

§ 226.1

- 226.61 Use of military service.
 226.62 Computing average monthly compensation.
 226.63 Determining monthly compensation.

Subpart F—Reduction for Workers' Compensation and Disability Benefits Under a Federal, State, or Local Law or Plan

- 226.70 General.
 226.71 Initial reduction.
 226.72 Benefits that do not cause a reduction.
 226.73 Changes in reduction amount.
 226.74 Redetermination of reduction.

Subpart G—Recomputation To Include Additional Railroad Service and Compensation

- 226.90 When recomputation applies.
 226.91 How an employee annuity rate is recomputed.
 226.92 Effect of recomputation on spouse and divorced spouse annuity.

AUTHORITY: 45 U.S.C. 231f(b)(5).

SOURCE: 60 FR 22262, May 5, 1995, unless otherwise noted.

Subpart A—General**§ 226.1 Introduction.**

This part explains how employee, spouse, and divorced spouse annuities are computed. It describes how to determine the years of railroad service and average monthly compensation used in computing the employee annuity rate. The railroad retirement family maximum, cost-of-living increases, and the recomputation of an annuity to include additional railroad earnings are also explained in this part.

§ 226.2 Definitions.

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

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

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 defined in 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.

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

Social Security Act means the Social Security Act as amended.

§ 226.3 Other regulations related to this part.

This part is closely related to part 216 of this chapter, which describes when an employee, spouse, or divorced spouse is eligible for an annuity, part 225 of this chapter, which explains the primary insurance amounts (PIA's) used in computing the employee, spouse and divorced spouse annuity rates, and part 229 of this chapter, which describes when and how employee and spouse annuities can be increased under the social security overall minimum. The creditable service and compensation used in determining the years of service and average monthly compensation are explained in parts 210 and 211 of this chapter. The beginning and ending dates of annuities are explained in part 218 of this chapter.

Subpart B—Computing an Employee Annuity**§ 226.10 Employee tier I.**

Tier I of an employee annuity is an amount similar to the social security benefit the employee would receive based on combined railroad and social security earnings. The tier I benefit is computed as follows:

(a) A tier I PIA is computed based on combined railroad and social security earnings, as shown in § 225.11 of this chapter. This PIA is adjusted for any delayed retirement credits or cost-of-living increases, as shown in subparts D and E of part 225 of this chapter, and is reduced for receipt of a pension

based upon non-covered service in accordance with section 215(a)(7) of the Social Security Act. The tier I of a disability annuity may also be adjusted for other benefits based on disability, as shown in §§ 226.70–226.74 of this part. Except in the case of an employee who retires at age 60 with 30 years of service, if the result is not a multiple of \$1, it is rounded to the next lower multiple of \$1. In the case of an employee who retires with an age reduced annuity based upon 30 years of service (see § 216.31 of this chapter) the tier I is not rounded until all reductions have been made.

(b) If the employee is entitled to a reduced age annuity (see § 216.31 of this chapter), the rate from paragraph (a) of this section is multiplied by a fraction for each month the employee is under retirement age on the annuity beginning date. The result is subtracted from the rate in paragraph (a) of this section. At present the fraction is $\frac{5}{100}$ of 1% (or $\frac{1}{200}$). If the employee retires before age 62 with at least 30 years of service, the employee is deemed age 62 for age reduction purposes and a 20% reduction is applied. This reduction remains in effect until the first full month throughout which the employee is age 62, at which time the tier I is recomputed to reflect interim increases in the national wage levels and the age reduction factor is recomputed, if necessary, in accordance with this paragraph.

(c) The amount from paragraph (a) or (b) of this section is reduced by the amount of any monthly benefit payable to the employee under title II of the Social Security Act, including any social security benefit payable under a totalization agreement between the Social Security Administration and another country. The social security benefit used to reduce the tier I may be an age or disability benefit on the employee's own earnings record, a benefit based on the earnings record of another person, or the total of two types of benefits. The amount of the social security benefit used to reduce tier I is before any deduction for excess earnings. It is after any reduction for other benefits based on disability. The result cannot be less than zero.

(d) The tier I is subject to automatic annual increases as provided for in subpart E of part 225 of this chapter.

Example: An employee born on November 3, 1919, becomes entitled to an age annuity effective October 1, 1982. Retirement age for individuals born in 1919 is age 65. He has less than 30 years of service. His tier I PIA is \$712.60, which is rounded down to \$712. Since the employee is 25 months under age 65 when his annuity begins, \$712 is multiplied by $\frac{25}{180}$ ($\frac{1}{180}$ for each month under age 65), to produce an age reduction of \$98.89, and a tier I rate after age reduction of \$613.11. The employee is also entitled to a social security benefit of \$190 a month. The employee's final tier I rate is \$423.11.

§ 226.11 Employee tier II.

The tier II of an employee annuity is based only on railroad service. For annuities awarded after September 1981, the tier II benefit is computed as follows:

(a) The product obtained by multiplying the employee's creditable years of service by the average monthly compensation, determined as shown in subpart E of this part, is multiplied by seven-tenths of 1 percent (.007).

(b) If the employee is entitled to a vested dual benefit (see § 226.12 of this part), the result from paragraph (a) of this section is reduced by 25 percent of the vested dual benefit amount. This reduction is made before reduction of the tier II benefit for age. The result cannot be less than zero.

(c) If the railroad retirement family maximum applies, as shown in §§ 226.50–226.52 of this part, the amount from paragraph (a) or (b) of this section is reduced by the smaller of—

(1) The difference between the total railroad retirement maximum reduction amount and the reductions in the spouse and supplemental annuities; or

(2) The total tier II amount from paragraph (a) or (b) of this section.

(d) If the employee is entitled to a reduced age annuity (see § 216.31 of this chapter), the rate from paragraph (a) through (c) of this section is reduced in the same manner as the tier I as provided for in § 226.10 of this part. In the case of an employee with 30 years of service who is entitled to a reduced age annuity (see § 216.31 of this chapter), the age reduction only applies to the