

## Railroad Retirement Board

## § 217.21

case is not by itself considered a written statement for the purpose of this section. The Board will use the filing date of the written statement if all of the following requirements are met:

(1) The statement gives a person's clear and positive intent to claim an annuity or lump sum for himself or herself or for some other person.

(2) The claimant or a person described in § 217.17 signs the statement.

(3) The person who signed the statement files an application with the Board on one of the forms described in part 200 of this chapter within 90 days after the date a notice is sent advising the person of the need to file an application.

(4) The claimant is alive when the application is filed except as provided in § 217.10.

(b) *Statement filed with the Social Security Administration.* A written statement filed with the Social Security Administration can be used to establish the filing date of an application if, assuming the statement were an application, the conditions under § 217.7 are met and—

(1) The statement gives a clear and positive intent to claim benefits under title II of the Social Security Act;

(2) The claimant or a person described in § 217.17 signs the statement;

(3) The statement is sent to the Board by the Social Security Administration;

(4) The person who signed the statement files an application with the Board on one of the forms described in part 200 of this chapter within 90 days after the date a notice is sent advising the person of the need to file an application; and

(5) The claimant is alive when the application is filed except as provided in § 217.10.

(c) *Telephone contact with the Board.* If an individual telephones a Board office and advises a Board employee that he or she intends to file an application but cannot do so before the end of the month, the Board employee will prepare and sign a written statement which may be used to establish the filing date of an application if all of the following requirements are met:

(1) The inquirer expresses a clear and positive intent to claim benefits for

himself or herself or for some other person;

(2) The prescribed application cannot be filed by the end of the current month;

(3) The inquirer is either the potential claimant or the person who will file an application as representative payee therefor;

(4) The inquiry is received by an office of the Board no more than 3 months before eligibility exists;

(5) It appears that a loss of benefits might otherwise result;

(6) The telephone inquirer files an application with the Board on one of the forms described in part 200 of this chapter within 90 days after the date a notice is sent advising the person of the need to file an application; and

(7) The claimant is alive when the application is filed, except as provided in § 217.10 of the part.

[47 FR 7647, Feb. 22, 1982, as amended at 54 FR 13364, Apr. 3, 1989]

### § 217.21 Deterred from filing.

A person who telephones or visits a Board office stating that he or she wishes to file for an annuity or lump sum, but puts off filing because of an action or lack of action by an employee of the Board, can establish a filing date based on that oral notice if the following conditions are met:

(a) There is evidence which establishes that the employee of the Board failed to—

(1) Tell the person that it was necessary to file an application on the proper form; or

(2) Tell the person that a written statement could protect the filing date; or

(3) Give the person the proper application form; or

(4) Correctly inform the person of his or her eligibility.

(b) The person files an application on one of the forms described in part 200 of this chapter within 90 days after the date a notice is sent advising the person of the need to file an application.

(c) The claimant is alive when the application is filed except as provided in § 217.10.