

§ 229.47

20 CFR Ch. II (4-1-05 Edition)

§ 229.47 Child's benefit.

If a child is included in the computation of the overall minimum, a child's benefit of 50 percent times the Overall Minimum PIA is computed. This amount may be adjusted for the family maximum or other benefits.

§ 229.48 Family maximum.

(a) *Family maximum defined.* Under the Social Security Act, the amount of monthly benefits that can be paid for any month on one person's earnings record is limited. This limited amount is called the family maximum. The family maximum used to adjust the social security overall minimum rate is based on the employee's Overall Minimum PIA. The divorced spouse overall minimum is never reduced because of the family maximum.

(b) *Computation of the family maximum—(1) The employee attains retirement age prior to 1979.* The maximum is the amount appearing in column V of the applicable table published each year by the Secretary of Health and Human Services on the line on which appears in column IV the primary insurance amount of the insured individual whose compensation is the basis for the benefits payable. Where the maximum is exceeded, the total tier I benefits for each month after 1964 are reduced to the amount appearing in column V. However, when any of the persons entitled to benefits on the insured individual's compensation would, except for the limitation described in § 404.353(b) of title 20 (dealing with the entitlement to more than one child's benefit), be entitled to a child's annuity on the basis of the compensation of one or more other insured individuals, the total benefits payable may not be reduced to less than the smaller of:

(i) The sum of the maximum amounts of benefits payable on the basis of the compensation of all such insured individuals, or

(ii) The last figure in column V of the applicable table published each year by the Secretary of Health and Human Services. The "applicable" table refers to the table which is effective for the month the benefit is payable.

(2) *The employee attains retirement age in 1979.* (i) The maximum is computed as follows:

(A) 150 percent of the first \$230 of the individual's primary insurance amount, plus

(B) 272 percent of the primary insurance amount over \$230 but not over \$332, plus

(C) 134 percent of the primary insurance amount over \$332 but not over \$433, plus

(D) 175 percent of the primary insurance amount over \$433.

(ii) If the total of this computation is not a multiple of \$0.10, it will be rounded to the next lower multiple of \$0.10.

(3) *The employee attains retirement age after 1979.* The maximum is computed as in paragraph (b)(2) of this section. However, the dollar amount shown there will be updated each year as average earnings rise. This updating is done by first dividing the average of the total wages (see 20 CFR 404.203(m)) for the second year before the individual dies or becomes eligible, by the average of the total wages for 1977. The result of that computation is then multiplied by each dollar amount in the formula in paragraph (b)(2) of this section. Each updated dollar amount will be rounded to the nearer dollar, if the amount is an exact multiple of \$0.50 (but not of \$1), it will be rounded to the next higher \$1. Before November 2 of each calendar year after 1978, the Secretary of Health and Human Services will publish in the FEDERAL REGISTER the formula and updated dollar amounts to be used for determining the monthly maximum for the following year.

(c) *Disability family maximum.* If an employee's first month of entitlement to the DIB O/M is July 1980 or later, the family maximum is 85 percent of the employee's Average Indexed Monthly Earnings but not less than the employee's Overall Minimum PIA, and no more than 150 percent of the employee's Overall Minimum PIA.

(d) *Reduction for family maximum.* The spouse's and child(ren)'s share of the Overall Minimum PIA are reduced if the total benefits are higher than the family maximum amount. These auxiliary shares are adjusted so that they each receive a proportionate share of the family maximum amount over and above the employee benefit. This adjustment is before adjustment for age

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or other benefits. The spouse and child(ren)'s benefits are computed as follows:

(1) The Overall Minimum PIA is subtracted from the family maximum amount.

(2) The result from paragraph (d)(1) of this section is divided by the total number of auxiliary beneficiaries (spouse and children).

(3) If the amount of each benefit from paragraph (d)(2) of this section is not a multiple of \$0.10, it is rounded to the next lower multiple of \$0.10. After determining the beneficiary's share (the amount after reduction for other benefits) the amount is rounded to the next lowest multiple of \$1.00, if it is not already a multiple of \$1.00.

(e) *Combined family maximum.* If a child is eligible to be included in the computation of the overall minimum on more than one railroad retirement annuity, a combined family maximum may apply, if it results in higher annuity rates. The combined family maximum is the smaller of:

(1) The sum of the individual family maximums on each earnings record; or

(2) 1.75 times the highest primary insurance amount possible in a year using average indexed monthly earnings equal to one-twelfth of the contribution and benefit base for that year. Average indexed monthly earnings and contribution and benefit base are explained in §229.2 of this part.

(f) This section may be illustrated by the following examples:

(1) An employee, age 62, applies for an age and service annuity under the Railroad Retirement Act (RRA). His annuity rate is \$700. The employee has a son who was disabled for all regular employment prior to his attaining age 18. The RRA does not provide an annuity for a disabled child of a living employee. If the employee had been covered under the Social Security Act he would have received a benefit of \$500 (the Overall Minimum PIA) and his child would have received a benefit of \$250 (50 percent of \$500), which produces a total family benefit of \$750. The family maximum is \$804.90. Under the O/M guarantee, the employee would receive \$750 since it is higher than his annuity rate of \$700. Since \$750 is less than the family maximum computed for this

employee, there is no reduction for the family maximum.

(2) It is determined that a disabled employee is entitled to a DIB O/M computed as follows:

| | |
|---------------------------|-----------|
| Overall Minimum PIA | \$ 600.00 |
| Spouse (50% × 600) | 300.00 |
| Child (50% × 600) | 300.00 |
| | <hr/> |
| | 1200.00 |

However, the employee's family maximum is \$900 (150 percent of \$600). Consequently, the DIB O/M will be paid as follows:

| | |
|----------------|-----------|
| Employee | \$ 600.00 |
| Spouse | 150.00 |
| Child | 150.00 |
| | <hr/> |
| | 900.00 |

§ 229.49 Adjustment of benefits under family maximum for change in family group.

(a) *Increase in family group.* If an overall minimum rate is adjusted for the family maximum and an additional family member can be included, the benefits payable to previous auxiliary beneficiaries (spouse and children) are reduced to provide a share for the new family member. The difference between the Overall Minimum PIA (see §225.15 of this part) and the family maximum amount is divided by the increased number of auxiliary beneficiaries. If the amount of each benefit is not a multiple of \$0.10, it is rounded to the next lower multiple of \$0.10. After determining a beneficiary's share (the amount after reduction for other benefits) the amount is rounded to the next lowest multiple of \$1.00, if it is not already a multiple of \$1.00.

(b) *Decrease in family group.* If an overall minimum rate is adjusted for the family maximum and there is a decrease in the number of eligible family members, the benefits for the remaining auxiliary beneficiaries (spouse and children) are increased. If the family maximum still applies, the difference between the Overall Minimum PIA and the family maximum amount is divided by the number of remaining auxiliary beneficiaries. If the amount of each benefit is not a multiple of \$0.10, it is rounded to the next lower multiple of