

615.5 Employee Regular And Supplemental Annuities Due But Unpaid At Death

For there to be employee annuities due but unpaid at death, the employee must have filed an annuity application on or before the date of death. A survivor cannot file an annuity application on behalf of a deceased employee for any purpose other than to establish a disability freeze period which may increase the amount of monthly survivor benefits payable.

NOTE: When Form AA-1d is completed, signed, and filed by an employee who dies without filing an AA-1, the AA-1d meets the application filing requirement. The employee's survivors as listed in FOM1 615.5.2, may file an AA-1 so that a disability determination may be made. Use the date the AA-1d is received as the official filing date for the application. If the employee is found to be disabled prior to death and death did not occur during the waiting period or the first month after the waiting period, annuity entitlement is established. Survivors may then file Form AA-21 for annuities due but unpaid at death, as outlined in FOM1 615.5.5.

615.5.1 When Existence of Employee Annuities Unpaid at Death Is Indicated

Employee annuities (regular or supplemental) due but unpaid at death may exist whenever:

- The date of the employee's death is after the ABD month but before the final annuity is awarded.
- There are uncashed checks covering payment before the month of death.
- An amendment or annuity recomputation increase is payable for month(s) before the month of death.

615.5.2 Persons to Whom Unpaid Employee Annuities Are Payable and Amount of Payment

Employee retirement annuities unpaid at death are payable in the following amounts and order of priority. The exception is payment of Survivor Tax Refunds.(See FOM1.615.56 for priority of payment of Survivor Tax Refunds.)

- A. Widow(er) if living with the employee at the time of the employee's death: Full amount.
- B. Person(s) who paid the employee's B/E: Each shares in the unpaid annuities to the extent and in the proportions that he paid the employee's B/E, but ONLY to the extent he is not reimbursed by the LSDP under the Railroad Retirement Act (RRA) for having paid such expenses. Unlike the LSDP, annuities due but unpaid at death are payable to payers of burial expenses without regard to the

category of expenses they paid. The estate of a payer of burial expenses who dies before receiving or filing for annuities due but unpaid at death is equitably entitled.

NOTE: Since unpaid retirement annuities are payable only to the extent that the payer of the B/E has not been reimbursed by the LSDP, the LSDP must be paid BEFORE paying the unpaid retirement annuities. However, this does not mean that the payer of B/E cannot receive the unpaid retirement annuities when an LSDP is not awarded. (Example: An LSDP is not payable due to a child's entitlement to an insurance annuity for the month of the employee's death. That fact does NOT prevent payment of the unpaid annuities to the payer of the employee's B/E.)

When determining the extent and proportion that the payer of B/E paid the employee's burial expenses, disregard the amount of the LSDP paid to a funeral home as authorized by the payer of B/E. Consider only the amount actually paid by the payer of B/E in determining his eligibility for unpaid annuities.

If there is no person entitled to reimbursement, or if the unpaid annuities exceed the reimbursable B/E, the annuity unpaid at death or such remainder can be paid to relatives of the deceased in the order listed below.

- C. Child(ren) of the employee: Equal shares if more than one survive; full amount to a sole survivor.
- D. Grandchild(ren) of the employee: Equal shares if more than one survive; full amount to a sole survivor.
- E. Parent(s) of the employee: One-half to each parent if both survive; full amount to sole survivor.
- F. Brothers and sisters of the employee: Equal shares if more than one survive; full amount to a sole survivor. Half-blood brothers and sisters share equally with full-blood brothers and sisters. However, stepbrothers and stepsisters cannot qualify for annuities unpaid at death on the basis of relationship.

If no eligible survivors as listed in A through F exist, the annuities due but unpaid at death are not payable.

615.5.3 Relationship Requirements

- A. Claimant is widow(er) or child - A claimant for unpaid annuities as the widow(er) or child of a deceased employee must:
 - Not be disqualified from inheriting personal property of the employee; and
 - Have the claimed relationship status under the laws of the state in which the employee was last domiciled; or

- Be the de facto widow(er) or deemed child under the RRA; and
 - Not be convicted of the felonious homicide of the deceased employee.
- B. Claimant is grandchild or parent - A claimant for unpaid annuities as the grandchild or parent of a deceased employee must:
- Not be disqualified from inheriting personal property of the employee; and
 - Have the claimed relationship status under the laws of the state in which the employee was last domiciled; and
 - Not be convicted of the felonious homicide of the deceased employee.
- C. Claimant is brother or sister - A claimant for unpaid annuities as the brother or sister of a deceased employee is entitled if (s)he is the employee's blood brother or sister or half blood brother or sister. A stepbrother or stepsister is not entitled to receive unpaid annuities on the basis of relationship to the employee. A brother or sister convicted of the felonious homicide of the deceased employee is not entitled to benefits.
- D. Claimant is stepparent or stepchild - A stepparent cannot receive any unpaid annuities by virtue of relationship to a deceased employee because a stepparent may not inherit annuities on the basis of relationship to the employee.

NOTE: A stepbrother, stepsister or stepparent may receive unpaid annuities (other than survivor annuities) by virtue of being "equitably entitled" to reimbursement for having paid the B/E of the employee.

615.5.4 Equitable Entitlement Requirements

When entitlement exists by reason of a person's having paid all or part of an employee's burial expenses refer to FOM-I-605.55 for information regarding equitable entitlement.

615.5.5 Application Requirements

An application for unpaid employee annuities must be filed no later than the second anniversary of the employee's death. The same types of applications and proofs used for a regular retirement annuity unpaid at death are used for a SUPP ANN unpaid at death. However, when SUPP ANN payments are due but unpaid the social security number of the applicant is required because SUPP ANN payments are taxable.

Generally, an Application AA-21 is used to file for retirement annuities due but unpaid at death. If the accrued annuities are payable to person(s) also entitled to monthly survivor benefits, the annuity application(s) can be used to pay the annuities unpaid at death. Also, if an Application AA-21 is filed for the LSDP and the person filing is eligible for unpaid employee annuities, another AA-21 is not required. However, a

supplemental application may be required if information about payment of burial expenses has changed since the LSDP was paid.

615.5.6 Paying Tax Refund In Survivor Cases

If the employee died after 1974, whether or not (s)he had retired, and the tax refund was not paid, the employee's survivors, or estate can receive the tax refund. An AA-21 is required from each survivor for payment of the tax refund.

Priority of Payment - The tax refund is paid to an employee's survivors in the following order of precedence:

1. Widow(er). If living with the employee at the time of the employee's death. (Full amount.)
2. Children. (Equal shares if more than one survives. Full amount to sole survivor.)
3. Grandchildren. (Equal shares if more than one survives. Full amount to sole survivor.)
4. Parents of deceased employee. (One-half to each if both survive. Full amount to sole survivor.)
5. Brothers and sisters, including half-blood brothers and sisters. (Equal shares if more than one survives. Full amount to sole survivor.)
6. Estate of deceased employee. (Full amount.)

615.10 Spouse And Divorced Spouse Annuities Due But Unpaid At Death

For there to be spouse or divorced spouse annuities due but unpaid at death, the spouse must have filed an annuity application on or before the date of death. A survivor (including the employee) cannot file an annuity application on behalf of a deceased spouse.

615.10.1 When Existence of Spouse or Divorced Spouse Annuities Due But Unpaid at Death Is Indicated

Spouse or divorced spouse annuities due but unpaid at death may exist whenever:

- The date of the spouse's death is after the ABD month but before the final annuity is awarded; or
- There are uncashed checks covering payment before the month of death; or

- An amendment or annuity recomputation increase is payable for month(s) before the month of death.

615.10.2 Persons to Whom Unpaid Spouse or Divorced Spouse Annuities Are Payable and Amount of Payment

Spouse or divorced spouse annuities unpaid at death are payable in the following amounts and order of priority:

- A. The employee: full amount.
- B. Person(s) who paid the EMPLOYEE'S B/E. Each shares in the unpaid annuities to the extent and in the proportions that he paid any of the employee's B/E, but ONLY to the extent he is not reimbursed by the LSDP under the Railroad Retirement Act for having paid such expenses.

NOTE: Since unpaid spouse annuities are payable only to the extent that the payer of B/E has not been reimbursed by the LSDP, the LSDP must be paid before paying the unpaid spouse annuities. However, this does not mean that the payer of B/E cannot receive the unpaid spouse annuities when an LSDP is not awarded. Example: An LSDP is not payable due to a child's entitlement to an insurance annuity for the month of the employee's death. That fact does NOT prevent payment of the unpaid spouse annuities to the payer of the employee's B/E.

When determining the extent and proportion that the payer of B/E paid the employee's burial expenses, disregard the amount of the LSDP paid to a funeral home as authorized by the payer of B/E. Consider only the amount actually paid by the payer of B/E in determining his eligibility for unpaid annuities.

If there is no person entitled to reimbursement, or if the unpaid annuities exceed the reimbursable B/E, unpaid spouse annuities or such remainder can be paid to relatives of the deceased employee in the following order of priority:

- C. Child(ren) of the deceased employee: Equal shares if more than one survive; full amount to a sole survivor.
- D. Grandchild(ren) of the deceased employee: Equal shares if more than one survive; full amount to a sole survivor.
- E. Parent(s) of the deceased employee: One-half to each parent if both survive; full amount to sole survivor.
- F. Brothers and sisters of the deceased employee: Equal shares if more than one survive; full amount to a sole survivor. Half-blood brothers and sisters share equally with full-blood brothers and sisters. Stepbrothers and stepsisters cannot qualify for annuities unpaid at death based on relationship.

If no eligible survivors as listed in A. through F. exist, the spouse annuities due but unpaid at death are not payable.

615.10.3 Relationship Requirements

- A. Employee - An employee need not meet any special requirements to receive spouse annuities unpaid at death. Use the previously filed employee annuity application, AA-1, for any accrued annuity provided all proofs necessary to establish the spouse's entitlement were submitted before the spouse's death.
- B. Claimant is child - A claimant for unpaid annuities as the child of a deceased employee must:
- Not be disqualified from inheriting personal property of the employee; and
 - Have the claimed relationship status under the laws of the state in which the employee was last domiciled; or
 - Be the employee's deemed child under the Railroad Retirement Board.
- C. Claimant is grandchild or parent. A claimant for unpaid annuities as the grandchild or parent of the deceased employee must:
- Not be disqualified from inheriting personal property of the deceased employee; and
 - Have the claimed relationship under laws of the state in which the employee was last domiciled.
 - Not be convicted of the felonious homicide of the deceased employee.
- D. Claimant is brother or sister - A claimant for unpaid annuities as the brother or sister of a deceased employee is entitled if (s)he is the adopted or blood relation (including half-blood relation) of the deceased employee. A stepbrother or stepsister is not entitled to receive unpaid annuities on the basis of relationship to the deceased employee. A brother or sister convicted of the felonious homicide of the deceased employee cannot be entitled to benefits.
- E. Claimant is stepparent or stepchild - A stepparent or stepchild cannot receive any unpaid annuities by reason of relationship to the deceased employee because neither a stepparent nor a stepchild may inherit intestate personal property under state law.

NOTE: A step relation may receive unpaid spouse annuities on the basis of "equitable entitlement" for having paid burial expenses of the deceased employee.

615.10.4 Equitable Entitlement Requirements

When entitlement exists by reason of a person having paid all or part of an employee's burial expenses, refer to FOM-I-605, "Lump Sum Death Payments," for information regarding equitable entitlement.

615.10.5 Application Requirements

An application for unpaid spouse annuities must be filed no later than the second anniversary of the spouse's death. If the employee is the applicant, the previously filed Application AA-1 serves as the application for any accrued annuity payable. An Application AA-21 is the appropriate application for persons other than the employee to file for unpaid spouse annuities.

615.15 Survivor Annuities Due But Unpaid At Death

Generally, for there to be survivor annuities due but unpaid at death, the survivor must have filed an annuity application on or before the date of death.

EXCEPTION: A widow(er) who was in receipt of a spouse annuity in the month before the employee's death, but dies before filing a widow(er)'s annuity application, is deemed to have filed a valid application.

615.15.1 When Existence of Survivor Annuities Unpaid at Death Are Indicated

The existence of survivor annuities due but unpaid at death may be indicated when:

- The date of the survivor's death is after the ABD month but before the final annuity is awarded; or
- There are uncashed checks covering payment before the month of the survivor's death; or
- An amendment increase is payable for a month(s) before the month of death.

615.15.2 Persons to Whom Unpaid Survivor Annuities Are Payable and Amount of Payment

Annuities unpaid at the death of a survivor applicant or annuitant are payable to survivors of the deceased employee in the order and amount indicated below. No persons other than those listed can be entitled to survivor annuities due but unpaid at death.

- A. Widow(er) if living with the employee at the time of the employee's death: Full amount.

- B. Child(ren) of the deceased employee: Equal shares if more than one survive; full amount to a sole survivor.
- C. Grandchild(ren) of the deceased employee: Equal shares if more than one survive; full amount to a sole survivor.
- D. Parent(s) of the deceased employee: One-half to each parent if both survive; full amount to sole survivor.
- E. Brothers and sisters of the deceased employee: Equal shares if more than one survive; full amount to a sole survivor. Half-blood brothers and sisters share equally with full-blood brothers and sisters.

NOTE 1: Unpaid survivor annuities CANNOT be paid to the payer of the employee's B/E.

NOTE 2: As with all other accrued annuities, an annuity due but unpaid at death is payable based on the relationship to the railroad employee and not the deceased survivor annuitant. Therefore, accrued annuities due but unpaid at the death of a surviving divorced spouse are payable as shown above starting with the employee's living with widow.

If no eligible survivors as listed in A through E exist, the survivor annuities due but unpaid at death are not payable.

615.15.3 Relationship

- A. Claimant is widow(er) or child - A claimant for unpaid annuities as the widow(er) or child of a deceased employee must:
 - Not be disqualified from inheriting personal property of the employee, and
 - Have the claimed relationship under the laws of the state in which the employee was last domiciled; or
 - Be the de facto widow(er) or deemed child under the Railroad Retirement Act.
 - Not be convicted of the felonious homicide of the deceased employee.
- B. Claimant is grandchild or parent - A claimant for unpaid annuities as the grandchild or parent of a deceased employee must:
 - Not be disqualified from inheriting personal property of the employee, and
 - Have the claimed relationship under the laws of the state in which the employee was last domiciled.
 - Not be convicted of the felonious homicide of the deceased employee.

- C. Claimant is brother or sister - A claimant for unpaid annuities as the brother or sister of a deceased employee is entitled if (s)he is the employee's adopted or blood relation (including half-blood relation) of the deceased employee. A stepbrother or stepsister is not entitled to receive unpaid survivor annuities. A brother or sister convicted of the felonious homicide of the employee cannot be entitled to benefits.
- D. Claimant is stepparent, stepbrother, stepsister or stepchild - A step relation cannot receive unpaid survivor annuities because they may not inherit personal property under state law.

615.15.4 Application Requirements

Each applicant for survivor annuities due but unpaid at death must file an application no later than the second anniversary of the survivor's death. Generally, an Application AA-21 is used for this purpose. If at the time a survivor is filing for an insurance annuity, annuities unpaid at death are due, a second application is not required. However, if survivor annuity due but unpaid at death becomes payable after an annuitant is in receipt of an annuity, an Application AA-21 is required.

615.15.5 Widow(er)'s Annuity Due But Unpaid at Death Payable, No Application Filed

When spouse annuity payments are in force at the time of an employee's death, and it appears the spouse will qualify for a widow(er)'s annuity, spouse payments are usually continued until appropriate development is completed. When a spouse dies before filing the necessary application to permit conversion of the spouse annuity to a widow(er)'s annuity, any difference between the spouse rate and the final computed widow(er)'s annuity rate is an accrued annuity due but unpaid at death. Such annuities accrue through the month before the month the widow(er) dies providing the widow(er) met all requirements for entitlement to an annuity.

615.20 Development Of Claims For Annuities Due But Unpaid At Death

615.20.1 General

Development of a claim for annuities due but unpaid at death should be taken only when there is definite information that an annuity payment is due but unpaid. Prepare and release Form RL-94-F to determine the person(s) to whom such benefit may be payable.

If eligible survivors are outside the originating office area, send Form RL-94-F to the F/O serving the area where the survivors reside and advise SBD.

If there is no survivor who can be paid the accrued survivor annuity, forward Form RL-94-F to SBD explaining why the case was not developed further.

If a reply to Form RL-94-F is not received in 15 calendar days, the case should be traced. If no reply is received in an additional 15 calendar days, close the case out.

EXCEPTION: If the claims examiner has requested the DOD, the case cannot be closed out or abandoned until the correct DOD has been developed and forwarded.

If first notice of death is received in Headquarters, the examiner will use Form G-659a to request development of a claim for any survivor annuities due and payable.

615.20.2 Questionable Relationships

If unpaid annuities are payable to a class of relatives (such as brothers and sisters) of the deceased employee, and the legal relationship of one of the potential applicants is questionable or cannot be established, do not question the relationship and eligibility of that person IF:

- A. All eligible persons agree that the person with the questionable relationship is in the same degree of relationship to the deceased employee and is entitled to share in the benefit; AND
- B. The person with questionable relationship files Form G-131 assigning his share (the amount which would be payable to him if his relationship were established) to an eligible applicant.

If the requirements in A. and B. are met, pay the appropriate shares to the applicant(s), including the share assigned by the person with questionable relationship.

This method CANNOT be used if an eligible person claims that the person with questionable relationship is not a relative in the same degree of relationship, or if the individual shares exceed \$500. In such cases, relationship has to be established or denied before paying the share in question.

615.25 Assignment Of Interest

An eligible person may complete Form G-131 instead of filing an application if he desires to assign his share of unpaid annuities to another eligible applicant providing the share does not exceed \$500. If an eligible person wishes to assign a share that exceeds \$500, a Form G-131 can be developed; however, the general counsel will determine whether the assignment can be accepted. Develop a Form G-131 when an eligible person expresses a desire to assign his share of the benefit. Encourage assignments of interest in cases where a small adjustment or accrual is due and several eligible persons are entitled. Use the general rule that if individual shares of an annuity due but unpaid at death are less than \$10, encourage assignments. The person must be informed of the approximate amount of his share before he completes the form. Like

an application, a Form G-131 must be filed no later than the second anniversary of the annuitant's death. Whenever possible, submit all assignments being developed with the application and proofs or advise Headquarters that assignments are being developed. This will allow Headquarters to make a single award instead of numerous small awards.

615.30 Evidence Requirements

Evidence	When Required
Proof of annuitant's (or applicant's) death	Always.
Proof of relationship	Always, except when the applicant is equitably entitled or if entitled by virtue of relationship, and his share is \$25 or less. When two or more applicants survive, only one need establish his relationship provided none's relationship is questionable.
Proof of marriage and living with	<p>If the applicant is the widow(er) and will qualify based on relationship. Widow(er)'s statement on the application is sufficient unless there is conflicting information.</p> <p>Form G-476c does not request living with information. We do not assume the former spouse annuitant was living with the employee, since it is no longer a requirement for the spouse annuity. If the information in file is sufficient to establish a living with relationship, examiners will award accrued annuities to the widow(er). If the file information is not sufficient, development is necessary.</p>
Payment of B/E	When applicant is equitably entitled.
Proof of legal representative of estate	When estate is equitably entitled and a legal representative has been appointed.
Application for substitute payee (Application AA-5)	A representative payee is filing for a beneficiary.
SS number of applicant	Always. Request development unless the applicant does not reside in the U.S.

Proof of guardianship	When a representative payee is a court appointed guardian and the share is more than \$25.
Form G-88p	In unpaid SUPP ANN cases in which the employee's last employer has a pension plan covering his occupation.

615.35 Person's Rights Of Entitlement To Unpaid Annuities Pass To Another

If a person entitled to unpaid annuities by virtue of relationship to the deceased employee dies before negotiating the check in payment of such annuities, the amount to which he was entitled becomes payable to other survivors in the same class. When there are no other survivors in the same class, entitlement passes to persons in the next class.

When the entitled person who dies is the payer of the employee's B/E, entitlement passes to that person's estate. Any amount remaining after reimbursing the payer of B/E (or his estate if he dies) is payable to the next priority of relatives.

