

**§ 228.15**

**20 CFR Ch. II (4-1-06 Edition)**

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 age 62, has a period of disability or dies in 1979.* The maximum is computed as follows:

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

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

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

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

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 age 62, or has a period of disability or dies after 1979.* The maximum is computed as in paragraph (b)(2) of this section. However, the dollar amounts shown there will be updated each year after 1979 as average earnings rise. This updating is done by first dividing the average of the total wages 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) *Special minimum PIA.* Regardless of the method used to compute the primary insurance amount, if the special minimum primary insurance amount described in §404.261 to this title is higher, then the family maximum will be based upon the special minimum primary insurance amount.

**§ 228.15 Reduction for age.**

(a) *Widow(er), surviving divorced spouse, or remarried widow(er).* The tier I annuity component is reduced 19/40 of 1 percent multiplied by the number of months before the annuitant attains full retirement age (presently age 65) effective with the annuity beginning date for widow(ers) born before 1/2/40. (For widow(ers) born after 1/1/40, see section 216(1) of the Social Security Act.)

(b) *Disabled widow(er), disabled surviving divorced spouse, or disabled remarried widow(er).* The tier I annuity component is reduced for a maximum of 60 months even though the annuity may begin at age 50.

**§ 228.16 Adjustments in the age reduction factor (ARF).**

Upon the attainment of retirement age, the previously-computed age reduction factor is adjusted to remove those months for which a full annuity was not paid even though the individual was entitled.

**§ 228.17 Adjustments to the widow(er)'s, disabled widow(er)'s, surviving divorced spouse's, and remarried widow(er)'s tier I annuity amount.**

(a) If the employee died before attaining age 62 and after 1978 and the widow(er), disabled widow(er), remarried widow(er), or surviving divorced spouse is first eligible after 1984, the Board will compute the tier I annuity amount as if the employee had not died but had reached age 62 in the second year after the indexing year (see §225.2 of this chapter); *provided, however*, that if the employee was entitled to a primary insurance amount based on average monthly wages this section is not applicable. The indexing year is never earlier than the second year before the

## Railroad Retirement Board

## § 228.18

year of the employee's death. Except for this limitation it is the earlier of

(1) The year the employee attained age 60, or would have attained age 60 had the employee lived, and

(2) The second year before the year in which the widow(er), remarried widow(er), or surviving divorced spouse becomes eligible for such an annuity, has attained age 60, or is age 50-59 and disabled.

(b) The tier I annuity component is increased if the employee's annuity was increased or would have been increased based on delayed retirement credits (see § 225.36 of this chapter).

(c) The tier I annuity component is reduced if the employee had been entitled to an age reduced annuity, including an annuity based on 30 years of service, which is reduced for age because it began before the employee attained age 62. In this instance, the widow(er)'s, remarried widow(er)'s, or surviving divorced spouse's tier I annuity component after applying any reduction for age is further reduced to the larger of amount the employee would have received as a tier I annuity component if still alive or 82½ percent of his or her primary insurance amount.

### § 228.18 Reduction for public pension.

(a) The tier I annuity component of a widow(er), remarried widow(er), surviving divorced spouse, or disabled widow(er) annuity, as described in the preceding sections of this part, is reduced if the survivor is in receipt of a public pension.

(b) *When reduction is required.* Unless the survivor annuitant meets one of the exceptions in paragraph (d) of this section, the tier I annuity component is reduced each month the survivor annuitant is receiving a monthly pension from a Federal, State, or local government agency (Government pension) for which he or she was employed in work not covered by social security on the last day of such employment. For purposes of this section, Federal government employees are not considered to be covered by social security if they are covered for Medicare but are not otherwise covered by social security, or if they are covered under social secu-

rity solely by an election to become subject to the Federal Employees and Retirement System made after December 31, 1987, and have not worked 60 months under that system.

(c) *Payment in a lump sum.* If the Government pension is not paid monthly or is paid in a lump-sum payment, the Board will determine how much the pension would be if it were paid monthly. If one of the alternatives to a lump-sum payment is a life annuity, and the amount of the monthly benefit for the life annuity can be determined, the reduction will be based on that monthly benefit amount. Where the period for the equivalent monthly pension benefit is not clear, it may be necessary for the Board to determine the reduction period on an individual case basis.

(d) *Exceptions.* The reduction does not apply:

(1) If the survivor is receiving a Government pension based on employment for an interstate instrumentality; or

(2) If the survivor receives or is eligible to receive a Government pension for one or more months in the period December 1977 through November 1982 and he or she meets the requirements for social security benefits that were applied in January 1977, assuming the employee's earnings had been covered under that Act (even though he or she did not actually claim such benefits or become entitled for such benefits until a later month). The January 1977 requirements are, for a man, a one-half support test (see paragraph (e) of this section), and, for a woman claiming benefits as a surviving divorced spouse, marriage for at least 20 years to the insured worker. A person is considered eligible for a Government pension for any month in which he or she meets all the requirements for payment except that he or she is working or has not applied; or

(3) If a survivor annuitant was receiving or eligible (as defined in paragraph (d)(2) of this section) to receive a Government pension for one or more months before July 1983, and he or she meets the one-half support test (see paragraph (e) of this section). If a survivor annuitant meets the exception in this paragraph but he or she does not meet the exception in paragraph (d)(2) of this section, December 1982 is the