

## Railroad Retirement Board

## § 218.41

### § 218.40 When a widow(er) annuity ends.

(a) *Entitlement based on age.* When a widow(er)'s annuity is based on age, the annuity ends with the earliest of the last day of the month before the month in which—

- (1) The widow(er) dies;
- (2) The widow(er) remarries (the widow(er) may be entitled to benefits as a remarried widow(er) as explained in part 216 of this chapter);
- (3) The widow(er) becomes entitled to another survivor annuity in a larger amount, unless he or she elects to be paid the smaller annuity; or
- (4) The Board approves an award to someone else as the employee's legal widow(er) if entitlement is based on a deemed valid marriage.

(b) *Disabled widow(er).* If entitlement is based on the widow(er)'s disability, the annuity ends with the earliest of—

- (1) The last day of the month shown in paragraph (a) of this section;
- (2) The last day of the second month following the month in which the disability ends; or
- (3) The last day of the month before the month in which the widow(er) attains age 60 (the disability annuitant then becomes entitled to an annuity based upon age).

(c) *Annuity entitlement based on "child in care."* A widow(er) annuity based on having a "child in care" ends as shown in this paragraph if he or she is not eligible for a widow(er) annuity based on age as explained in part 216 of this chapter. However, see also paragraph (d) of this section. If the widow(er) is eligible for a widow(er) annuity based on age, when he or she is no longer entitled on the basis of having a "child in care," his or her annuity is changed to a widow(er) annuity based on age. A widow(er) annuity based on having a "child in care" ends with the earliest of—

- (1) The last day of the month shown in paragraph (a) of this section;
- (2) The last day of the month before the month in which the child is no longer in the widow(er)'s care as explained in part 216 of this chapter (in this case entitlement to the annuity does not terminate, but no annuity is payable while the child is no longer in care);

(3) The last day of the month before the month in which the child attains age 18 and is not disabled;

(4) The last day of the month before the month in which the widow(er) attains full retirement age (the "child in care" annuity is changed to an age annuity);

(5) The last day of the month before the month in which the child marries;

(6) The last day of the month before the month in which the child dies; or

(7) The last day of the second month after the month in which the child's disability ends, if the child is over age 18.

(d) *Tier I benefit entitlement based on child in care.* The tier I benefit of a widow(er), entitled because he or she has a "child in care" and is not otherwise entitled to a tier I benefit based on age, ends with the earliest of—

(1) The last day of the month shown in paragraph (a) of this section;

(2) The last day of the month before the month in which the child is no longer in the widow(er)'s care as explained in part 216 of this chapter;

(3) The last day of the month before the month in which the child attains age 16 and is not disabled;

(4) The last day of the month before the month in which the child marries;

(5) The last day of the month before the month in which the child dies; or

(6) The last day of the second month after the month in which the child's disability ends, if the child is over age 16.

[54 FR 30725, July 24, 1989, as amended at 68 FR 39010, July 1, 2003]

### § 218.41 When a child annuity ends.

A child annuity ends with the earliest of—

(a) The last day of the month before the month in which the child marries;

(b) The last day of the month before the month in which the child dies;

(c) The last day of the month before the month in which the child attains age 18 if the child is not eligible for an annuity as a disabled or student child;

(d) The last day of the last month in which the child is considered a full-time student, as defined in part 216 of this chapter, if the child is a full-time student age 18 through 19; or

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(e) The last day of the second month after the month in which the child's disability ends, if the child is over age 18.

**§ 218.42 When a parent annuity ends.**

(a) *Tier I.* The tier I benefit of a parent annuity ends with the earliest of the last day of the month before the month in which the parent—

- (1) Dies;
- (2) Becomes entitled to an old age benefit under the Social Security Act that is equal to or larger than the tier I benefit of the parent annuity before any reduction for the family maximum, unless he or she is also entitled to a tier II benefit (reduction for the family maximum is discussed in part 228 of this chapter);
- (3) Becomes entitled to another survivor annuity in a larger amount, unless he or she elects to be paid the smaller annuity; or

(4) Remarries after the employee's death, unless he or she marries a person who is entitled to Social Security or Railroad Retirement Act benefits as a divorced spouse, widow, widower, mother, father, parent, or disabled child.

(b) *Tier II.* The tier II benefit of a parent annuity ends with the earliest of the last day of the month before the month in which the parent—

- (1) Dies;
- (2) Remarries after the employee's death; or
- (3) Becomes entitled to another survivor annuity in a larger amount, unless he or she elects to be paid the smaller annuity.

**§ 218.43 When a surviving divorced spouse annuity ends.**

(a) *Entitlement based on age.* When the surviving divorced spouse annuity is based on age, the annuity ends with the earliest of the last day of the month before the month in which the surviving divorced spouse—

- (1) Dies;
- (2) Becomes entitled to an old age benefit under the Social Security Act that is equal to or larger than the amount of the full surviving divorced spouse annuity before reduction for age; or

(3) Becomes entitled to a spouse or survivor annuity in a larger amount, unless he or she elects to be paid the smaller annuity.

(b) *Entitlement based on disability.* When the surviving divorced spouse annuity is based on disability, the annuity ends with the earliest of—

- (1) The last day of the month shown in paragraph (a) of this section;
- (2) The last day of the second month following the month in which the disability ends; or
- (3) The last day of the month before the month in which the surviving divorced spouse attains full retirement age (the disability annuitant then becomes entitled based upon age).

(c) *Entitlement based on "child in care."* When the surviving divorced spouse annuity is based on having a "child in care" as explained in part 216 of this chapter, the annuity ends as shown in this paragraph unless he or she is at least age 60 and was married to the employee for at least 10 years. In that case, the surviving divorced spouse annuity based on having a child in care is changed to an annuity based on age. If the surviving divorced spouse is not entitled to an annuity based on age, the surviving divorced spouse annuity based on "child in care" ends with the earliest of—

- (1) The last day of the month shown in paragraph (a) of this section;
- (2) The last day of the month before the month in which the child is no longer in the surviving divorced spouse's care, as explained in part 216 of this chapter (in this case entitlement to the annuity does not terminate, but no annuity is payable while the child is no longer in care);
- (3) The last day of the month before the month in which the child attains age 16, unless the child is disabled;
- (4) The last day of the month before the month in which the surviving divorced spouse remarries unless the marriage is to an individual entitled to a retirement, disability, widow(er)'s, father's/mother's, parent's or child's disability benefit under the Railroad Retirement Act or Social Security Act;

(5) The last day of the second month after the month in which the child's disability ends, if the child is over age 16; or