

**Subpart A—General**

**§216.1 Introduction.**

This part explains when an individual is eligible for a monthly annuity under the Railroad Retirement Act. An individual eligible for an annuity as described in this part may become entitled to an annuity only in such amount as set forth in parts 225 through 229 of this chapter

(a) *Regular annuity.* A regular monthly annuity is provided for:

(1) An employee who retires because of age or disability;

(2) An employee's spouse or divorced spouse; or

(3) The widow, widower, child, parent, remarried widow or widower, or surviving divorced spouse of an employee.

(b) *Supplemental annuity.* An employee who retires because of age or disability may also be entitled to a supplemental annuity.

**§216.2 Definitions.**

Except as otherwise expressly noted, as used in this part—

*Age* means an individual's age on the day preceding the anniversary date of his or her birth.

*Annuity* means a payment due an entitled individual for a calendar month and made to him or her on the first day of the following month.

*Apply* means to sign a form or statement that the Railroad Retirement Board accepts as an application for benefits under the rules set out in part 217 of this chapter.

*Attainment of age* means that an individual attains a given age on the first moment of the day preceding the anniversary date of his or her birth corresponding to such numerical age.

*Board* means the Railroad Retirement Board.

*Claimant* means an individual who files an annuity application or for whom an annuity application is filed.

*Eligible* means that an individual meets all the requirements for payment of an annuity but has not yet applied for one.

*Employee* means an individual who is or has been in the service of an employer as here defined.

*Employer* means a company, individual, or other entity determined to be a covered employer under the Railroad Retirement Act as provided by part 202 of this chapter.

*Entitled* means that an individual has applied for and has established his or her rights to benefits.

*Railroad Retirement Act* means the Railroad Retirement Act of 1974, as amended.

*Re-entitled annuity* means an annuity to which an individual becomes entitled after an earlier-awarded annuity has been terminated. A re-entitled annuity is usually awarded on the basis of different factors of eligibility from the initial annuity, and may be awarded without the filing of another application.

*Retirement age* means, with respect to an employee who attains age 62 before January 1, 2000 (age 60 in the case of a widow(er), remarried widow(er) or surviving divorced spouse) age 65. For an employee who attains age 62 (or age 60 in the case of a widow(er), remarried widow(er), or surviving divorced spouse) after December 31, 1999, retirement age means the age provided for in section 216(1) of the Social Security Act.

*Social Security Act* means the Social Security Act as amended.

*Tier I benefit* means the benefit component calculated using Social Security Act formulas and based upon earnings covered under both the Railroad Retirement Act and the Social Security Act.

*Tier II benefit* means the benefit component calculated under a formula found in the Railroad Retirement Act and based only upon earnings and service in the railroad industry.

*Year of service* means 12 calendar months, consecutive or otherwise, of service creditable to an employee as described in part 210 of this chapter.

**§216.3 Other regulations related to this part.**

This part is related to a number of other parts. Part 217 of this chapter describes how to apply for an annuity. Part 218 indicates when annuities begin and when they terminate. Part 219 sets out what evidence is necessary to prove

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eligibility. Where eligibility for an annuity is based upon a family relationship to an employee (for example, a widow's annuity), the definition of such family relationship may be found in part 222 of this chapter. Part 225 of this chapter describes the computation of the primary insurance amount.

### Subpart B—Current Connection With the Railroad Industry

#### §216.11 General.

A current connection with the railroad industry is required to qualify for certain types of railroad retirement benefits. The existence of a current connection is clear in most cases where entitlement or death immediately follows continuous years of railroad employment. However, there are cases in which the employee did not work for a railroad employer for a period of time before entitlement or death. In these situations, special tests are applied to determine whether the employee can be considered to have a current connection with the railroad industry for the purpose of determining his or her eligibility for an annuity or other benefits.

#### §216.12 When current connection is required.

(a) A current connection is required to qualify an individual for the following types of railroad retirement benefits:

- (1) An employee occupational disability annuity as described in subpart D of this part;
- (2) A supplemental annuity as described in subpart E of this part;
- (3) An employee vested dual benefit in certain cases;
- (4) A survivor annuity as described in subparts G, H, and I of this part; and
- (5) A lump-sum death payment as described in part 234 of this chapter.

(b) A current connection which was established when an employee's annuity began is effective for:

- (1) Any annuity under this part for which the employee later becomes eligible; and
- (2) Any survivor annuity under this part or a lump-sum death payment under part 234 of this chapter.

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#### §216.13 Regular current connection test.

An employee has a current connection with the railroad industry if he or she meets one of the following requirements:

(a) The employee has creditable railroad service in at least 12 of the 30 consecutive months immediately preceding the earlier of:

- (1) The month his or her annuity begins; or
- (2) The month he or she dies.

(b) The employee has creditable railroad service in at least 12 months in a period of 30 consecutive months and does not work in any regular non-railroad employment in the interval between the month the 30-month period ends and the earlier of:

- (1) The month his or her annuity begins; or
- (2) The month he or she dies.

#### §216.14 Regular non-railroad employment that will not break a current connection.

Regular non-railroad employment will not break an employee's current connection if it is performed during the 30-month period described in §216.13(b), in or after the month the annuity begins, or in the month the employee dies.

#### §216.15 Special current connection test.

(a) *For survivor annuities.* An employee who does not have a current connection under the regular test has a current connection only to qualify an individual for a survivor annuity if:

(1) The employee would not be fully or currently insured under section 214 of the Social Security Act if his or her railroad compensation after 1936 were treated as social security earnings;

(2) The employee has no quarters of coverage as defined in section 213 of the Social Security Act; or

(3) The employee received a pension or a retirement annuity that began before 1948 based on at least 114 months of service.

(b) *For survivor and supplemental annuities.* An employee who does not have a current connection under the regular test has a current connection in order