

## 112.1 General Retroactivity of Annuity Applications

The retroactivity of an application refers to the filing of an application for a recurring annuity. The retroactivity limits vary for disability, full age and reduced age annuities.

## 112.5 Age and Service Employee Annuity Application Retroactivity

### 112.5.1 Employee Full Age 60/30 Annuity

Employee 60/30 full age annuities may retroact up to 6 months prior to the first day of the month of filing for a full age 60/30 annuity provided all other eligibility requirements are met on that date. If the applicant files 1-1-2002 or later, the annuity cannot retroact before 1-1-2002 if the result would be a reduced age 60/30 annuity.

Example 1: The employee (DOB 1-1-1945, first possible ABD 1-1-2005) files for an employee 60/30 annuity on 9-5-2005. The earliest possible ABD based on the filing date is 3-1-2005, with 6 months retroactivity. In this case, full retroactivity based on the filing date will give the applicant an ABD later than the first possible ABD based on his date of birth.

Example 2: The same facts as above except the employee files for the 60/30 annuity on 5-5-2005. The earliest possible ABD is 1-1-2005. In this case, the applicant does not get full retroactivity because the first possible ABD is less than six months from the filing date.

### 112.5.2 Employee Full Age Annuity Based on Less than 30 Years Service

The employee full age annuity may retroact up to 6 months prior to the first day of the month of filing for a full age annuity provided all other eligibility requirements are met on that date. If the applicant files after attaining Full Retirement Age (FRA), the annuity cannot retroact before the month FRA is attained if the result would be a reduced age annuity.

Example 1: The employee (DOB 1-10-1940, first possible ABD 7-1-2005) files for an employee full age annuity on 3-5-2006. The employee has 25 years of RR service. The earliest possible ABD based on the filing date is 9-1-2005. In this case, full retroactivity will give the applicant an ABD later than the first possible ABD based on his date of birth.

Example 2: The same facts as above except the employee files for the full age annuity on 10-5-2005. The earliest possible ABD is 7-1-2005. In this case, the applicant does not get full retroactivity because the first possible ABD is less than six months from the filing date.

### **112.5.3 Employee Reduced Annuity Based on Less than 30 Years Service**

The employee reduced age annuity cannot begin before the first day of the month in which the application is filed.

**EXCEPTION:** If the spouse or divorced spouse would be entitled to a retroactive spouse/divorced spouse annuity under section 2(c) of the RR Act that does not have an age reduction (i.e., spouse or divorced spouse at Full Retirement Age or spouse has a child-in-care), the employee's annuity may retroact a maximum of 6 months before the spouse or divorced spouse application is filed - provided all other employee eligibility requirements are met. It may not however, begin prior to the spouse's or divorced spouse's ABD.

**Example 1:** The employee only is filing on 9-5-2005 with a DLW of 3-25-2005. He is age 63 2/12 with 25 years of railroad service. The ABD cannot be before 9-1-2005.

**Example 2:** Same facts as example 1 except that a spouse is also filing on 9-5-2005 based on a minor child-in-care. The employee and spouse ABD can be as early as 3-26-2005.

Once the employee's entitlement to this retroactive period had been established, the employee could receive an annuity for that period even if the spouse/divorced spouse loses entitlement for some months in that period.

For example, using the same conditions as in the preceding example, assume that the child left the spouse's care in May 2005. The spouse's annuity would be payable from 3-26-2005 through 4-30-2005. However, the employee's annuity would remain payable from 3-26-2005 on.

### **112.6 Employee Disability Annuity Application Retroactivity**

The employee disability annuity may retroact up to 12 months prior to the first day of the month of filing for a 2a(1)(IV) or 2(a)(1)(V) disability annuity, provided any required waiting period has expired and all other eligibility requirements are met on that date.

**EXAMPLE:** The disability onset is 5-7-1995. The application is filed 11-5-1996. The waiting period ends 10-31-1995. The ABD is 11-1-1995.

### **112.7 Spouse Annuity Application Retroactivity**

#### **112.7.1 Spouse Full Age Annuity Based on Employee with at Least 30 Years Service**

The spouse full age 60/30 annuity may retroact up to 6 months prior to the first day of the month of filing, provided all other eligibility requirements are met on that date. If the spouse applicant files 1-1-2002 or later, the annuity cannot retroact before 1-1-2002 if the result would be a reduced age annuity.

Example 1: The spouse (DOB 1-10-1945, first possible ABD 2-1-2005) files for a spouse annuity on 9-5-2005. The employee has 30 years of RR service. The ABD based on the filing date is 3-1-2005. In this case, full retroactivity based on the filing date will give the applicant an ABD later than the first possible ABD based on the date of birth.

Example 2: The same facts as above except the spouse files for the annuity on 4-5-2005. The ABD is 2-1-2005. In this case, the applicant does not get full retroactivity because the first possible ABD is less than six months from the filing date.

### **112.7.2 Spouse Full Age Annuity Based on Employee with Less than 30 Years Service**

If the employee has less than 30 years of railroad service, the spouse annuity at Full Retirement Age (FRA) may retroact up to 6 months prior to the first day of the month of filing, provided all other eligibility requirements are met on that date. If the spouse applicant files after attaining FRA, the annuity cannot retroact before the month FRA is attained if the result would be a reduced age annuity.

Example 1: The spouse (DOB 1-10-1940, first possible ABD 7-1-2005) files for a spouse annuity on 1-5-2006. The employee has 25 years of RR service. The ABD is 7-1-2005. In this case, the applicant gets full retroactivity to the first possible ABD.

Example 2: The same facts as above except the spouse files for the annuity on 10-5-2005. The earliest possible ABD is 7-1-2005. In this case, the applicant does not get full retroactivity because the first possible ABD is less than six months from the filing date.

### **112.7.3 Spouse Reduced Age Annuity Based on Employee with Less than 30 Years Service**

The spouse reduced age annuity cannot begin before the first day of the month in which the application is filed.

Example: The spouse files on 11-10-2005. She is age 64 1/12. The employee is age 62 and has 26 years of railroad service. The spouse ABD cannot be before 11-1-2005.

### **112.7.4 Spouse Annuity Based on Child-in-Care**

Provided all other eligibility requirements are met, the spouse annuity based on a minor or disabled "child in care" may retroact up to 6 months prior to the first of the month in which the application is filed.

### **112.7.5 Retroactivity of Spouse Annuity Can Affect Retroactivity of Employee Annuity**

The retroactivity of the spouse annuity may affect the retroactivity of the employee's annuity. This occurs when the employee is filing for a reduced age annuity and the

spouse is entitled to a full age annuity. In such cases, the employee's annuity may retroact a maximum of 6 months before the spouse annuity application is filed provided all other employee eligibility requirements are met. It may not, however, begin prior to the spouse's ABD.

For example, an employee (age 64 with 25 years of service) and spouse with minor child-in-care both file annuity applications on August 1, 2005. The spouse's ABD was retroactive to 2-1-2005 (up to 6 months rule), because she filed for an unreduced annuity. That spouse retroactivity also made the employee's reduced age annuity retroactive to 2-1-2005.

Once the employee's entitlement to this retroactive period had been established, the employee could receive an annuity for that period even if the spouse later loses entitlement for some months in that period.

For example, using the same conditions as in the preceding example, assume that the child left the spouse's care in April 2005. The spouses annuity would be payable from 2-1-2005 through 3-31-2005. However, the employee's tier 1 would remain payable from 2-1-2005 on.

## 112.8 Retroactivity of Divorced Spouse Annuity

### 112.8.1 General

Provided all eligibility requirements are met, a divorced spouse annuity at Full Retirement Age (FRA) may retroact a maximum of:

1. Up to 12 months prior to the first day of the month of filing if the employee is a disability annuitant or has been granted a disability freeze; or
2. Up to 6 months prior to the first day of the month of filing if the employee does not meet the preceding conditions (employee is not a disability annuitant or has not been granted a disability freeze).

If the divorced spouse files after attaining FRA, the annuity cannot retroact before the month FRA is attained if the result would be a reduced age divorced spouse annuity.

Regardless of the type of annuity received by the employee, a reduced age divorced spouse annuity cannot begin before the first day of the month in which the application is filed.

Example: The divorced spouse files on 11-10-2005. She is age 64 1/12. The employee is age 62 and has 35 years of railroad service. The spouse ABD cannot be before 11-1-2005.

NOTE: If the divorced spouse is filing for an annuity under the provisions of PL 109-280, see NOTE in [FOM1 111.12](#) for determining the retroactivity of the application. Since the employee is not entitled and has not filed an application in these cases, it is

not necessary to take the employee's type of annuity, ABD or date of filing into consideration. In no case can the ABD for an independently entitled divorced spouse retroact prior to August 17, 2007, the date of enactment for this law.

### **112.8.2 Retroactivity of Divorced Spouse Annuity Can Affect Retroactivity of Employee Annuity**

The retroactivity of the divorced spouse's annuity may affect the retroactivity of the employee's annuity. This occurs when the employee is filing for a reduced age annuity and the divorced spouse is entitled to a full age annuity. In such cases, the employee's annuity may retroact a maximum of 6 months before the divorced spouse application is filed provided all other employee eligibility requirements are met. It may not, however, begin prior to the divorced spouse's ABD.

## **112.9 Retroactivity of Survivor Annuity**

### **112.9.1 Spouse-to-Widow Conversions**

Spouse to widow(er) conversions are not affected by retroactivity limits, since the widow(er) is deemed to have filed an application in the month of death.

### **112.9.2 Widow(er) Annuity Based on Age**

A Widow(er) age 60-62 may retroact up to 6 months since age reduction is not changed by the retroactivity.

The Widow(er)'s reduced age annuity at age 62 through FRA cannot begin before the first day of the month in which the application is filed.

In retirement cases, if the applicant files in the month of attainment of age 62 and the actual birthday is after the second of the month, the effective date of the annuity is the first day of the month following attainment of age 62 (first full month). In survivor cases, however, no such distinction is made; if a survivor applicant files in the month of attainment of age 62, the annuity may begin on the first of the month, regardless of the actual birthday.

The widow(er)'s annuity at Full Retirement Age (FRA) may retroact up to 6 months prior to the first day of the month of filing, provided all other eligibility requirements are met on that date. If the applicant files after attaining FRA, the annuity cannot retroact before the month FRA is attained if the result would be a reduced age annuity.

### **112.9.3 Young Mother/Father Annuity Based on Child-in-Care**

Provided all other eligibility requirements are met, the survivor annuity based on a minor or disabled "child in care" may retroact up to 6 months prior to the first of the month in which the application is filed.

## **112.9.4 Child, Student or Parent Annuity**

### **A. General**

The child, student or parent annuity may retroact up to 6 months prior to the first day of the month of filing, provided all other eligibility requirements are met on that date.

### **B. Special Retroactivity Provisions For Students**

Payments to the children will end with the month before the month that the children attained age 18 if the RRB did not receive evidence that they are full-time students. Provided the required proofs are submitted within 12 months of the month the child attained age 18, reinstate annuity payments from the month the child attained age 18.

EXAMPLE: Roger attained age 18 in 9-2006 and his child's annuity payments ended as of 8-31-2006. Roger was attending Central Catholic High School full-time but he failed to submit proof to the RRB of his status. He continued attending school full-time and filed a G-315 on 3-29-2007. Since he was in verified full-time attendance in 9-2006, the month he attained age 18, a new AA-19 application was not required to continue his entitlement. His annuity can be reinstated retroactive to 9-1-2006.

## **112.9.5 Widow(er)s or Child's Disability Annuity**

A widow(er)'s annuity based on the widow(er)'s disability can retroact up to 12 months before the month the application was filed. However, a disability annuity may not begin before the waiting period ends, i.e., the first day of the sixth month after disability onset.

A child's annuity based on the child's disability can retroact up to 6 months before the month the application was filed.

## **112.10 Retroactive Closed Period of Entitlement**

### **112.10.1 Annuities with Age Reductions**

An age-reduced annuity for a closed period of entitlement may not be paid if the application is filed 9-1-83, or later, and the retroactivity would increase the amount of the age reduction.

### **112.10.2 Retroactive Before Employee's Death**

A closed period of entitlement to a spouse annuity or divorced spouse annuity can be established after the employee annuitant's death for months before the employee's death, if an application is filed, the annuity does not have an age reduction and the eligibility requirements for the spouse annuity or divorced spouse annuity were met before the month of the employee's death.

### **112.10.3 Retroactive Before Divorce**

A closed period of entitlement to a spouse annuity can be established for months before the divorce of the employee annuitant and spouse if an application is filed, the spouse annuity does not have an age reduction, and the eligibility requirements for a spouse annuity were met before the month of the divorce.

### **112.10.4 Retroactive Before Remarriage**

A closed period of entitlement to a divorced spouse annuity can be established for months before the divorced spouse remarries if an application is filed, the annuity does not have an age reduction and the eligibility requirements for the divorced spouse annuity were met before the month of the remarriage.

A closed period of entitlement to a young mother/father's survivor annuity or surviving divorced mother/father annuity can be established for months before the applicant remarries if an application is filed and the eligibility requirements for the annuity were met before the month of the remarriage.

## **112.15 Legislative History**

### **112.15.1 General**

This section contains procedure in affect before 9-1-1983 for employees with less than 30 years of railroad service and procedure in affect before 1-1-2002 for employees with at least 30 years of service.

### **112.15.2 Definition of 12 Month Retroactivity Before June 1982**

There was a slight difference in the term "12 months" in the 1937 RR Act and the 1974 RR Act.

- a) Under the 1937 RR Act, the term "12 months" meant 12 months to the day.
- b) Under the 1974 RR Act, the term "12 months" meant the first day of the month that was 12 months before the application filing date.

### **112.15.3 Legislation in June 1982 Changed Tier 1 Only (12 Months to 6 Months)**

#### **A. Employee Has a Disability Annuity or a Disability Freeze**

The 1974 RR Act employee disability annuities were not included in the legislation (June 1982) that changed the retroactivity of annuity applications from 12 months to 6 months. Also, if the employee was a disability annuitant or an age and service annuitant with a disability freeze for Medicare only, the divorced spouse full age annuities continue to retroact up to the first day of the 12<sup>th</sup> month before the filing date.



Note – An employee disability freeze for Medicare only did not allow an employee 60/30 annuity or a spouse full age annuity to retroact more than 6 months before the filing date.

### **B. Different Retroactivity for Tier 1 and Tier 2 not Based on Disability**

Different retroactivity rules for Tier 1 and Tier 2 applied to applications not based on disability initially vouchered June 1, 1982, or later for applications filed before 9-1-1983.

- The Tier 1 benefit could be retroactive up to the first day of the month 6 months before the application filing date, if the retroactivity would not increase an age reduction. If the retroactivity would increase an age reduction, the Tier 1 could not begin before the first day of the month in which the application was filed.

An exception was made for cases in which the employee was entitled to a reduced Tier 1 and the spouse or divorced spouse was entitled to an unreduced Tier 1. The spouse's or divorced spouse's unreduced Tier 1 could retroact up to the first day of the 6<sup>th</sup> month before the filing date. Under this exception, the employee's reduced age Tier 1 could also retroact for the same 6 month period before the spouse/divorced spouse application filing date, provided all other eligibility requirements were met. The employee's Tier 1 effective date in these cases could never be earlier than the spouse's/divorced spouse's Tier 1 effective date or before the employee met all other eligibility requirements.

- The Tier 2 benefit could be retroactive up to the first day of the month that was 12 months before the application filing date.

#### **112.15.4 1983 RR Act Conforming Amendments Changed Tier 2 (12 Months to 6 Months)**

The 1983 RR Act Conforming Amendments changed the Tier 2 retroactivity rules of applications not based on disability filed 9-1-1983 or later. This means that, effective with applications filed 9-1-1983 or later, the retroactivity rules for Tier 1 and Tier 2 were the same. The employee age and service annuity, spouse annuity, aged widow(er) annuity, parent's annuity or child's annuity could be retroactive up to the first day of the 6<sup>th</sup> month before the filing date, provided the retroactivity did not increase the amount of an age reduction. If the retroactivity would increase an age reduction, the annuity could not begin before the first day of the month in which the application was filed. See FOM-I-112.75 and FOM-I-112.82 for exceptions.

#### **112.15.5 Full Age Employee and Spouse 60/30 Annuities 7-1-1984 through 12-31-2001**

The age and service employee must have filed the employee 60/30 annuity application at attainment of age 62 or later to qualify for a full age 60/30 annuity and to qualify the spouse for a full age spouse 60/30 annuity. The employee annuity could not retroact to



a month before the employee attained age 62, because the result would have been a reduced age 60/30 annuity.

Otherwise, the employee full age 60/30 annuity retroacted up to 6 months prior to the first day of the month of filing for a full age 60/30 annuity provided all other eligibility requirements are met on that date.

The spouse full age 60/30 annuity retroacted up to 6 months prior to the first day of the month of filing for a full age 60/30 annuity provided all other eligibility requirements are met on that date.

### **112.15.6 Reduced Age Employee and Spouse 60/30 Annuities 7-1-1984 through 12-31-2001**

If the age and service employee filed the employee 60/30 annuity application before attainment of age 62, both the employee and spouse were subject to the rules for reduced age 60/30 annuities. Applicants were not entitled to an ABD before the month in which the application was filed if an earlier ABD would have resulted in a greater recurring annuity age reduction.

#### **A. Employee Age Reduction Always Stays the Same**

Since the employee always filed before age 62 for this annuity type, the employee age reduction was always based on deemed age 62. Therefore, beginning the annuity in a month before the month in which the employee annuity application was filed did not result in a greater recurring employee annuity age reduction. The employee annuity retroacted up to 6 months prior to the first day of the month of filing provided all other eligibility requirements were met.

#### **B. Spouse Age Reduction Increase**

The spouse age reduction was based on the spouse's actual age if:

- the age and service employee's ABD was before the employee attained age 62; and,
- the employee was age 62 or older on the spouse filing date; and,
- the spouse was at least age 62 but less than Full Retirement Age on the spouse filing date.

The spouse reduced age 60/30 annuity could not have begun before the first day of the month in which the spouse annuity application was filed, because beginning the spouse annuity in an earlier month would have resulted in a greater recurring spouse annuity age reduction.

**EXAMPLE:** The employee's DOB is 6-14-30. He is receiving a 1983 Law Year reduced 60/30 with an ABD of 7-1-90. The spouse DOB is 8-2-30. She files for a 60/30 spouse annuity on 10-15-94. The spouse annuity cannot begin before 10-1-94.

### **C. Spouse Age Reduction Stays the Same**

The spouse age reduction was based on deemed age 62 if either the employee or the spouse was less than age 62 on the spouse annuity filing date. For these cases, beginning the spouse annuity in an earlier month would not have increased the spouse annuity age reduction. The spouse annuity retroacted up to 6 months prior to the first day of the month of filing, provide all other eligibility requirements were met.

### **112.15.7 Spouse of Employee Disability 60/30 Annuitant 7-1-1984 through 12-31-2001**

If the employee received a disability 60/30 annuity with an ABD after 6-30-1974, the retroactivity of the spouse ABD depended on the age of the spouse in the month in which the spouse annuity application was filed.

#### **A. Spouse Age Reduction Increase**

Spouses, who were at least age 62 but less than Full Retirement Age (FRA), were not entitled to an ABD before the month in which the application was filed because an earlier spouse ABD would have resulted in a greater recurring spouse annuity age reduction.

#### **B. Spouse Age Reduction Stays the Same**

Spouses, who were at less than age 62, were deemed to be age 62 on the spouse ABD. Therefore, making the ABD in any month up to six months before the spouse annuity application was filed, would not increase the recurring spouse annuity age reduction. The spouse would still be deemed age 62 on that earlier ABD.

For these cases, the spouse annuity retroacted up to 6 months prior to the first day of the month of filing, provide all other eligibility requirements were met.

