

§ 233.3

§ 233.3 Reduction of retroactive and other similar payments.

If a person is entitled to a retroactive payment for a month or months in an earlier fiscal year, the reduction factor as imposed with respect to the windfall component of the person's annuity, including that portion attributable to an earlier fiscal year, shall be the reduction factor applicable in the year of payment: *Provided, however*, That if the application of the payment year reduction factor would result in a larger payment than would the application of the earlier year reduction factor, the earlier year reduction factor shall be applied. The reduction factor imposed in the case of a replacement payment shall be that reduction factor which was applicable to the original payment. The term "replacement payment" means a payment made to a beneficiary to replace a check which was issued to the beneficiary in an earlier month, but which was not negotiated, and "replacement payment" also means a payment made to the beneficiary for an earlier month in which his or her annuity was not paid for some reason such as lack of a current address.

§ 233.4 Reconsideration of the reduction computation.

The Board shall periodically, but at least quarterly, examine the determinations and calculations made under §§ 233.1 and 233.2, in view of changes which may occur in the estimates used. If, as a result of this examination, the Board determines that the balance in the Dual Benefits Payments Account will be insufficient to pay benefits from that Account for the balance of the fiscal year at the established rate, the Board shall establish a new rate of reduction to be applied to benefits to be paid for the remaining months so that the balance in the Dual Benefits Payments Account will be sufficient to pay benefits for the remainder of the fiscal year. If, as a result of this examination, the Board finds that the balance in the Account is greater than would be required to pay benefits at the then applicable reduction percentage for the remainder of the fiscal year, the Board may, at its discretion, decrease the reduction percentage with

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respect to benefits to be paid for the remaining months.

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Subpart A—General

§ 234.1 Introduction.

This part contains information about the various lump-sum payments payable under sections 6(a)(1) through 6(d)(2) of the 1974 Act.

§ 234.2 Definitions.

As used in this part:

Applicant means the person who signs an application for an annuity or lump-sum for himself, herself or for some other person.

Apply means to sign a form or statement that the Board accepts as an application.

Burial expenses means expenses in connection with the actual burial or other disposition of the remains of the deceased employee.

Eligible means a person meets all the requirements for payment of an annuity or a lump-sum, but has not yet applied.

Employee means any person who is working or has worked for a railroad employer.

Entitled means a person who meets all the requirements for an annuity or a lump-sum, and has applied.

Equitably entitled person means the person whose funds were used to pay the burial expenses of a deceased employee.

Lump-sum means any non-recurring payment due because of an employee's or beneficiary's death.

Person means an individual, partnership, trust estate, association, corporation, government unit, or estate of a deceased individual.

Reimbursable burial expenses means that part of the burial expenses not previously reimbursed by another Federal agency.

Subpart B—Lump-Sum Death Payment

§ 234.10 General.

A lump-sum death payment (LSDP) is payable when an employee with ten or more years of railroad service and a current connection with the railroad industry dies and is not survived by an individual who is eligible for a monthly annuity in the month the employee died. The amount of the LSDP and the priority for payment depend upon when the employee acquired his or her 120th month of railroad service. If the employee acquired the 120th month of railroad service after 1974, a 1974 Act lump-sum death payment is payable to the employee's widow(er). If the employee acquired the 120th month of railroad service before 1975, a 1937 Act lump-sum death payment is payable to the employee's widow(er), the funeral home or the payer of the employee's burial expenses. An application for an LSDP must be filed within two years after the employee's death.

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§ 234.11 1974 Act lump-sum death payment.

(a) The total amount of the 1974 Act LSDP is payable to the employee's widow(er), if she or he was "living in the same household" as the employee at the time of the employee's death. (Refer to § 234.21 for an explanation of "living in the same household.")

(b) The amount of the 1974 Act LSDP is equal to three times the amount of the PIA, as determined by section 215 of the Social Security Act, or \$255.00, whichever is less.