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first day of the month preceding the month in which the application is filed if the employee died in that preceding month.

(4) *Disability annuity.* The earliest date permitted by law is the latest of—

- (i) The month shown in paragraph (b)(1) of this section;
- (ii) The first day of the month in which the claimant attains age 50;
- (iii) The first day of the twelfth month before the month in which the application is filed; or
- (iv) The first day of the sixth month after the month of disability onset.

(5) *“Child in care” annuity.* The earliest date permitted by law is the latest of—

- (i) The month shown in paragraph (b)(1) of this section; or
- (ii) The first day of the sixth month before the month in which the application is filed.

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

§218.17 When a remarried widow(er) annuity begins.

(a) A remarried widow(er) annuity begins on the later of either the date chosen by the applicant or the earliest date permitted by law.

(b) *Earliest date permitted by law—(1) General rules.* The earliest date permitted by law is the later of—

- (i) The first day of the month in which the employee dies; or
- (ii) The first day of the month in which the claimant becomes eligible for a remarried widow(er) annuity as shown in part 216 of this chapter.

(2) *Full-age annuity.* The earliest date permitted by law is the latest of—

- (i) The month shown in paragraph (b)(1) of this section;
- (ii) The first day of the month in which the claimant attains full retirement age; or
- (iii) The first day of the sixth month before the month in which the application is filed.

(3) *Reduced-age annuity.* The earliest date permitted by law is the latest of—

- (i) The month shown in paragraph (b)(1) of this section;
- (ii) The first day of the month in which the claimant attains age 60; or
- (iii) The first day of the month in which the application is filed or the

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first day of the month preceding the month in which the application is filed if the employee died in that preceding month.

(4) *Disability annuity.* The earliest date permitted by law is the latest of—

- (i) The month shown in paragraph (b)(1) of this section;
- (ii) The first day of the month in which the claimant attains age 50;
- (iii) The first day of the twelfth month before the month in which the application is filed; or
- (iv) The first day of the sixth month after the month of disability onset.

(5) *“Child in care” annuity.* The earliest date permitted by law is the latest of—

- (i) The month shown in paragraph (b)(1) of this section; or
- (ii) The first day of the sixth month before the month in which the application is filed.

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

Subpart C—How Work and Special Payments Affect an Employee, Spouse, or Divorced Spouse Annuity Beginning Date

§218.25 Introduction.

The rules in this subpart apply only to an employee, spouse, divorced spouse, and supplemental annuity. They do not apply to any type of survivor annuity.

§218.26 Work started after annuity beginning date.

(a) *General.* An annuity can begin only after an employee, spouse, or divorced spouse stops any work for a railroad employer. However, if the employee, spouse or divorced spouse starts work after an “intent to retire” is established, that work will have no effect on the annuity beginning date. However, an annuity cannot be paid for any month the employee, spouse or divorced spouse returns to work for a railroad employer.

(b) *Intent to retire—(1) Disability annuity.* An “intent to retire” is established to pay a disability annuity when—

- (i) The employee files for a disability annuity; or

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(ii) The employee gives up all rights to return to work for a railroad employee before starting any new work.

(2) *Age annuity.* An “intent to retire” is established to pay an employee age, spouse or divorced spouse annuity when the employee, spouse or divorced spouse gives up all rights to return to work for a railroad employer before starting any new work.

§ 218.27 Vacation pay.

(a) *From railroad employer.* Vacation pay may be credited to the vacation period due the employee or to the last day of actual work for the railroad employer. If the vacation pay is credited to the vacation period, the annuity can begin no earlier than the day after the vacation period ends. (Part 211 of this chapter discusses how vacation pay is credited as compensation.)

(b) *From non-railroad employer.* Vacation pay will not affect the annuity beginning date.

§ 218.28 Sick pay.

(a) *From railroad employer.* If the employee is carried on the payroll while sick, the annuity can begin no earlier than the day after the last day of sick pay. However, sick pay is not considered compensation and does not affect the annuity beginning date if it is a payment described in § 211.2(c)(6) of these regulations.

(b) *From non-railroad employer.* Sick pay will not affect the annuity beginning date.

§ 218.29 Pay for time lost.

Pay for time lost because of personal injury must be credited to an actual period of time lost. The annuity can begin no earlier than the day after that period ends.

§ 218.30 Separation, displacement or dismissal allowance.

(a) *General.* When an employee receives a separation, displacement or dismissal allowance from a railroad employer, the annuity beginning date depends on whether the payments are a separation allowance as described in paragraph (b) of this section, or monthly compensation payments as described in paragraph (c) of this section. (Part 211 of this chapter discusses how a sep-

aration, displacement or dismissal allowance is credited as compensation.)

(b) *Separation allowance.* When an employee accepts a separation allowance, the employee gives up his or her job rights. Regardless of whether a separation allowance is paid in a lump sum or in installments, the annuity can begin as early as the day after the day the separation allowance is credited.

(c) *Monthly compensation payments.* An employee who receives monthly compensation payments keeps his or her job rights while the payments are being made. The annuity cannot begin until after the end of the period for which payments are made.

Subpart D—When an Annuity Ends

§ 218.35 When an employee age annuity ends.

An employee annuity based on age ends with the last day of the month before the month in which the employee dies.

§ 218.36 When an employee disability annuity ends.

(a) *Ending date.* An employee annuity based on disability ends with the earliest of—

(1) The last day of the month before the month in which the employee dies;

(2) The last day of the second month following the month in which the employee’s disability ends; or

(3) The last day of the month before the month in which the employee attains full retirement age (the disability annuity is changed to an age annuity).

(b) *Effect of ended disability annuity on eligibility for a later annuity.* The ending of a disability annuity will not affect an employee’s rights to receive any annuity to which he or she later becomes entitled. When a disability annuity ends before an employee attains full retirement age, any additional railroad service the employee has after the disability annuity ends can be credited as if no annuity had previously been paid.

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