPS senior examiner’s AFCS location and return it directly to them. In this situation, the DBD-DPS senior examiner will be responsible for authorizing the disability determination as shown in <u>DCM 3.4.302</u>.</li> <li>• If the reviewer agrees with the disability determination, the reviewer will authorize the disability determination as shown in <u>DCM 3.4.302</u>.</li> </ul>
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**NOTE:** If the original reviewer can no longer authorize the determination, the adjudicating examiner shall give the claim folder to the DBD-DPS senior examiner who will then distribute it to a new reviewer.

### 3.4.400 Special Circumstances Affecting Some Former Employees of the Long Island Rail Road

In 2008, the New York Times published a series of articles that drew attention to the high percentage of Long Island Rail Road (LIRR) employees filing for and receiving occupational disability annuities from the Railroad Retirement Board (RRB). The United States Attorney for the Southern District of New York and the RRB’s Office of Inspector General (OIG) began an investigation which resulted in:

- **Indictments and Convictions** against a number of RRB annuitants and certain doctors who provided medical evidence in support of disability claims; and
- A **Voluntary Disclosure and Disposition Program (VDDP)** for certain disability annuitants offered by the United States Attorney.

In response to the outcome of the government’s case against the doctors, the RRB issued:

- **Board Order (BO) 13-33, Termination of Disability Annuities Awarded Based on Medical Evidence from Dr. Peter Ajemian, dated June 27, 2013; and**

- **Board Order (BO) 13-55, Termination of Disability Annuities Awarded Based on Medical Evidence from Dr. Peter Lesniewski, dated September 30, 2013.**

These Board Orders documented the handling of disability annuities paid under the Railroad Retirement Act (RRA) where the decision that the applicant is disabled was based in whole or in part upon medical evidence furnished by Dr. Peter Ajemian or Dr. Peter Lesniewski.

### 3.4.401 Guidance

Because of the unique circumstances presented by indictments, convictions, VDDP and Board Orders, Policy and Systems has released multiple Informational Bulletins (IB) and Instructional Memoranda (IM) which may have answered your questions.

Any additional questions that were not answered in these IBs and IMs regarding the Board Orders, the VDDP, or Department of Justice (DOJ) cases are to be forwarded to **Policy and Systems – RAC using the P&S Inquiry Group Mailbox**. Use a subject heading such as “Board Order 13-33 Inquiry”, or “Board Order 13-55 Inquiry”, or “LIRR VDDP Case”, or “LIRR DOJ Case” in the subject line.

## 3.5 Miscellaneous

### 3.5.1 Constructive Award To Disability Annuitant Due To Work Deductions

A disability annuitant working in non RR employment and earning over the current monthly disability earnings limit per month after deduction of disability related work expenses (refer to the chart in [FOM 1125.5.2](#) for the monthly and annual earnings limits) may require a constructive award if no annuity is payable due to work deductions at the time the case is rated. (A constructive award is used to officially calculate the annuity rate when no award is being vouchered.)

Field offices have been instructed to enter a MAN OP code on request when the applicant is continuing in LPE and is expected to have excess earnings (over the current monthly disability earnings limit per month after deduction of disability related work expenses) after the ABD. If the field office fails to enter a code or if it is later discovered, prior to payment, that there may be excess earnings after the ABD, the case should be dumped from RASI and the following actions taken:

- Use a G-357 (and any other necessary award forms) coded as an OPO initial code 7. (See G-357 instructions in [RCM 8.6](#)) to make a constructive award. Use code 2 in item 16(F) so that EE receives G-19L (Annual Earnings Questionnaire for Annuitants in Last Person Service) next year. Also, complete suspension code in item 80 with "09" (Employee disability annuitant earned over the current monthly disability earnings limit in a month).

- Complete award forms. (Calculate rates with LPE work deductions if the annuitant is in LPE). Since this will not be vouchered, send original to: "Research - statistical services."
- Use regular award letter containing usual appeal rights to inform EE of rates. Tell them to advise us if they earn less than the current monthly disability earnings limit (refer to the chart in [FOM 1125.5.2](#) for the monthly and annual earnings limits) per month so we can reinstate their annuity.

## 3.6 Sequential Evaluation

### 3.6.1 The Sequential Evaluation Process For Total and Permanent Disability Determinations

In order to determine whether a claimant is totally and permanently disabled the evaluation of disability claims requires following a sequential evaluation process. This process is used by the Railroad Retirement Board and is explained in RRB regulation 20 CFR Section 220.100. An equivalent process is used by the Social Security Administration and is explained in SSA Regulations 20 CFR Section 404.1520.

The process consists of five (5) evaluation steps and questions. The answer to a question in each evaluation step determines whether the next question in the next step should be considered. When a decision that an individual is or is not disabled can be made at any step, evaluation under a subsequent step is unnecessary.

The total and permanent sequential evaluation process is as follows:

STEP	QUESTION	DECISION
1	<p>Is the individual engaging in substantial gainful activity (SGA)?</p> <p>(<a href="#">DCM 10.4</a>; <a href="#">DCM 10.5.3</a>)</p> <p><b>NOTE 1:</b> Obtain a SSA wage record (DEQY) and/or TWN when a claim is initially developed. (<a href="#">DCM 3.4.205</a>)</p> <p><b>NOTE 2:</b> When an individual is actually engaging in SGA or did so during any pertinent period so that the 12-month duration requirement cannot be met, and there is no possibility that a determination of disability can be established, a finding must be made that the individual is not disabled. No</p>	<p><b>YES.</b> Deny the claim. The individual is not totally and permanently disabled.</p> <p><b>NO.</b> Go to Step 2.</p>



	<p>consideration of either medical or vocational factors is needed.</p> <p><b>Note 3:</b> If you notice any suspicious patterns, inconsistencies or suspect fraud, please refer to <u>DCM 8.8.2</u>, Investigation and Source of Evidence. For examples of fraud, click here <a href="#">Red Flags of Fraud</a>.</p>	
2	<p>Does the individual have a severe medically determinable physical or mental impairment (or combination of impairments)?</p> <p>(<u>DCM 4.8.3</u>; <u>DCM 5.1.4</u>)</p> <p><b>NOTE 1:</b> A severe impairment is an impairment which significantly limits the capacity to perform basic work activities.</p> <p><b>NOTE 2:</b> The combination of impairments must exist concurrently.</p> <p><b>NOTE 3:</b> If you notice any suspicious patterns, inconsistencies or suspect fraud, please refer to <u>DCM 8.8.2</u>, Investigation and Source of Evidence. For examples of fraud, click here <a href="#">Red Flags of Fraud</a>.</p>	<p><b>YES.</b> Go to Step 3.</p> <p><b>NO.</b> Deny the claim. The individual is not totally and permanently disabled.</p>
3	<p>Does the individual have an impairment (or combination of concurrent impairments) which is medically disabling?</p> <p>(<u>DCM 4.12</u>)</p> <p><b>NOTE 1:</b> The impairment (or combination of concurrent impairments) <b>MUST</b> meet the duration requirement. (<u>DCM 4.9.3</u>)</p> <p><b>NOTE 2:</b> If you notice any suspicious patterns, inconsistencies</p>	<p><b>YES.</b> Allow the claim. The individual is totally and permanently disabled.</p> <p><b>NO.</b> Obtain a residual functional capacity (RFC) assessment. (<u>DCM 4.11</u>; <u>DCM 5.1.5</u>) Go to Step 4.</p>

	<p>or suspect fraud, please refer to <a href="#">DCM 8.8.2, Investigation and Source of Evidence</a>. For examples of fraud, click here <a href="#">Red Flags of Fraud</a>.</p>	
4a	<p>Does the individual have the physical and /or mental residual functional capacity (RFC) to perform past relevant work (PRW) as (s)he described the work in the vocational profile?</p> <p>(RFC: <a href="#">DCM 4.7.3</a>; <a href="#">DCM 4.11</a>; <a href="#">DCM 5.1.5</a>) (PRW: <a href="#">DCM 5.2</a>; <a href="#">DCM 5.2.3 A</a>)</p> <p><b>NOTE 1:</b> PRW is SGA performed within the 15 year relevant period <u>and</u> of sufficient duration for the individual to have acquired the information, learned the techniques, and developed the facilities needed for average performance of the occupation.</p> <p><b>NOTE 2:</b> The individual's age and past education <u>ARE NOT</u> considered at this step.</p> <p><b>NOTE 3:</b> Non-severe impairments can be combined with severe impairments in an RFC assessment.</p> <p><b>NOTE 4:</b> If you notice any suspicious patterns, inconsistencies or suspect fraud, please refer to <a href="#">DCM 8.8.2, Investigation and Source of Evidence</a>. For examples of fraud, click here <a href="#">Red Flags of Fraud</a> .</p>	<p><b>YES.</b> Deny the claim. The individual is not totally and permanently disabled.</p> <p><b>NO.</b> Go to Step 4b.</p>
4b	<p>Does the individual have the RFC to perform PRW as it is generally ordinarily performed in the national economy?</p> <p>(RFC: <a href="#">DCM 4.7.3</a>; <a href="#">DCM 4.11</a>; <a href="#">DCM 5.1.5</a>) (PRW: <a href="#">DCM 5.2</a>; <a href="#">DCM 5.2.3 B</a>)</p>	<p><b>YES.</b> Deny the claim. The individual is not totally and permanently disabled.</p> <p><b>NO.</b> Go to Step 5.</p>

	<p><b>NOTE 1:</b> The individual's age and past education ARE NOT considered at this step.</p> <p><b>NOTE 2:</b> After determining which jobs are PRW, locate the occupational counterparts for those jobs in OccuBrowse.</p> <p>If there is no occupational counterpart in OccuBrowse for a job considered to be PRW, it is not possible to evaluate that PRW.</p> <p><b>NOTE 3:</b> If you notice any suspicious patterns, inconsistencies or suspect fraud, please refer to <a href="#">DCM 8.8.2, Investigation and Source of Evidence</a>. For examples of fraud, click here <a href="#">Red Flags of Fraud</a>.</p>	
5	<p>Does the individual have the RFC to perform any other work?</p> <p>(RFC: <a href="#">DCM 4.7.3</a>; <a href="#">DCM 4.11</a>; <a href="#">DCM 5.1.5</a>)</p> <p>(Med-Voc Rules: <a href="#">DCM 5.6</a>)</p> <p>(Age Considerations: <a href="#">DCM 5.3</a>)</p> <p>(Educational Considerations: <a href="#">DCM 5.4</a>)</p> <p>(Transferability: <a href="#">DCM 5.5</a>)</p> <p><b>NOTE 1:</b> "Other work" is SGA which exists in the national economy.</p> <p><b>NOTE 2:</b> The claimant's age, past education, and transferability of work skills <u>ARE</u> considered at this step.</p> <p><b>NOTE 3:</b> The following additional vocational adversities ARE also considered at this step: borderline age issues (<a href="#">DCM 5.3.6</a>; <a href="#">DCM 5.6.6</a>); arduous unskilled physical labor</p>	<p><b>YES.</b> Deny the claim. The individual is not totally and permanently disabled.</p> <p><b>NO.</b> Allow the claim. The individual is totally and permanently disabled.</p>

	<p>(<a href="#">DCM 5.2.10</a>); isolated work industry, lifetime commitment to a field of work, or no work experience (<a href="#">DCM 5.2.11</a>).</p> <p><b>NOTE 4:</b> If you notice any suspicious patterns, inconsistencies or suspect fraud, please refer to <a href="#">DCM 8.8.2, Investigation and Source of Evidence</a>. For examples of fraud, click here <a href="#">Red Flags of Fraud</a>.</p>	
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A Total and Permanent Sequential Evaluation illustrative chart has been placed in [DCM 3, Appendix E](#). This chart should be used as a reference tool in daily case adjudication.

Evaluation of disability claims to determine whether a claimant is occupationally disabled follows the sequential evaluation process described from [DCM 13.3](#) through [DCM 13.10](#). This process is explained in RRB regulation 20 CFR section 220.13.

## 3.7 Disabled Widow(er)'s Insurance Annuity

### 3.7.1 General Information

A disabled widow(er)'s insurance annuity (DWIA) may be paid to a widow(er) who has attained age 50 but has not attained age 60 and is totally and permanently disabled for any regular employment. A DWIA is entitled to a 100% share of the employee's Primary Insurance Amount (PIA) or Social Security Act (SS Act) maximum, whichever is applicable. This 100% share is reduced for the number of months the widow(er) is under full retirement age (FRA) on the entitlement date.

For information about the definition of a legal widow(er), de facto widow(er), etc, or procedure for determining windfall dual benefit entitlement, refer to instruction in the Retirement Claims Manual (RCM) - Chapter [2.1](#).

### 3.7.2 Definition Of Disability

A widow(er) meets the definition of disability if their physical or mental condition is such that they are unable to engage in any regular employment. The term "physical or mental condition" means an impairment that can be expected to result in death, or has either lasted at least 12 months, or can be expected to last for a continuous period of not less than 12 months.

To be considered permanently disabled, the widow(er) must be unable to regularly perform substantial and material duties of any gainful employment (which is substantial and not trifling).

Both medical and non-medical factors are considered in determining whether a widow(er) meets the above definition. This is consistent with the definition of disability used for total and permanent employee disability determinations

### 3.7.3 Eligibility Requirements

In addition to being the legal or defacto widow(er) (see RCM 2.1.2 and 2.1.3) of a completely insured employee, the applicant must meet the following requirements:

- A. Age Requirements - The widow(er) must have attained age 50 or will attain age 50 within 3 months of filing the application but not have attained age 60. (However, a widow(er) who has already attained age 60 can qualify for a DWIA for the month(s) they are under age 60 in the retroactive period.)
- B. Marriage Requirements - The widow(er) must meet the nine-month marriage requirement or the deeming nine-month marriage provision for a regular widow(er)'s insurance annuity (WIA) as explained in RCM 2.1.20.
- C. Disability Requirements - To be disabled, the widow(er) must have a permanent physical or mental impairment that begins before the end of the "prescribed period" of onset and is such as to be disabling for work in any regular employment. (See DCM 3.7.2 for complete definition of disability.)
- D. One-Half Support - A widower must have been receiving one-half of his support from the employee at the time of her death or at the time her retirement annuity began for the annuity to begin before March 1, 1977; after March 1, 1977 a widower does not have to prove half-support except for payment of a windfall or employee annuity restored amount. There is no time limit for filing proof of one-half support.

### 3.7.4 Filing

To be entitled to a DWIA the applicant must:

- meet the eligibility requirements outlined in DCM 3.7.3.
- file an application (AA-17 and AA-17b).

### 3.7.5 Eligibility When Employee Had Less Than 120 Months Of Service

- A. No One on Rolls When DWIA Application Filed - If the employee did not have 120 months of service and no member of the family group is on the rolls continuously from October 30, 1951, the widow(er) is not eligible for an annuity under the RR Act. (On the rolls includes the retroactive period of a new application.) In such cases, transfer the claim to SSA.

- B. Family Members on Rolls When DWIA Application Filed - If a member of the family group has been on the rolls continuously from October 30, 1951, send the case to SAPT.

**NOTE:** See RCM 5.5 for provisions governing deemed current connection for survivor purposes.

### 3.7.6 Determining "Prescribed Period" Of Disability For DWIA

In order for a disabled widow(er), age 50 to 59, to qualify for a DWIA, the disability must have begun before the end of the "prescribed period."

- A. When Period Begins - The widow(er)'s prescribed period of disability onset begins with the latest of the following:

- The month the employee died; or
- The last month for which they were entitled to a Widow(er) Current Insurance Annuity (WICA) based on the same employee's earnings record; or
- The last month for which they were previously entitled to a DWIA.

- B. When Period Ends - The widow(er)'s prescribed period of disability ends with the earliest of the following:

- The month before the month the widow(er) attains age 60; or
- The close of the 84th month (7 years) following the month in which the period began.

**EXAMPLE 1:** The employee died August 14, 1984 when the widow was 51 years old. The prescribed period begins August 1984 (the month the employee died) and ends August 31, 1991 (the close of the 84th month following the month the period began). She qualifies if her disability began any time before September 1, 1991.

**EXAMPLE 2:** The widow age 40 became entitled to a WCIA when the employee died in March 1972. Her last child attained age 18 in July 1980. Her prescribed period begins June 1980 (the last month of entitlement to a WCIA) and ends June 30, 1987 (the close of the 84th month following the month in which the period began). She could qualify for an annuity effective February 1, 1988 if her disability began before July 1, 1987 and she is still under a disability on February 1, 1988.

It is not necessary for the precise date of onset to be established in many cases involving disabled widow(er)s since the claimant need only to have become disabled before the end of the prescribed period. However, if the widow(er)'s disability did not begin before the end of the prescribed period, they are not

eligible for an annuity as a disabled widow(er), but they may qualify at age 60 for a regular WIA.

**NOTE:** If the widow(er) claims an onset date of disability that is after the "prescribed period" ending date (consider the dates in items 8 and 12 of the AA-17b), do not schedule any medical examinations or ancillary tests. Review any medical evidence of record submitted and the earnings record to determine if a disability onset date could be prior to the end of the prescribed period. Go ahead and deny the DWIA application on the grounds that the onset of disability is not within the "prescribed period."

### 3.7.7 Widow(er) Medicare Only Applications

A widow(er) who is otherwise ineligible for regular DWIA benefits can file for Medicare only coverage. Usually, a Medicare only claim is filed by a widow(er) alleging total disability in the following situations:

- The widow(er) is receiving an annuity (WCIA) based on having a child in their care; or
- The widow(er) is receiving an annuity (WIA) based on age 60 and older; or
- The widow(er) files a claim for a regular DWIA and onset cannot be established prior to age 59 and 7 months but there is a possibility of extending the prescribed period beyond age 60.

As in regular DWIA claims an exact date of disability onset is not always material as long as the established onset date is before the end of the prescribed period. Any onset date established on or before the end of the prescribed period results in a favorable determination for the annuitant (except as specified below in the last bulleted point).

Factors to consider when determining the Medicare onset date include the following:

- The beginning date of the prescribed period, which is established by following the guidelines for regular DWIA claims.
- The ending date of the prescribed period, which is the earlier of the following:
- The month before the month in which the widow(er) attains age 65; or
- The close of the eighty-fourth month (7 years) following the month in which the prescribed period began.
- The month the widow(er) attains age 60 can be important because at age 60 the widow(er) is eligible to receive an aged widow(er)s annuity. The 5 month waiting period requirement can be satisfied before the first month of entitlement to a WIA if disability can be established on or before age 59 and 7 months.

- Although the prescribed period in Medicare only claims extends to the attainment of age 65, it is not necessary to consider an onset after age 62 years and 7 months, as any date after this would be within 29 months (the combined waiting period) of attainment of age 65. There is no advantage in a disability decision in this situation, and therefore, any Medicare Only application where the onset date is after the widow(er) reaches the age of 62 years and 7 months should be considered a technical denial.

### 3.7.8 Beginning Date

A DWIA begins on the latest of the following dates:

- The first day of the month of the employee's death; or
- The first day of the month in which the widow(er) attained age 50 and is under a disability; or
- The first day of the month in which the widow(er) is under a disability and has attained age 50 but has not attained age 60; or
- The first day of the first month for which the widow(er) is no longer eligible for a WCIA because they no longer have an eligible child in their care, providing they meet the age and disability requirements for a DWIA; or
- The first day of the 12th month before the month the application is filed; or
- The day designated by the widow(er) as the original beginning date (OBD); or
- February 1, 1968 for widows and dependent widowers; or
- March 1, 1977 for non-dependents widowers; or
- The first day of the sixth month after the month in which the RR Act disability onset occurs unless a waiting period is not required. This waiting period applies to applications filed September 1, 1983 and later. If a widow(er) is re-entitled before age 60 and within 84 months of the termination of a provisions disability annuity, no waiting period is required.

### 3.7.9 Disability And Medicare Waiting Period

Under the Railroad Retirement Act (RR Act), a disabled widow(er)'s annuity cannot begin until 5 full months have elapsed from the onset date of disability, and Medicare eligibility cannot begin until after 24 months of annuity entitlement have elapsed.

The Omnibus Budget Reconciliation Act of 1990, P.L. 101-508, provides that prior entitlement months to Supplemental Security Income (SSI) under Title XVI of the Social Security Act or federally administered State Supplementary Payments (SSP) can be used to satisfy the 5-month waiting period for annuity entitlement and the 24-month



qualifying period for Medicare for disabled widow(er)s and disabled surviving divorced spouses.

The same months of SSI/SSP which are credited toward the 5-month waiting period for widow(er)'s disability benefits may also be credited toward the 24-month qualifying period for Medicare.

Medicare coverage can begin the later of:

- the 25th month of entitlement to Railroad Retirement Benefits while under a disability.
- the 30th month after the disability began.

However, the earliest possible original beginning date or Medicare entitlement date for a widow(er) based on this provision is January 1, 1991.

**EXAMPLE:** A widow files a disability application in January 1991. Her disability onset is established as June 1, 1989, based on medical/vocational criteria. She received SSI/SSP from June 1989 through December 1990 (19 months). Considering her entitlement to SSI/SSP, her original beginning date would be January 1, 1991, since the 5-month waiting period based on the SSI/SSP entitlement ended before January 1, 1991. Her Medicare effective Date would be June 1, 1991, which is the regular Medicare effective date of January 1, 1993 (the 25th month of annuity entitlement), minus the 19 months of SSI/SSP.

### 3.7.10 Earnings Restrictions

- A. Widow(er) under age 60 - The annual earnings test does not apply to a disabled widow(er) under age 60. However, any work performed before age 60 must be considered in determining whether the widow(er) has recovered from the disability. The work and earnings may demonstrate that the widow(er) is able to perform regular and gainful employment and, therefore, is no longer disabled for purposes of receiving a DWIA and/or early Medicare coverage. Work for a railroad (RR) employer during any month, of course, precludes payment of the annuity for that month.

As soon as the widow(er) reports that they are working, refer the case to the Disability Post and Continuing Disability Reviews (CDR) Section for a determination of whether or not they have recovered from the disability on which the DWIA and/or Medicare is based.

- B. Widow(er) Age 60 and Over - A widow or widower who was receiving a DWIA prior to age 60 will continue to receive an annuity after age 60 but the DWIA will have been transformed into an age annuity. Therefore, regular survivor earnings restrictions apply beginning with the month the widow(er) attains age 60 and ending with the month before attainment of age 70 (effective January 1, 1983 or

later). Work for an RR employer during any month precludes payments of the annuity for that month.

All earnings in the year of attainment of age 60 should be considered in determining excess earnings for that year. However, do not assess work deductions before January 1, 1975 in a case where a disabled widow(er) was between ages 60 and 65 at that time.

If the file indicates that the disabled widow(er) was told by the board that the annual earnings test did not apply to them until FRA, refer the case to BDMO/CPPS before charging work deductions to any month before FRA.

**NOTE:** Work or earnings may affect a widow(er)'s entitlement to early Medicare based on disability. Therefore after applying regular survivor work deductions, if applicable, refer the case to DPS - Post and CDR section for a determination of whether or not they have recovered from the disability on which the Medicare entitlement is based.

### 3.7.11 Disabled Widow(er) Previously Awarded Lump-Sum Death Payment (LSDP) Or Residual Lump-Sum (RLS)

- A. LSDP Previously Paid - If the widow(er) previously received the LSDP and subsequently filed for a DWIA claiming to be disabled as of the month of the employee's death or earlier, the LSDP is erroneous if they are found to be disabled from the date claimed and no waiting period was required, i.e., the application was filed before September 1, 1983. In this situation, the date of disability onset and not the annuity beginning date (ABD) is the determining factor in deciding whether or not LSDP was erroneous.

**EXAMPLE:** The employee died on April 10, 1968 survived by a widow age 52. She filed for the LSDP on April 16, 1968 without claiming to be disabled and was awarded payment. On June 24, 1969, she filed for a DWIA claiming disability onset prior to the employee's death. Her "prescribed period" began April 1, 1968 and she was found to be disabled as of that date. Her ABD is June 1, 1968, but since her disability onset was April 1968, the LSDP was erroneous and must be recovered.

If the LSDP is determined to be erroneous, consider the possibility of payment of a deferred LSDP. See RCM 2.2.40 for more details concerning payment of a deferred LSDP in the cases.

If the widow(er) claims they became disabled after the month of the employee's death, do not presume that they were disabled in the month the employee died unless the medical evidence clearly shows that they were. When the medical evidence does show that they were disabled in the month of the employee's death instead of the month they claimed, refer the case to SAPT.

- B. RLS Previously Awarded - If the widow(er) previously elected and was paid the RLS, they cannot receive a DWIA. Do not develop any medical evidence. Just go ahead and technically deny the widow(er)'s claim for a DWIA.

### 3.7.12 When Entitlement to A DWIA Ends

A DWIA terminates with the month before the month in which the widow(er):

- Dies;
- Remarries, however, if remarriage occurred January 1, 1984 or later, the disabled widow may be entitled to a remarried DWIA; or
- Attains age 60. Technically, a DWIA terminates when the widow(er) attains age 60; however, do not take any action to convert RRB records from a DWIA to a WIA. The widow(er) continues on the rolls as a disabled widow(er) as long as they continue to be entitled under the application on which the DWIA was awarded, and the award form symbol remains "R".

Also, a DWIA terminates with the second month following the month in which the widow(er) recovers from disability. However, the annuity continues if they attain age 60 on or before the last day of the third month following the month in which they ceased to be disabled.

### 3.7.13 When Entitlement To A Vested Dual Benefit Ends

The terminating events for vested dual benefit entitlement described in RCM 2.1.67 also apply to disabled widow(er)s. In addition, VDB entitlement ends with the second month following the month in which the widow(er) recovers from disability unless the annuity continues because they attained age 60 on or before the last day of the month following the month in which they ceased to be disabled. In this case, VDB entitlement would terminate only if they were entitled to Disability Insurance Benefit (DIB) at SSA which also was terminated and no entitlement to a Retirement Insurance Benefit (RIB) exists. Vested dual benefit entitlement would end on the earlier of the termination of the DIB or the DWIA.

### 3.7.14 Re-entitlement After Former Disability Ceases

A widow(er) can be re-entitled to a DWIA if they again becomes disabled after the former DWIA terminated because they ceased to be disabled.

- A. Requirements for Re-entitlement - Such a widow(er), if they are otherwise qualified, can become re-entitled if they:
1. file a new application for a DWIA; and
  2. have not attained age 60; and

3. are under a disability (as defined in DCM 3.7.2) that began before the end of the last month of the "prescribed period" which begins with the last month of previous entitlement to a DWIA and ends with the earliest of the following:
- The month before the month in which they attain age 60; or
  - The close of the 84th month following the last month of previous entitlement to the former DWIA.

**NOTE:** A widow(er) who is re-entitled within 84 months (or before age sixty) of a previous disability termination, is not required to serve a 5 month waiting period.

- B. Date Payment Can Begin - The current DWIA is payable beginning on the first day of the month in which they are again under a disability or the first day of the 12th month before the month the application is filed, whichever is later.
- C. Original Beginning Date - Although payment of the current DWIA is restricted to the dates mentioned above, continue to show the same original beginning date as before on the award form.

### 3.7.15 Evidence Requirements

Application: Always. SSA's survivor applications are also acceptable (see RCM 5.1.5). An application filed with the Veterans Administration (VA) by a widow(er) who is a survivor of a member or former member of the uniformed services is also an application for corresponding survivor benefits under the SS Act. If that application is transferred to RRB by SSA, consider it as claims lead (see RCM 5.1.5).

AA-17b, Supplement to application: Always

Field Office Personal Observation Record (G-626A): Always

Vocational Data (G-251): Always

Death of Employee: Always

Age of Widow(er): Always

Marriage: Always

Compensation: Always

Amount of SSA Benefits: Always

Proof of One-Half Support of Widower (G-134): Always, if dependency is claimed and:

- ABD could be before March 1, 1977; or
- An employee annuity restored amount is involved.

Widow(er)'s Employment History: Always. Request a DEQY from SSA. (See DCM 3.4.205)

Age of Employee: Only when employee's insured status, divisor quarters, or AMR would be affected and there is a conflict between the claimed DOB and the DOB shown on the employee's CER-1 or other evidence. (See RCM 4.2).

Termination of Prior Marriage: If there is reasonable doubt about whether a prior marriage of either widow(er) or employee was ended.

Legal Adoption of Child: Only when widow(er) seeks to meet marriage requirements on that basis.

Guardianship (AA-5): If guardian or other legal representative is selected as representative payee.

Military Service (M/S): Only when the employee's M/S after 1936 would be creditable either under the RR Act or under the SS Act.

Amount of VA Benefits: Only for annuities due before January 1975, when the employee's M/S after 1936 is creditable under the RR Act and a reduction in the RRA formula is required. (Send such cases to SAPT for verification of these benefits.

Amount of Wages and Self Employment Income (SEI): On G-90.Public Pension: Always

### **3.7.16 Processing And Handling Of DWIA Cases**

- A. Processing DWIA Cases By Survivor Benefits Division - When receiving a DWIA claim, review to verify if the widow(er) cannot qualify because of non-medical reasons. If the claimant is ineligible because of non-medical reasons, deny the claim in the usual matter without sending the cases to DBD for a rating. Include a paragraph in the denial notice explaining that a disability determination has not been made since other eligibility requirements are not met.

If it appears that the widow(er) can qualify because of medical reasons check to see whether SS wage and benefit data have been developed. If not, release a request to SSA and then route the case to DBD if otherwise in order. Forward the case to DBD even if there is medical evidence outstanding.

- B. Handling of DWIA Cases By DBD - The disability claims examiners in DBD reviews the DWIA case to determine if there is adequate medical and non-medical evidence in file to rate the widow(er)'s claim for disability. If there is adequate evidence in file, both medical and non-medical factors are considered in determining whether the widow(er) is considered permanently disabled and

unable to work in any regular employment in accordance with the established criteria of the Board.

The disability claims examiner prepares OLDDS and Form G-325.1 or G-325B when the case is rated.

**NOTE:** For cases included in the financial interchange, the Social Security Act portion of the rating must be coordinated with SSA for survivor annuities as well as employee annuities, unless the annuity is being denied. (See DCM 6.7.3.D.) The initial disability examiner will handle the annuity rating and the post examiner will handle the SSA rating. Note that the annuity rating cannot be done on D-BRIEF.

The sample consists of employees, widows, and children in the following cases:

- Those where the claim number is A-979832 or lower and the last two digits of the claim number are 55; or,
- Those where the claim number is higher than A-979832 (including terminal digit claim numbers) and the last two digits of the claim number are 30.

Survivor cases that must be coordinated with SSA cannot be processed on D-BRIEF. (See DCM 12.5.1.) In these cases, the initial examiner should process the RRA decision and the post examiners should process the SSA decision. The survivor SSA decision should be processed by completing the SSA-831 and coordinating with SSA. Once the coordination is completed, the decision should be entered on page 3 of the OLDDS G-325 screen rather than on the OLDDS 831 screen.

If there is inadequate evidence in file, the disability claims examiner initiates development for either additional medical evidence from widow(er)'s treating physician, scheduling specialized examinations and/or ancillary tests or obtaining hospital records, etc., or non-medical (vocational work history) from them.

When the additional evidence is received, the disability claims examiner evaluates and determines whether the widow(er)'s disability is severe enough to prevent work in any regular employment in accordance to the law. Depending on the appropriate disability decision, OLDDS Forms G-325.1 and G-225 when applicable, will be completed.

#### C. Handling Rated Cases By DBD

1. The widow(er) is found disabled within "prescribed period" - Send the case to SBD for payment of the DWIA.

2. Widow(er) found not disabled within "prescribed period" - DBD will deny the widow(er)'s on OLDDS, code out the application using Form G-661 and release a denial letter.
3. Widow(er) found not disabled - DBD will deny the widow(er)'s on OLDDS, code out the application using Form G-661 and release a denial letter.

**NOTE:** After the DWIA has been awarded, forward the case to Retirement Medicare Section so that disabled widow(er) is enrolled for early Medicare coverage.

### 3.7.17 Disabled Widow(er) Has Child In Their Care

A widow(er) who is entitled to a DWIA may have in their case a child of the employee (under age 18, or 18 or over and disabled) entitled to a CIA. For any month the disabled widow(er) has such a child in their care, their annuity is paid or a widow(er)'s current insurance annuity and the symbol "M" or "B" is shown on the award form. There are also cases in which a widowed mother or father age 50-59, entitled to WCIA, has been enrolled in Medicare on the basis of disability. When the last child leaves their care, attains age 18, dies, or marries, the WCIA terminates and their annuity is converted to a DWIA.

#### A. Diary Case - Last Child is Attaining Age 18

1. In the fourth month before the last child in the widow(er)'s care attains age 18, a notice is computer printed on RL-175 and sent to the annuitants. Along with information about the child's possible continued eligibility, RL-175 informs the widow(er) of the requirements they must meet to be eligible for an annuity.
2. In the last month for which the WCIA is payable, a termination referral is computer-printed on RL-1196/G-96a and sent to the appropriate unit for association with the file. Survivor examiner will terminate the WCIA and route the case to DPS for completion of the left side of Forms G-325. DPS will determine if additional medical evidence is needed.
3. After the necessary action is taken by DPS the examiners will award the DWIA, entering as their date of initial entitlement (DOE) the first of the month widow(er) no longer had a child in their care.
4. The widow(er) should submit a statement that they wish to receive a reduced annuity. If the widow(er) does not want to receive a DWIA, they should submit a statement to that effect. If no statement is submitted or the widow(er) does not want this annuity and they have been enrolled for either hospital or medical insurance, route the case to BDMO-CPPS to determine the correct handling of their Medicare entitlement.

- B. Last Child's Entitlement Terminates for Reasons Other Than Attaining Age 18 - Termination of a WCIA due to a child's marriage, death, or recovery from disability is handled in the same way as above for the widowed mother or father, age 50-59, who has been rated disabled for early Medicare.
- C. Amount of Disabled Widow(er)'s Annuity After Child's Entitlement Terminates --
1. Widow(er) Has Not Attained Age 62 (FRA) - The annuity reverts to the rate previously paid to them as a disabled widow(er). At age 62 (FRA), the annuity is adjusted to take into account those months they were entitled to a WCIA. Code the case for call-up at age 62 or FRA, whichever is applicable and show ARF as the reason. Show the symbol "R" on the award form.
  2. Widow(er) Has Attained Age 62 (FRA) - In any case in which a WCIA was paid for one or more months after a DWIA had been awarded for them, adjust the rate of annuity to take into account those months they were entitled to a WCIA before age 62 or FRA, whichever is applicable. Show the appropriate symbol "R" or "A" for widow(er) on the award form.

### **3.7.18 Disabled Widow(er) May Be Entitled To Deferred LSDP**

A deferred LSDP may be payable to the disabled widow(er) if they are eligible (see RCM 2.8) and;

- A. The DWIA ABD is not retroactive to the month of the employee's death, or;
- B. The widow(er)'s entitlement to a DWIA ended during the first year after the employee's date of death (DOD), for a reason other than the widow(er)'s death.

If the DWIA is paid on a manual award, determine whether the widow(er) is entitled to a deferred LSDP before the claim is submitted to authorization.

If the WIA is paid on an electronic data processing (EDP) award, determine whether the widow(er) is entitled to a deferred LSDP after the claim is paid.

Code the case for call-up one year after the employee's DOD if it appears a deferred LSDP may be payable.

### **3.7.19 When A Disabled Widow(er) Under Age 60 Works**

- A. General Information - A disabled widow(er) under age 60 who engages in any type of work activity, regardless of the amount of earnings on the duration of the employment, may have recovered from disability and, therefore, is no longer entitled to a DWIA. Beginning in 1970, disabled widow(er)s will be policed annually for changes in status and work activities. (See RCM 6.5.) It is extremely important that when a report of work by a disabled widow(er) is received, the case be promptly sent to DPS-Post and CDR Section for a



continuation/cessation of disability determination or an investigation. (See DCM 10.3.1.)

- B. Action By Survivor Benefits - When a report of a disabled widow(er)'s work activity is received, refer the case promptly to DPS-Post and CDR Section. Do not suspend payments unless the widow(er) is employed in the RR industry.

DPS Post and CDR Section are responsible for investigating the widow(er)'s employment and determining whether or not they have recovered from disability.

- C. Action By DPS Post and CDR Section - DPS Post and CDR Section must make a determination of whether or not the annuitant has recovered from disability whenever a report of new work activity is received. In some cases, it may not be currently possible to make such a determination. Those cases should be coded for call-up and a determination made at that time.

All continuance/cessation determinations are made on Form G-325a (Determination of Continuance or Cessation of Disability). See Part 11 for instructions on preparing this form.

1. If Work Activity is Reconciled With Disability Rating - Notify that annuitant when such action is indicated and return the case to claim files.
2. If Annuitant Has Recovered From Disability -
  - a. Use FAST to terminate payments as of the end of the second month following the month of recovery.
  - b. Release a letter to the widow(er) advising of the termination of the DWIA.
  - c. If an overpayment exists because DWIA payments continued after the second month following the month of recovery, send the case to the appropriate survivor benefit unit. Otherwise, return the DWIA case to claim files.

### **3.7.20 Handling Previously Denied Cases Or Reconsideration Request**

- A. Timely Reconsideration Request Not Made - If a request for reconsideration is not submitted timely and good cause for the delay is not evidence, examine the case to verify the correctness of the prior action. Although the period for requesting reconsideration has expired, consider if there is a basis for reopening the decision (See RCM 6.2 for guidelines). If the decision cannot be reopened, prepare a letter to the annuitant to notify him that his request for reconsideration is denied, giving the reason for denial. Do not use code paragraph 189 with this letter since the annuitant does not have a right to further appeal the initial decision.

Instead, use code paragraph 190 with an AB-25 back. The annuitant can request reconsideration of the decision regarding untimely filing. The reconsideration of this issue is done in the unit where the decision regarding untimely filing was made but not by the same person who made that decision. If the decision regarding untimely filing is reversed, reconsideration of the initial decision on proceed (See RCM 6.1.10). If the decision regarding untimely filing is affirmed, paragraph 189 should be given.

- B. Timely Reconsideration Request Made - If the reconsideration request is timely filed the DPS Post examiner will take the necessary action to either develop more medical evidence or make a decision based on the reconsideration request. After all development actions are done, the DPS-Post examiner will determine if the initial decision still stands. If the widow(er) is found not disabled, the DPS-Post examiner will advise by sending an explanatory letter confirming that the initial denial determination is warranted. The letter will also include code Paragraph 189 about appeal rights.

A G-325 and a G-325.1 is prepared when a reconsideration allowance is made. The DPS-Post examiner will determine in accordance with the following section whether a new application is required based on the new evidence and widow(er)'s rating of disabled. If a new application is needed, DPS Post examiner will request it from the appropriate field office. Otherwise, the reconsideration allowance case will be sent to the Survivor Initial Section (SIS) for DWIA award action.

### **3.7.21 When A New Application Is Required**

- A. Previous Denial Rating Reversed Based on Evidence Or Correspondence Received Within Sixty Days of Denial Notice - A new application is only required when the applicant is found to be disabled from a date after the date of the denial letter.
- B. Previous Denial Rating Reversed Based on Evidence Or Correspondence Received Sixty Days Or More After Denial Notice - A new application is always required.

## **3.8 Disabled Surviving Divorced Spouse's Annuity**

### **3.8.1 General Information**

A DWIA may be paid to a disabled surviving divorced spouse. A surviving divorced spouse is an individual divorced from an employee who has died and had 120 total months of railroad service or at least 60 months of RR service after 1995, and a current connection, but only if they had been married to the employee for period of 10 years immediately before the divorce became effective.

Beginning October 1, 1981, benefits are payable to a surviving divorced spouse. The term "surviving divorced spouse" refers to both a surviving divorced wife and a surviving divorced husband.

Effective January 1, 1984, if a surviving divorced spouse remarries, their annuity may continue. Prior to January 1, 1984, if a surviving divorced spouse remarried, his/her annuity terminated unless they marry an individual entitled to a widow(er)'s father's/mother's, parent's or childhood disability benefit under the Railroad Retirement Act (RRA) or Social Security Act (SSAct). If a surviving divorced spouse's annuity was terminated because of remarriage, a new application is required for the individual to be re-entitled January 1, 1984 or later.

Disabled surviving divorced spouses must meet the definition of "disability" under the SSAct. They must be unable to engage in any substantial gainful activity because of their medically determined physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months. Or they must meet the statutory blindness requirements (central visual activity of 20/200 is demonstrated in the better eye with the use of correcting lens or a limitation in the field of vision in the better eye shows that the widest diameter of visual fields subtends an angle no greater than twenty degrees or to ten degrees or less from the point of fixation which shall be considered as having a central visual activity of 20/200 or less).

### 3.8.2 Eligibility Requirements

- A. Age - The disabled surviving divorced spouse must have attained age 50 but not age 60. A disabled surviving divorced spouse who has already attained age 60 can qualify for the months they are under age 60 in the retroactive period.
- B. Marriage - The disabled surviving divorced spouse must:
- have been finally divorced from the employee; and
  - have been married to the employee for a period of 10 years immediately before the date the final divorce became effective. (For further information on the 10-year marriage requirement, see RCM 2.1.104); and
  - be unmarried, unless they remarried after they attained age 50, and the disability began prior to the remarriage, and they met the disability requirements at the time of remarriage. This provision is effective for annuities payable January 1, 1984. Prior to that, a disabled surviving divorced spouse who had remarried after their divorce from the employee could not be eligible for an annuity unless the later marriage(s) had terminated. If a disabled surviving divorced spouse's annuity was terminated because they remarried, a new application is required for them to be re-entitled January 1, 1984 or later.

- C. Social Security Entitlement - The entitlement of a surviving divorced spouse or remarried widow(er) to any social security benefit which is greater than the employee's primary insurance amount (PIA), prevents eligibility to a widow(er)'s insurance annuity under the RR Act. However if the social security benefit is smaller than the employee's PIA, but larger than the surviving divorced spouse's or remarried widow(er)'s age reduced rate, and the possibility of an age 62 or FRA adjusted reduction factor (ARF) exists that could increase the annuity rate above zero, the surviving divorced spouse or remarried widow(er) will be entitled to a zero annuity rate. Headquarters will process a constructive award and enter a call-up for the ARF.

The entitlement of a widow(er) to any social security benefit does not affect eligibility; however, such entitlement will affect the tier I amount payable.

- D. Disability Requirement - If a surviving divorced spouse is claiming benefits based on disability, their disability must have begun before the end of a specified period (as in the case of a disabled widow(er) and they are subject to a waiting period during which benefits may not be paid.

1. When Disability Must Begin - The disability must have begun before the month in which the applicant attains age 60 and not later than the end of the 84th month after the latest of the following:

- the month of the employee's death, or
- the last month for which they were entitled to a surviving divorced mother's/father's annuity on the employee's account, or
- the month in which their previous entitlement to a disabled surviving divorced spouse's annuity on the employee's account terminated because their disability ceased.

2. Waiting Period - A surviving divorced spouse's annuity based on disability cannot begin until after a waiting period of five full consecutive months throughout which they are disabled.

**EXAMPLE:** The surviving divorced spouse has a disability onset date of November 13, 1981. The five-month waiting period would run from December 1, 1981 through April 30, 1982. Her annuity could not begin until May 1, 1982. If the disability onset date was November 1, 1981, the five-month waiting period would run from November 1, 1981 through March 31, 1982 and her annuity could begin April 1, 1982.

The waiting period can begin no earlier than the later of

- The first day of the 17th month before the month in which she/he files an application or

- The first day of the 5th month before the month in which the period began as described above in D.

Months before the employee's death or before the month of termination of their surviving divorced mother's/father's annuity may be included in the waiting period if the surviving divorced spouse was disabled in those months and the disability continued.

3. Re-entitlement - No waiting period is required if a surviving divorced spouse was previously entitled to a surviving divorced spouse's annuity based on disability if they become disabled again within the period specified in D1 above. Their annuity can begin with the first month during all of which they are again under a disability.

**EXAMPLE:** A disabled surviving divorced wife's annuity terminated December 1982 because she recovered from her disability. She became disabled again February 13, 1986. Since she became disabled again before the end of the 84th month after the month in which her disability annuity terminated, her annuity can begin again March 1, 1986 (provided she is under age 60).

4. Disability That Occurs in Connection with a Felony or Confinement in Jail - The following disabling conditions cannot be considered in the disability termination:
  - Any physical or mental impairment, or any increase in severity of a preexisting impairment, that occurs in connection with a felony committed after October 19, 1980 for which the surviving divorced spouse is convicted cannot be considered in determining whether they are disabled. Subsequent conviction will invalidate a previous determination of disability based on an impairment that must be excluded under this rule.
  - Any physical or mental impairment, or any increase in severity of a preexisting impairment, that occurs in connection with confinement in a jail, prison, or other penal institution or correctional facility for conviction of a felony committed after October 19, 1980 cannot be considered in determining disability for benefits payable for any month during the period in which they are imprisoned. However, they may become entitled to benefits based on disability on release from prison if they apply and are under a disability at that time.

For purposes of applying these provisions, in a jurisdiction which does not classify any crime as a felony, an offense punishable by death or imprisonment for a term exceeding one year is considered a felony. A person is considered confined even though temporarily or intermittently outside the facility (for example, on work release).

### 3.8.3 Filing

To be entitled to disabled surviving divorced spouse's annuity the applicant must:

- meet the eligibility requirements outlined in DCM 3.8.2.
- file an application (AA-17 and AA-17b).

### 3.8.4 Beginning Date

A disabled surviving divorced spouse's annuity begins on the latest of the following:

- the first day of the month of the employee's death;
- the first day of the month in which they have attained age 50 but not age 60;
- October 1, 1981;
- the day designated as the OBD;
- the first day of the first month for which the surviving divorced spouse is no longer eligible for a surviving divorced mother's/father's annuity because they no longer has an eligible child under age 16 in their care. Provided they meet the age and disability requirements for a disabling surviving divorced spouse's annuity;
- the first day of the 12th month before the month the application is filed;
- the first day of the first month after completion of the 5-month waiting period unless the waiting period is not required; or
- Effective January 1, 1984, if the disabled surviving divorced spouse married after age 50 and was disabled before the marriage occurred (i.e., the disability onset date was before the date of marriage).

### 3.8.5 Earnings Restriction

- A. Disabled Divorced Spouse Under FRA - The annual earnings test does not apply to a disabled surviving divorced spouse under FRA. However, any work performed before FRA must be considered in determining whether the surviving divorced spouse has recovered from the disability.

As soon as the surviving divorced spouse reports that they are working, refer the case to the DPS-CDR Section for a determination of whether or not they have recovered from the disability on which the disabled surviving divorced spouse's annuity and/or Medicare is based.

If a disabled surviving divorced spouse age 60-FRA recovers, their disability annuity is converted to an annuity based on age and regular survivor earnings restrictions apply.

- B. Disabled Surviving Divorced Spouse FRA and Over - Regular survivor earnings restrictions apply beginning with the month the disabled surviving divorced spouse attains FRA and ending with the month before attainment of age 70.

### 3.8.6 RLS Previously Paid

See the instructions in the section on surviving divorced spouse in RCM 2.1.108.

### 3.8.7 When Entitlement Ends

The entitlement of a disabled surviving divorced spouse ends:

- the month before the month in which one of the following occurs:
- they die;
- they become entitled to an annuity which is higher than the annuity they are receiving as a surviving divorced spouse;
- they become entitled to an RIB which equals or exceeds the employee's PIA;
- they attain FRA. Technically, a disabled surviving divorced spouse's benefit terminates FRA; however, do not take any action to correct RRB records from a disability annuity to an age annuity. The surviving divorced spouse continues on the rolls as a disabled surviving divorced spouse as long as they continue to be entitled under the application on which the disability annuity was awarded, and the award form symbol remains either "KR" or "KA";
- at the end of the second month following the month in which their disability ceases unless they attain 60 on or before the last day of the termination month.

**NOTE 1:** Under the SS Act rules a disabled surviving divorced spouse's annuity terminates if they recover before FRA. If they recover between age 60 and FRA, they must file a new application in order to qualify for a surviving divorced spouse's annuity based on age. However, we will allow the annuity of a disabled surviving divorced spouse who recovers after age 60 to convert to an age annuity as long as they meet the other qualifications. A new application will not be required.

**NOTE 2:** Before 1-1-84, remarriage was a terminating event unless the marriage was to an individual entitled to a widow(er)'s, father's/mother's parent's or childhood disability benefit under the RR Act.

### 3.8.8 Evidence Requirements

Application: Always, unless converting from a surviving divorced mother's/father's annuity.

AA-17b, Supplement to Application: Always.

Field Office Personal Observation Record (G-626A): Always.

Medical Evidence: Always.

Vocational Data G-251: Always.

Death of Employee: Always.

Age of Surviving Divorced Spouse: Always.

Marriage: Always.

Compensation, Wages and SEI: Always.

Amount of SS Benefits: Always.

Surviving Divorced Spouse's Employment History: Always. Request a DEQY from SSA. (See DCM 3.4.205)

Age of Employee: Only when employee's insured status or divisor quarters would be affected and there is a conflict between the claimed DOB and the DOB shown on the employee's CER-1 or other evidence. (See RCM 4.2.)

Termination of Prior Marriage: If there is reasonable doubt about whether a prior marriage of either surviving divorced spouse or employee was ended.

Legal Adoption of Child: Only when surviving divorced spouse seeks to meet marriage requirement on that basis.

Guardianship (AA-5): If guardian or other legal representative is selected as representative payee.

M/S: Only when the employee's M/S after 1936 would be creditable either under the RR Act or under the SS Act.

Proof of Divorce from EE: Always.

Proof of Termination of Remarriage: If the surviving divorced spouse had remarried after their divorce from the EE or if they remarried after their initial entitlement to a surviving divorced spouse's annuity and that annuity terminated.

Public Pension Information: Always.



### 3.8.9 Development And Adjudication

- A. Field Office Development - The field office will initiate development for a disabled surviving divorced spouse's annuity when a surviving divorced spouse 50-59 who cannot qualify for a surviving divorced mother's/father's annuity alleges that they are disabled. If an inquiry is received from a surviving divorced spouse in this age group (or within 3 months of attaining age 50), and disability is alleged, request the field office having jurisdiction over the area where the surviving divorced spouse resides to develop a claim. If such a surviving divorced spouse is not within 3 months of attaining age 50, tell the individual to contact the local field office 3 months before they attain age 50.
- B. Preliminary Processing By Survivor Section - Route the case to DBD for a disability rating if medical evidence is in the folder even though other evidence is outstanding unless it appears that the surviving divorced spouse cannot qualify because of non-medical reasons. If SS wage and benefit data have not yet been developed, release a request to SSA and then route the case to DBD if otherwise in order.

If the claimant is ineligible because of non-medical reasons, deny the claim in the usual manner without obtaining a rating from DBD. Include a paragraph in the denial notice explaining that a disability determination has not been made since other eligibility requirements are not met.

- C. Handling of Cases by DBD - Evaluate the medical evidence to determine whether the surviving divorced spouse's physical or mental impairments are such that they are disabled for work in any employment in accordance with the Social Security Act.

Remember that any physical or mental impairment, or any increase in a pre-existing impairment, that occurs in connection with a felony committed after October 19, 1980 for which the surviving divorced spouse is convicted cannot be considered in determining whether they are disabled. Any disabling condition that results from or is aggravated by imprisonment for conviction of a felony committed after October 15, 1980 cannot be considered in determining disability for benefits payable while the person is imprisoned. Initiate development for additional evidence, if necessary. Complete OLDDS and the G-325.1 or G-325B (Disability Decision Rationale Sheet) when the case is ready for rating.

**NOTE:** For cases included in the financial interchange, the Social Security Act portion of the rating must be coordinated with SSA for survivor annuities as well as employee annuities, unless the annuity is being denied. (See DCM 6.7.3.D.) The initial disability examiner will handle the annuity rating and the post examiner will handle the SSA rating. Note that the annuity rating cannot be done on D-BRIEF.

The sample consists of employees, widows, and children in the following cases:

- Those where the claim number is A-979832 or lower and the last two digits of the claim number are 55; or,
- Those where the claim number is higher than A-979832 (including terminal digit claim numbers) and the last two digits of the claim number are 30.

Survivor cases that must be coordinated with SSA cannot be processed on D-BRIEF. (See DCM 12.5.1.) In these cases, the initial examiner should process the RRA decision and the post examiners should process the SSA decision. The survivor SSA decision should be processed by completing the SSA-831 and coordinating with SSA. Once the coordination is completed, the decision should be entered on page 3 of the OLDDS G-325 screen rather than on the OLDDS 831 screen.

#### D. Handling Cases Rated By DBD

1. Surviving Divorced Spouse Disabled Within "Prescribed Period" - If the surviving divorced spouse is otherwise eligible, forward the case to SBD to award the disabled surviving divorced spouse's annuity.
2. Surviving Divorced Spouse Not Disabled Within "Prescribed Period" - DBD will deny the surviving divorced spouse claim on Form G-661 and by releasing a denial letter.
3. Surviving Divorced Spouse Not Disabled - DBD will deny the surviving divorced spouse claim on Form G-661 and by releasing a denial letter.

#### **3.8.10 Disabled Surviving Divorced Spouse Has Child In Their Care**

A surviving divorced spouse who is entitled to a disabled surviving divorced spouse's annuity may have in their care a child of the employee (under age 16, or 16 or over and disabled) entitled to a CIA. For any month the disabled surviving divorced spouse has such a child in their care, their annuity is paid as a surviving divorced mother's/father's annuity and the symbol "KM" or "KB" is shown on the award form. There are also cases in which a surviving divorced mother/father age 50-59, entitled to an annuity, has been enrolled in Medicare on the basis of disability. When the last child leaves their care, attains age 16, dies, or marries, the surviving child divorced mother's/father's annuity terminates and their annuity is converted to a disabled surviving divorced spouse's annuity.

**NOTE:** A child age 16-17 will continue to entitle a disabled widow(er) to a young mother/father annuity. However, Tier 1 is not payable for the period 10-1-81 through 7-31-92. Tier 1 is paid from 8-1-92 due to Board Order as the result of the Nancy Johnson case.

#### A. Last Child Attaining Age 16

1. When the last child attains age 16, terminate the surviving divorced mother's/father's annuity. Route the case with a "special" tag to DPS for completion of Form G-325. DPS will determine if additional evidence is needed.
  2. When the case is returned from DPS, examiners will award the disabled surviving divorced spouse's annuity, entering as their OBD the first of the month their no longer had a child in their care.
  3. The surviving divorced spouse should submit a statement that they wish to receive a reduced annuity. If the surviving divorced spouse does not want to receive a disabled surviving divorced spouse's annuity, they should submit a statement to that effect. If no statement is submitted or the surviving divorced spouse does not want this annuity and they have been enrolled for either hospital or medical insurance, route the case to BDMO/CPPS to determine the correct handling of their Medicare entitlement.
- B. Last Child's Entitlement Terminates for Reason Other Age 16 - Termination of a surviving divorced mother's/father's annuity due to the child marriage, death, or recovery from disability is handled in the same way as above for the surviving divorced mother/father, age 50-59, who has been rated disabled for Medicare.
- C. Amount of Disabled Surviving Divorced Spouse's Annuity After Child's Entitlement Terminates -
1. Surviving Divorced Spouse Has Not Attained Age 62 (FRA) - The annuity reverts to the rate previously paid to them increased for COLA's as a disabled surviving divorced spouse. At age 62 (FRA), the annuity is adjusted to take into account those months they were entitled to a surviving divorced mother's/father's annuity. Code the case for call-up at age 62 or FRA, whichever is applicable, and show "ARF" as the reason. Show the symbol "KR" or "KA" on the award form.
  2. Surviving Divorced Spouse Has Attained Age 62 (FRA) - In any case in which a surviving divorced mother's/father's annuity was paid to a surviving divorced spouse for one or more months after a disabled surviving divorced spouse's annuity has been awarded, adjust the rate of annuity to take into account those months they were entitled to a surviving divorced mother's/father's annuity before age 62 or FRA, whichever is applicable. Show the symbol "KR" or "KA" on the award form.

### 3.8.11 Annuity Computation

The annuity consists of a Tier I component only. It is equal to a 100% share of the employee's PIA based on combined wages and compensation after 1936 reduced by

19/40 or 1% (i.e., 000179) for each month the disabled surviving divorced spouse is under age 60 on their OBD.

Payment of the Tier I benefit may be affected by certain SSA nonpayment provisions. Refer to SAPT any cases in which alien nonpayment provisions, convictions 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.

The annuity computation of the disabled surviving divorced spouse is not reduced for the family maximum or increased for the sole survivor maximum.

The annuity is reduced by:

- The amount of any SS benefit.
- The net Tier I amount as defined in RCM 8.9 G-364.1 item 83 instructions. If the disabled surviving divorced spouse becomes entitled to an RR retirement spouse annuity, only the higher of the spouse or disabled surviving divorced spouse's annuity is payable. If the Disabled Surviving Divorced Spouse Benefit is lower, that benefit should be terminated and the overpayment, if any, recovered from the spouse accrual.
- Two-thirds of the amount of any public pension if eligible for a public pension December 1, 1984 or later. See RCM 2.1.300 - 2.1.314 for further information on public service pensions.

### **3.9 Disabled Remarried Widow(er)'s Insurance Annuity**

#### **3.9.1 Remarried Disabled Widow(er) Defined**

A remarried disabled widow(er) is the surviving legal or defacto wife or husband of a deceased employee who is disabled and who remarried after the employee's death and is now unmarried unless they remarried after attaining age 50 and the disability began prior to the remarriage and they met the disability requirements at the time of remarriage.

#### **3.9.2 Eligibility Requirements**

In addition to being the legal or defacto widow(er) of a deceased employee who had 120 months of RR service or at least 60 months of RR service after 1995 and a C/C, a remarried disabled widow(er) must meet the following requirements:

- A. Age - the remarried disabled widow(er) must have attained age 50 but not age 60. A widow(er) who has already attained age 60 can qualify for the months they are under age 60 in the retroactive period.

- B. Marriage - The remarried disabled widow(er) must meet the marriage requirement as described in RCM 2.1.15 for widow(er)'s. Unlike the widow(er), however, the remarried disabled widow(er) may have remarried after the employee's death as long as:
- The marriage occurred after they attained age 50 and they were disabled before the marriage occurred (i.e., the SS disability date was before the date of marriage) and the survivor met the disability requirements at the time of remarriage. This provision applies to benefits payable January 1, 1984 or later. Before this change, if they remarried after their entitlement to a disabled widow(er)'s annuity, they must have married after age 60 or married an individual entitled to a widow(er)'s, mother's/father's, parent's or child's disability benefit; or
  - they are now unmarried.
- C. Social Security Entitlement - See Social Security Entitlement in DCM 3.8.2.
- D. Disability - See disability requirements in DCM 3.7.2.

### 3.9.3 When Application Is Required

To be initially entitled as a remarried widow(er) the applicant must:

- Meet the eligibility requirements outlined above.
- File an application AA-17 and AA-17b.

No application is required for a remarried disabled widow(er)'s annuity if the individual was entitled to a disabled widow(er)'s annuity in the month they remarried. The field office will secure the date of marriage and the spouse's name and social security number so that their entitlement can be verified.

### 3.9.4 Beginning Date

- A remarried disabled widow(er)'s annuity begins on the latest of the following:
  - the first day of the month of the employee's death;
  - October 1, 1981;
  - the day designated by the applicant as the OBD;
  - first day of the 12th month before the month the application is filed;
  - first day of the first month after completion of the 5 month waiting period unless the waiting period is not required (see DM 3.7.21);

- first day of the first month in which the remarried young mother/father is no longer eligible for a remarried young mother's/father's annuity because they no longer has an eligible child under age 16 in their care, provided they meet the age and disability requirements for a remarried disabled widow(er)'s annuity.
- first day of the first month the remarried widow(er) has attained age 50 but not age 60.
- January 1, 1984, if they remarried after age 50 and before age 60 and was disabled before the marriage occurred.

If a remarried disabled widow(er) was entitled to a disabled widow(er)'s annuity in the month they remarried, they remarried disabled widow(er)'s annuity begins in the month of marriage.

### 3.9.5 Earnings Restrictions

The earnings restrictions for remarried disabled widow(er)'s are the same as for disabled surviving divorced spouse. See DM 3.7.24 for earnings restrictions guidelines.

### 3.9.6 RLS Previously Paid

See instructions in the section on remarried widow(er)'s in [RCM 2.1.209](#).

### 3.9.7 When Entitlement Ends

The entitlement of a remarried disabled widow(er) ends:

- the month before the month in which one of the following occurs:
- they die;
- they become entitled to a railroad spouse annuity which is higher than the annuity they are receiving as a remarried widow(er);
- they become entitled to an RIB which equals or exceeds the employee's PIA;
- they attain FRA. Technically, a remarried disabled widow(er)'s benefit terminates at FRA; however, do not take any action to convert RRB records from a disability annuity to an age annuity. The remarried widow(er) as long as they continue to be entitled under the application on which the disability annuity was awarded and the award form symbol remains "RR" or "RA"; or
- at the end of the second month following the month in which their disability ceases unless they attain age 60 on or before the last day of the termination month.

**NOTE 1:** Under SS Act rules a remarried widow(er)'s annuity terminates if they recover before FRA. If they recover between age 60 and FRA, they must file a new application

in order to qualify for a widow(er)'s annuity based on age. However, we will allow the annuity of a disabled remarried widow(er) who recovers after age 60 to convert to an age annuity as long as they meet the other qualifications. A new application will not be required.

**NOTE 2:** Before January 1, 1984, remarriage was a terminating event unless the marriage occurred after the widow(er) attained age 60 or the marriage was to an individual entitled to a widow(er)'s, father's/mother's, parent's or childhood disability benefit under the RR Act or SS Act.

### 3.9.8 Evidence Requirements

Application: Always, unless they were entitled to a disabled widow(er)'s annuity in the month they married an individual entitled to certain benefits or unless converting from a remarried young mother's/father's annuity or they were receiving a disabled remarried widow's annuity and remarried, January 1, 1984 or later.

AA-17b, Supplement to Application: Always.

Field Office Personal Observation Record (G-626A): Always.

Medial Evidence: Always.

Vocational Data G-251: Always.

Death of Employee: Always.

Age of Remarried Disabled Widow(er): Always.

Marriage: Always.

Proof of Termination of Remarriage: If widow(er) remarried before age 50 or before the disability onset date.

Compensation, Wages and SEI: Always.

Amount of SSA Benefits: Always.

Remarried Disabled Widow(er)'s Employment History: Always. Request a DEQY from SSA. (See DCM 3.4.205)

Age of Employee: Only when employee's insured status or divisor quarters would be affected and there is a conflict between the claimed DOB and the DOB shown on the employee's CER-1.

Termination of Prior Marriage: If there is reason doubt about whether a prior marriage of either the remarried disabled widow(er) or employee was ended.

Legal Adoption of Child: Only when remarried disabled widow(er) seeks to meet marriage requirements on that basis.

Guardianship: If guardian or other legal representative is selected as representative payee.

M/S: Only when the employee's M/S after 1936 would be credited either under the RR Act or under the SS Act.

Public Pension Information: Always.

### **3.9.9 Disabled Widow(er) Currently On The Rolls Remarries**

When a disabled widow(er) remarries their disabled widow(er)'s annuity terminates but they may be entitled to further benefits as a remarried disabled widow(er). (Before January 1, 1984, they married after age 60 or they married an individual entitled to a widow(er)'s, mother's/father's, parent's or child's disability benefits.) The remarried disabled widow(er) must be rated disabled under the SS Act.

A. Handling - When notice is received that the disabled widow(er) has married, the field office will use FAST to terminate the disabled widow(er)'s insurance annuity.

- If they are entitled to a remarried disabled widow(er)'s annuity, compute the amount of the remarried disabled widow(er)'s annuity and reinstate benefits under the new beneficiary symbol. If they are entitled to an SS benefit, allow that benefit to continue under the widow(er)'s claim number.
- If it is determined that there is no further entitlement, transfer their SS benefit to SSA as described in SSC procedure, sec 1000 et seq.

B. Overpayment Involved

- If payments have been released for any month in which there is no entitlement, ask for the gross amount back according to current overpayment procedure.

If there is entitlement to a remarried disabled widow(er)'s annuity for a month for which a not-due payment of their widow(er)'s annuity was made, withhold the accrual to recover their widow(er)'s annuity overpayment, start benefits in the current month, and follow due process procedures to recover the remaining overpayment.

### **3.9.10 Development And Adjudication**

For information on development and adjudication see that topic under "Disabled Surviving Divorced Spouse in DCM 3.8.9.



### 3.9.11 Annuity Computation

Effective January 1, 1984, a remarried disabled widow(er) receives 100% share of the employee's PIA based on combined wages and compensation after 1936 reduced by different fractions of 1% for each month in the period between ages 60 and FRA. The maximum reduction is 28.5% of the employee's PIA. There is no additional reduction for months of entitlement before age 60 even if the remarried disabled widow(er) was previously entitled to a disabled widow(er)'s annuity.

The annuity consists of a tier 1 component only. Prior to January 1, 1984, a remarried disabled widow(er) receives 100% share of the employee's PIA based on combined wages and compensation after 1936 reduced by 19/40 of 1% (i.e., .00475) for each month in the period between ages 60 and 65 and 43/240 of 1% (i.e., .01179) for each month the remarried disabled widow(er) is under age 60 on their OBD.

If the remarried disabled widow(er) was previously entitled to a disabled widow(er)'s annuity, the age reduction is based on the number of months the widow(er) was under FRA on their original date of entitlement.

The annuity is reduced by:

- The amount of any SS (RIB/DIB or survivor) benefit. For annuities awarded prior to August 12, 1983, it is not reduced for any spouse ("B") benefit.
- The net tier I amount of any employee annuity to which the remarried disabled widow(er) is entitled. (See RCM 8.9 G-364.1 item 81 instructions.) If the remarried disabled widow(er) becomes entitled to an RR retirement spouse annuity or is entitled to two remarried widow(er)'s annuities, only the higher of the two annuities is payable. (See RCM 2.1.208.)
- Two-thirds of the amount of any public pension if first eligible for a public pension December 1984 or later. (See RCM 2.1.300 - 2.1.314 for further information on public service pensions.)

## 3.10 Disabled Child's Insurance Annuity

### 3.10.1 General Information

A disabled child's insurance annuity (DICA) may be paid to a child who had a permanent physical or mental condition which began before they attained age 22, or to a child that meets the re-entitlement requirements described in DCM 3.10.10. Once a DCIA is awarded, the annuity remains payable for as long as the child is disabled or until a terminating event occurs. A disabled child is eligible even if the widow(er) previously elected and received a Residual Lump-Sum (RLS). No recovery of the RLS is to be made.

Effective September 1, 1954, annuity eligibility was extended to dependent disabled children age 18 or older if disability began before age 18. Effective January 1, 1973, the law was changed to extend eligibility to children disabled, age 18 or over if disability began before age 22.

### **3.10.2 When A Child's Disability Determination Is Governed By The Regulations Of The Social Security Act**

In order to receive a DCIA, a child of the deceased employee must be found disabled under the RR Act. However, in addition to this determination, that child must be found disabled under the SS Act to qualify for Medicare based upon disability.

Although the child of a living employee may not receive an annuity under the RR Act, they, if found disabled under the SS Act, may qualify for the following:

1. inclusion as a disabled child in the employee's annuity rate under the social security overall minimum; or
2. entitlement to Medicare based upon disability.

### **3.10.3 Definition of Disability**

A disabled child meets the same definition of disability as a disabled railroad employee if their disability began before they reached age 22. The child's physical or mental disabling condition must have lasted, or can be expected to last a continuous period of at least 12 months, or result in death.

A disabled child does not need to meet any waiting period requirement for payment.

### **3.10.4 Eligibility Requirements**

To be eligible for a DCIA, a child of an employee who had at least 120 months of RR service or at least 60 months of RR service after 1995 and a current connection (C/C) must:

- A. be unmarried (a child who is widowed or divorced at the time of filing an application for initial entitlement is considered unmarried); and
- B. have been dependent on the employee when he died; and
- C. be disabled before age 22.

### **3.10.5 Entitlement Requirements**

To be entitled to a DCIA, a child must meet the above eligibility requirements and an application must be filed by or on behalf of that child.

- A. A child entitled by reason of a disability and has been entitled as a disabled child for 24 consecutive calendar months, shall be entitled to hospital insurance benefits beginning with the 25th consecutive month of disability entitlement. The child is also eligible for the supplementary medical insurance benefit at the same time.
- B. If the child no longer meets the above eligibility requirements, entitlement can be established for months in the retroactive period of their application in which all of the requirements are met. For example, a child may be entitled for months in the retroactive DCIA period before the month of their marriage.
- C. DCIA entitlement is precluded if the child was convicted of the felonious and intentional homicide of the employee or if the child was found to have killed the employee by an act which, if committed by an adult, would be considered a felony.
- D. If a DCIA is confined for at least 30 continuous days or more due to a conviction of a criminal offense, the Tier 1 Social Security Equivalent Benefit (SSEB) rate must be converted to a Non-Social Security Equivalent Benefit (NSSEB) rate. See FOM1 150 for more information.
- E. Termination of a DCIA is subject to the same provisions as are applicable to an employee's entitlement to a "period of disability."

**NOTE:** A child may not receive a DCIA on more than one earnings record. Normally, the disabled child will receive only the higher of the two annuities but may elect to receive the lesser of two such annuities. See RCM 2.4.3 for more detailed information.

### 3.10.6 Beginning Date

Subject to legislative restrictions, a DCIA begins to accrue on the latest of the following dates:

September 1, 1954 - Earliest possible ABD for a disabled child age 18 or older if disability began before age 18; or

January 1, 1965 - Earliest possible date of inclusion in the employee's overall minimum O/M computation for a disabled child age 18 or older if disability began before age 18; or

September 1, 1973 - Earliest possible ABD for a disabled child age 18 or older if disability began before age 22; or

The first day of the month in which all eligibility requirements are met; or

For applications filed September 1, 1983 or later, the first day of the sixth month preceding the month in which an application was filed. Applications filed before September 1, 1983 had twelve months' retroactivity.

### 3.10.7 One Application Concept

If a child is disabled before age 18, they need submit only a modified AA-19a to their original application and furnish the Board with evidence of disability in order to receive benefits.

### 3.10.8 Earnings Restrictions

- A. Restricted Employment - A DCIA is not payable for any month that the child works for an employer covered by the RR Act.
- B. Other Employment - Do not assess work deductions against the earnings of a disabled child age 18 or older. Send all cases in which earnings or work activity are reported for a disabled child age 18 or over to the DPS post and CDR unit.

### 3.10.9 When Entitlement to A DCIA Ends

A DCIA ends with the month before the month in which the child:

- 1. Dies;
- 2. Marries; or
- 3. The last day of the second month following the month in which the child recovers from disability.

### 3.10.10 Requirements For Re-entitlement To A DCIA

Effective January 1, 1973, a child whose entitlement to a DCIA was terminated may be re-entitled upon filing an application, without reestablishing dependency on the employee, provided the child still meet the definition of "child" and they:

- A. Meets one of the following criteria:
  - 1. Is under disability which began prior to their attainment of age 22 (effective January 1973); or
  - 2. Is under a disability which began before the close of the 84th month following the month in which their most recent entitlement to a child's annuity terminated because their disability ceased (effective January 1973); or
  - 3. Is under a disability which began **at any time** if the most recent entitlement was terminated due to earnings rather than medical recovery. This applies to annuities payable for months beginning in October 2004. If the re-entitlement begins after the close of the 84<sup>th</sup> month following the month in which the most recent annuity terminated, the child is entitled to

tier 1 only (in such cases, the APPLE application must be marked for manual review); or

4. Had entitlement terminated prior to October 1972 due to adoption; and

And meets the requirements of B

- B. Since last entitled to an annuity, has not married, unless the marriage was void or annulled. (A marriage that ended by death or divorce precludes re-entitlement.)

A child re-entitled based on a disability may also be re-entitled to hospital insurance benefits and eligible for supplementary medical insurance benefits once the requirements of the law are met.

A child, who becomes re-entitled to a DCIA, is again entitled to a trial work period (TWP).

See DCM 12.1.4, item 20 for instructions on completion of OLDDS

**NOTE 1:** Re-entitlement means a subsequent period of entitlement to the same type of annuity. For example, a child who may have been disabled before age 22, subsequently worked at an substantial gainful activities (SGA) level and becomes disabled again after age 22 (within 7 years of the prior disability) cannot qualify for re-entitlement provisions unless a DCIA is payable for at least one month of the first period of disability.

**NOTE 2:** The re-entitlement rules also apply to spouses and surviving mothers/fathers who are eligible based on having a disabled child in their care. If the child's new disability onset date begins after the close of the 84<sup>th</sup> month following the month in which the most recent annuity terminated, the spouse or surviving mother/father is entitled to tier 1 only. In such cases, the APPLE application must be marked for manual review.

### 3.10.11 Evidence Requirements

EVIDENCE	WHEN REQUIRED
Application:	Always.
Retirement	(disabled child for inclusion in O/M) AA-1, AA-19A and G-626A
Spouse	(under FRA with disabled child in care) AA-3, AA-19A and G-626A

Surviving Child	AA-19, AA-19a or modified AA-19a and G-626A. The modified AA-19a is only used if the child was previously rated for retirement purposes
Proof of Age of Child	Always.
SS number of child	Always
Proof of termination of marriage	When filing for initial entitlement and child was previously married but is unmarried at the time of application.
Proof of Relationship of Child to Employee	Always.
Proof of Child's Dependency on Employee	Always.
Proof of Death of Employee	All survivor cases.
Employee's Wage and Compensation Record	Always.
Age of Employee	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.
Application for Substitution of Payee for Survivor Annuity (AA-5)	If a person other than the natural, adoptive, or step-parent files an application on behalf of a minor child.
Medical Evidence	If child claims to be disabled.
Vocational and Wage Information for Child	Always. Request a DEQY from SSA. (See <u>DCM 3.4.205</u> )  A description of work activities is contained in the AA-19a. However, a child must be disabled before attaining age 22. Therefore, if the child is currently over age 22, it is imperative to first determine if the evidence shows that the child did or did not perform

	substantial gainful activity (SGA) ( <u>DCM 10.4</u> ) since attaining age 22.  If, after review of the wage record and the A-19a, it is determined that more work information is needed about the requirements of the job for RFC comparison purposes, request a G-251.
M/S	If employee's M/S after 1936 would be creditable under either the RR Act or the SS Act.
Amount of SS Benefits	If the child is entitled or may be entitled to SS benefits based on the wages of a person other than the deceased employee.
Certification	Always.

### 3.10.12 Application Filed As A Result Of RI-175

When a child on the rolls is within 4 months of attaining age 18, a computer-printed RL-175 is automatically released. This letter notifies the payee that benefits will terminate when the child attains age 18, but may continue after age 18 if the child is either disabled or a full-time student (FTS). The following sections pertain to the handling of a case where the child is disabled.

### 3.10.13 Development Of Child's Disability

A determination of the alleged disability of a minor child is not required until the child attains age 18, although a disability determination may be rendered as early as age 16 in order to qualify the mother or father for Tier I benefits. If a child is rated disabled before age 18 they will not be rated again at age 18 unless there is evidence that the condition has changed. When an alleged disabled minor child is on the rolls, development action is started 4 months before the child attains age 18, in order to avoid interruption of benefits.

- A. Child on Rolls Before Age 18 - When a child on the rolls is 4 months from attaining age 18, the computer will print an RL-175 letter. This letter notifies the child's payee that the benefits will terminate when the child attains age 18, unless the child is either disabled or an FTS. The payee is advised to contact the nearest field office to develop the necessary evidence. The filing date of an AA-19A has no bearing on the retroactivity of benefits. If payments ended at age 18, reinstate the child's annuity effective with the month the child attained age 18, regardless of when the AA-1A is filed, provided the evidence of disability is submitted within 1 year of the attainment of age 18.
- B. Child Not on Rolls Before Age 18 - When an inquiry is received about benefits for an alleged disabled child, or there is information in file indicating that such a child survives, request the field office to develop the claim in accordance with the

instruction in the FOM. Enter in the "Remarks" block of Form G-659a, any information in the file that may aid the field office in their development action (e.g., child alleged to be incompetent, child institutionalized due to their Intellectual Disability etc.). If the alleged disabled child resides outside the U.S. or Canada, write directly to the claimant or the person who inquired on behalf of the child. Inform the person of the evidence required to support their claim.

When the application is received and eligibility determined, BSB should prepare a G-325 and submit the case to DPS-initial for a determination. If additional evidence concerning the alleged disability is required, the DPS-initial claims examiner will request it.

**NOTE:** If the field office advises that there will be a delay in securing medical evidence for an alleged disabled child who is under age 19 and attending school full-time, have them develop the child's eligibility as an FTS so that survivor benefits may continue without interruption.

### **3.10.14 Securing Breakdown of Wages And Employers From SSA**

If the alleged disabled child has an SS number, or has worked, secure a DEQY from SSA. (See DCM 3.4.205) If the wage breakdown shows a possible insured status, obtain a report of SS entitlement data for the child by requesting a G-90 on the child's social security number. In either case, after the report is received, send the case to DPS-initial for a disability determination.

### **3.10.15 Child Previously Rated For Retirement Purposes**

If a child is disabled before age 22, they only need to submit a modified AA-19a to their original application.

When a modified AA-19a is received after the employee's death and the child has been rated disabled for:

- inclusion in the employee's O/M; or
- the purpose of awarding a spouse annuity under the RR Act; or
- early Medicare only,
  - disability claims examiners will adopt the previous disability decision for the disabled child when they determine that:
    - No scheduled CDR has expired or the previous decision diary was a MINE, and
    - The child is not in SGA and has no history of being engaged in SGA since the previous disability decision.



**NOTE:** If no CDR diary was set for the original disability decision, determine what CDR diary should have been set at the time of the original decision.

- When the above criteria are met the disability examiner is to complete the disability decision on OLDDS. A G-325.1 is to be completed by stating “see previous disability decision dated mm/dd/ccyy” (with the examiner completing the date of the previous decision).
- If a scheduled CDR diary has expired, the disability examiner is to perform a CDR (or refer the case to the proper CDR examiner). If SGA is involved the examiner must investigate and reconcile the earnings.

**NOTE:** When CDR examiners make their determination, they are to complete their action on OLDDS, Form G-325, Disability Decision Sheet and not on Form G-325a, Determination of Continuance or Cessation of Disability. This is necessary for the case to be properly tracked on APPLE.

### 3.10.16 Handling Of Cases By DBD

The DBD Claims Examiner Will Take The Following Actions:

Check and verify if the child's alleged disability onset occurred

- after they attained age 22 or
- after the close of the eighty-fourth month in which their previous entitlement to a DCIA ended if the termination was due to medical recovery.

If the child's disability onset is after those two situations, no further development is needed and the DCIA claim is a technical denial. The new onset date in a re-entitlement case is not relevant if the previous termination was due to earnings and not to medical recovery,

If the child's alleged disability onset occurred

- before they attained age 22 or before the close of the eighty-fourth month in which their previous entitlement to a DCIA ended, or
- at any time for a re-entitlement case in which the previous termination was due to earnings

Evaluate the medical evidence to determine whether the child's physical or mental impairments are either severely disabling or not disabling according to the RRB regulation's listings of impairments.

- A. Child Is Disabled - Complete OLDDS showing ratings of child disabled before age 22 under Section 2d (l)(iii)(c) of the Railroad Retirement Act in item 19(b) and under Section 202(d) of the Social Security Act in item 28(a). Also, Form G-

325.1 or G-325B is prepared giving the rationale for the DCIA allowance. Case is sent to the Survivor Benefits Division (SBD) - Survivor Initial Claims Section for the awarding of DCIA payment.

**NOTE:** For cases included in the financial interchange, the Social Security Act portion of the rating must be coordinated with SSA for survivor annuities as well as employee annuities, unless the annuity is being denied. (See DCM 6.7.3.D.) The initial disability examiner will handle the annuity rating and the post examiner will handle the SSA rating. Note that the annuity rating cannot be done on D-BRIEF.

The sample consists of employees, widows, and children in the following cases:

- Those where the claim number is A-979832 or lower and the last two digits of the claim number are 55; or,
- Those where the claim number is higher than A-979832 (including terminal digit claim numbers) and the last two digits of the claim number are 30.

Survivor cases that must be coordinated with SSA cannot be processed on D-BRIEF. (See DCM 12.5.1.) In these cases, the initial examiner should process the RRA decision and the post examiners should process the SSA decision. The survivor SSA decision should be processed by completing the SSA-831 and coordinating with SSA. Once the coordination is completed, the decision should be entered on page 3 of the OLDDS G-325 screen rather than on the OLDDS 831 screen.

B. Child Rated Not Disabled - If the child is rated as not disabled before age 22, OLDDS is prepared showing the not disabled ratings in items 19(b) and 28(a). Also Form G-325.1 or G-325B is prepared providing the rationale for the DCIA denial. Since the DCIA claim is to be denied:

1. DBD will release a denial letter to the widow(er) if eligibility depends on having a child-in-care. DBD will complete Form G-661 to complete the denial action on the DCIA claim.
2. Also, DBD will release a denial letter to the child if there is no widow(er) or if the widow(er)'s eligibility does not depend on the child. DBD will complete Form G-661 to complete the denial action on the DCIA claim.

**NOTE 1:** IPI, Medicare only - Use custom letter for denial. Return the case to claim files after denial action is completed.

**NOTE 2:** After DCIA has been awarded, forward the case to PSD-MS so that the disabled child can be enrolled for Medicare coverage.

### **3.10.17 Selecting Payee For Disabled Child**

A disabled child who can manage benefit payments in their own interest is considered mentally competent and can receive direct payment of their annuity. When making the disability rating, the DPS claims examiner will determine whether the disabled child is competent or incompetent. The determination that a representative-payee is needed will be reflected on Form G-325 item 20.

If DPS determines that the disabled child is competent to manage benefit payments in their own interest, an application must be secured from that child. In all other cases, a representative payee will be selected for the disabled child as outlined in RCM 5.10, normally by the appropriate field office.

### **3.10.18 Employment Of Disabled Child**

The earnings of a disabled child are not subject to regular work deductions. However, when there is information received or in file indicating that the child is or has been employed, and the employment was not previously reconciled with the disability, send the case to DPS Post and CDR unit. Post examiners in that unit will determine whether the employment can be reconciled or if the child has recovered from disability. A continuance or termination decision will be made on Form G-325a following rules set forth in the Board's regulations and the rules contained in the Social Security Administration's regulations. Refer to DM Chapter 10 for specifics about continuances or terminations.

### **3.10.19 Resolving Inconsistencies In The History Of Child Disability Claims**

When evaluating a child's disability, evidence covering a period of time is needed in order to establish the impairment's severity. And to determine if it is expected to last the 12-month duration.

A longitudinal history may reveal sudden changes in the child's functioning. Examiners should try to ascertain the reason for any changes whenever they are material to the decision. The nature of and reason for a sudden change in functioning should be considered. If these changes are consistent with the nature of the impairment, then a decision is needed as to whether the duration requirement will be met.

If a medically determinable impairment exists, it may not be disabling by itself. A temporary stressful situation may result in a decline of functioning that constitutes a medically disabling impairment that would not be expected to last for a 12-month period.

If there is no identifiable factor that can explain the sudden change in functioning and such change is not in keeping with the other evidence, the higher level of functioning should be used to determine whether a child is disabled. At that point it is reasonable to conclude that the low level of functioning is not due to the impairment. The possibility that parents may be coaching children to act-up or fail certain tests is always present. If the evidence clearly shows coaching, fraud should be suspected and appropriate value given to this evidence.

## Appendices

### Appendix A - Form G-325 Instructions

The Form G-325, Disability Decision Sheet, is now obsolete. Disability rating information that was previously entered on this form is now entered on Screen G-325 on OLDDS. See DCM 12.1.4.

### Appendix B - Diagnostic Codes **CODES FOR CLASSIFICATION OF DISABILITY EFFECTIVE JANUARY 16, 1995**

DETAILED CODE	GROUP CODE	
		<u>ACQUIRED IMMUNODEFICIENCY SYNDROME</u>
004	20	AIDS
004	30	ARC
004	40	HIV Positive
		<u>INFECTIVE AND PARASITIC DISEASES</u>
		<u>TUBERCULOSIS</u>
010	01	Pulmonary
019	01	Other Forms
040	<u>01</u>	<u>POLIOMYELITIS AND OTHER ENTEROVIRUS DISEASE OF CENTRAL NERVOUS SYSTEM</u>
079	<u>01</u>	<u>OTHER VIRAL DISEASES</u>
084	01	Malaria
		<u>SYPHILIS AND OTHER VENERAL DISEASES</u>
090	01	Congenital Syphilis
091	01	Early Syphilis
093	01	Cardiovascular Syphilis
094	01	Syphilis of Central Nervous System
098	01	Gonococcal Infections

099	01	Other Venereal Diseases
104	01	Other Spirochetal Infection
117	01	Mycosis
129	01	Helminthiases
136	01	Other Infective Parasitic Diseases
<u>NEOPLASMS</u>		
140	02	Buccal Cavity and Pharynx
150	02	Digestive Organs and Peritoneum (colon, esophagus, liver, pancreas, etc.)
160	02	Respiratory System
170	02	Bone, Connective Tissue, Skin and Breast
180	02	Genitourinary Organs (prostate, etc.)
190	02	Other
200	02	Lympho sarcoma, Hodgkin's Disease, Multiple Myeloma, Leukemia, Polycythemia, Myelofibrosis
210	02	Benign Neoplasms
<u>ENDOCRINE, NUTRITIONAL AND METABOLIC DISEASES</u>		
240	03	Diseases of the Thyroid Gland
250	03	Diseases of Other Endocrine Glands (Diabetes Mellitus)
260	03	Avitaminosis and Other Nutritional Deficiency
270	03	Other Metabolic Diseases (Gout, obesity, etc.)
<u>DISEASES OF BLOOD AND BLOOD FORMING ORGANS</u>		
280	04	Iron Deficiency Anemias
284	04	Aplastic Anemia
289	04	Other Diseases of Blood and Blood Forming Organs

		<u>MENTAL DISORDERS</u>
290	05	Psychoses (Schizophrenia, paranoid state)
300	05	Neuroses, Personality Disorders and Other Non-Psychotic Mental Disorders (depression, anxiety, organic brain syndrome, etc.)
305	05	Drug Addiction
306	05	Alcoholism
310	05	Intellectual Disability
		<u>DISEASES OF THE NERVOUS SYSTEM AND SENSE ORGANS</u>
320	06	Meningitis, Phlebitis, Thrombophlebitis of Intracranial Venous Sinuses, Intracranial and Intraspinial Abscess, Encephalitis, Myelitis, Encephalomyelitis
330	06	Hereditary and Familial Diseases of the Nervous System
340	06	Other Diseases of the Central Nervous System (multiple sclerosis, paralysis agitans, Parkinson's diseases, cerebral spastic infantile paralysis, migraine, other diseases of the spinal cord)
345	06	Epilepsy/Seizures
350	06	Diseases of the Nerves and Peripheral Ganglia (facial paralysis, trigeminal neuralgia, brachial neuritis, sciatica, polyneuritis and polyradiculitis, carpal tunnel syndrome, etc.)
360	06	Inflammatory Diseases of the Eye (conjunctivitis, ophthalmia, blepharitis, keratitis, iritis, choroiditis, etc.)
		<u>OTHER DISEASES AND CONDITIONS OF THE EYE</u>
370	06	Refractive Errors
374	06	Cataracts
375	06	Glaucoma
376	06	Detachment of Retina

378	06	Other Diseases of the Eye
379	06	Blindness
		<u>DISEASES OF THE EAR AND MASTOID PROCESS</u>
385	06	Meniere's Disease
389	06	Other Deafness
		<u>DISEASES OF THE CIRCULATORY SYSTEM</u>
390	07	Rheumatic Fever
391	07	Rheumatic Fever with Heart Involvement
392	07	Chorea
393	07	Chronic Rheumatic Heart Disease
400	07	Hypertensive Disease (malignant hypertension, essential benign hypertension, hypertensive heart disease, hypertensive renal disease)
410	07	Ischemic Heart Diseases (acute myocardial infarction, chronic ischemic disease, angina pectoris, coronary artery disease, etc.)
420	07	Other Forms of Heart Disease (acute pericarditis, endocarditis, myocarditis, chronic disease of pericardium or endocardium, cardiomyopathy, pulmonary heart disease, congestive heart failure, bundle branch block, etc.)
430	07	Cerebrovascular Disease (subarachnoid hemorrhage)
431	07	Cerebral Hemorrhage
433	07	Cerebral Thrombosis or Embolism
435	07	Transient Cerebral Ischemia (TIA)
440	07	Diseases of Arteries, Arterioles and Capillaries (arteriosclerosis, aneurysms, peripheral vascular disease, arterial embolism and thrombosis, polyarthritis nodosa, etc.)
450	07	Diseases of Veins and Lymphatics (pulmonary embolism and infarction)

451	07	Phlebitis, Thrombophlebitis, Varicose Veins, hemorrhoids, etc.
		<u>DISEASES OF THE RESPIRATORY SYSTEM</u>
490	08	Bronchitis
492	08	Emphysema
493	08	Asthma
510	08	Other Diseases of Respiratory System (empyema, abscess, pneumoconiosis due to silica)
518	08	Bronchiectasis, etc.
		<u>DISEASES OF THE DIGESTIVE SYSTEM</u>
520	09	Diseases of the Oral Cavity, Salivary Glands and Jaws
530	09	Disease of the Esophagus, Stomach and Duodenum
550	09	Hernia of Abdominal Cavity
560	09	Disease of Intestine and Peritoneum
570	09	Diseases of Liver, Gallbladder and Pancreas
		<u>DISEASES OF GENITO-URINARY SYSTEM</u>
580	10	Nephritis and Nephrosis
590	10	Other Disease of Urinary System
600	10	Diseases of Male Genital Organs
610	10	Diseases of Female Genital Organs
		<u>DISEASES OF THE SKIN AND SUBCUTANEOUS TISSUE</u>
680	12	Infections of Skin and Subcutaneous Tissue
700	12	Other Diseases of Skin and Subcutaneous Tissue
		<u>DISEASES OF MUSCULOSKELETAL SYSTEM AND CONNECTIVE TISSUE</u>



710	13	Arthritis (degenerative disc disease) and Rheumatism (except rheumatic fever)
720	13	Osteomyelitis and Other Diseases of Bone and Joint
730	13	Other Diseases of Musculoskeletal System (myasthenia gravis muscular atrophy, Paget's disease, progressive muscular dystrophy, herniated disc, fractures)
738	13	Amputations
<u>CONGENITAL ANOMALIES</u>		
740	14	Congenital Malformations
<u>SYSPTOMS AND ILL-DEFINED CONDITIONS</u>		
780	16	Symptoms Referable to Systems or Organs (burns, syncope, etc.)
790	16	Senility and Ill-Defined Diseases

### Appendix C - List of Common Medications

The following link button allows the user to view a chart that lists [common medications](#) found in disability cases. The chart consists of three columns. The first column lists the medication by its Brand name. The second column lists the medication by its Generic name and the third column list under what conditions the medicine is usually prescribed (Indication).

The chart is formatted as an EXCEL document so the user can arrange each column in ascending or descending order by clicking on the ascending/descending arrow in their toolbar.

### Appendix D - Employee Disability Annuity Legislative History

Effective Date	Employee Disability Annuity Provisions
6-24-1937	Full disability annuity at any age with 30 years of service if totally and permanently disabled.
6-24-1937	Reduced disability annuity at age 60 with less than 30 years of service if totally and permanently disabled.

1-1-1947	Full disability annuity at any age with 10 years of service if totally and permanently disabled (or at age 60 if less than 10 years of service).
1-1-1947	Occupational disability annuity with C/C at any age with 20 years of service or at age 60 with less than 20 years of service.
1-1-1947	Disability annuity terminated if annuitant under age 65 earns \$75 or more in 6 consecutive months (Statutory termination).
11-1-1951	10-year minimum service requirement.
9-1-1954	Statutory termination repealed. Disability annuity terminated upon medical recovery.
9-1-1954	Disability annuity not payable for any month annuitant earns more than \$100. Penalty deduction imposed for late or non-reporting of earnings.
1-1-1959	Earnings restriction liberalized. Disability annuity not payable for any month annuitant earns more than \$100. If yearly earnings are \$1250 or more, 1 month's annuity is lost for each \$100 of earnings in excess of \$1200. No deductions applied to months in which earnings are \$100 or less.
11-1-1966	Beginning with recovery determination made after 10-30-66, the disability annuity terminates 2 months after the month in which the annuitant recovered from disability.
1-1-1968	Earnings restrictions again liberalized. Disability annuity not payable for any month annuitant earns more than \$200. If yearly earnings are \$2500 or more, 1 month's annuity is lost for each \$200 of earnings in excess of \$2400. No deduction is applied to months in which earnings are \$200 or less.
1-1-1989	Earnings restriction again liberalized. Disability annuity not payable for any month annuitant earns more than \$400 after deduction of disability related work expenses. If yearly earnings are \$5000 or more, 1 month's annuity is lost for each \$400 of earnings in excess of \$4,800. No deduction is applied to months in which earnings are \$400 or less.
1-1-2002	Employee with an actual disability freeze may qualify for a total and permanent disability annuity at any age based on less than 120 months of railroad service, but at least 60 months of railroad service after 1995. The Tier 2 is not payable until the employee attains age

	62 and the Tier 2 benefit is then reduced for the number of months the employee is under Full Retirement Age.
1-1-2007	<p>Earnings restriction again liberalized. Disability annuity not payable in 2007 for any month annuitant earns more than \$700 after deduction of disability related work expenses. The monthly earnings limitation for years after 2007 will be set as the larger of the monthly amount for the previous year or an amount calculated using a formula based on the national wage index.</p> <p>The yearly earnings limitation was also changed by using the monthly earnings limitation amount in effect for that year.</p> <p>A deduction will not be applied when earnings in any month in a year are less than or equal to the monthly earnings limitation for that year.</p>

The employee disability freeze and DIB (O/M) legislative history table is in [DCM 6 Appendix 4](#).

### **Appendix E – Total and Permanent Sequential Evaluation Process**

Click the link below to view an illustrative chart of the Total and Permanent Sequential Evaluation process. This chart can be printed and used as a reference tool in daily case adjudication.

[T&P Sequential Evaluation Chart](#)