

2.3.1 Scope Of Chapter

This chapter contains instructions which are unique to the adjudication of a Widow(er)'s Current Insurance Annuity (WCIA). It does not contain basic instructions which are common to ALL types of widow(er)'s insurance annuities, such as the definition of legal widow(er), defacto widow(er), etc., or procedure for determining a vested dual benefit entitlement. These common instructions are found in RCM 2.1. Various sections of this chapter are cross-referenced to the more detailed instructions in other RCM chapters.

2.3.2 General

A WCIA is payable to the widow(er) of an insured employee only if the widow(er) has in care, a minor or disabled child of the employee who is entitled to a CIA. A child age 18-19 who is a FTS (and is not disabled) does not qualify a widow(er) for a WCIA. Detailed instructions for determining a child's entitlement to a CIA are contained in RCM 2.4.

Generally, the widow(er) remains entitled to the WCIA as long as (s)he has the qualifying child in care, unless (s)he remarries. If the widow(er) remarries, refer to RCM 2.3.210.

2.3.10 Widow(er)'s Current Insurance Annuity

The annuity consists of a tier 1, tier 2, and, if applicable, a vested dual benefit for the widow(er). Refer to RCM 8.9 for detailed computation information.

A. Normal Annuity

1. Tier I Amount - A survivor of an insured employee will receive an amount equal to the amount that would be payable under the Social Security Act based on the employee's combined compensation and wages after 1936.

With respect to a WCIA, a qualified widow(er) is entitled to receive a 75% share of the deceased employee's PIA or maximum. This amount will be reduced by:

The amount of any SS benefit that the widow(er) is entitled to; and

The tier 1 amount of any railroad retirement annuity the widow(er) is entitled to; or

The total amount of any railroad retirement annuity if neither the widow(er) or the employee had any railroad service prior to 1975; and

Two-thirds of the amount of any public pension, if first eligible for a public pension 7-1-83 or later. If first eligible for a public pension before 7-1-83, the young mother/father may be exempt from public pension offset; if not,

Tier I is reduced by the full amount of the public pension. (See RCM 2.1.300-2.1.314 for further information on public service pensions.)

Payment of Tier I to Young Mothers/Fathers

In 1937 Act cases, tier I is payable until the last child attains age 18.

In 1974 Act and 1981 Amendment cases, tier I is payable as follows:

Prior to 10-1-81, the tier I was payable until the last child attained age 18.

From 10-1-81 through 7-31-92, the tier I was only payable until the last child attained age 16, unless the grace period was applicable. For young mothers with annuity beginning dates prior to September 1, 1981, there was a grace period which extended the payment to a young mother/father based on a child age 16 or 17 through August 31, 1983.

Beginning August 1, 1992, the tier I is again payable until the last child attains age 18. (See RCM 2.3, Appendix D, for further information on payment of "Nancy Johnson" cases.)

Payment of tier I may be affected by certain SSA nonpayment provisions. Refer to SAPT any cases in which alien nonpayment provisions, conviction of a felony, conviction for subversive activities, deportation, including deportation of the deceased employee due to associations with the NAZI government of Germany during World War II, or other nonpayment provisions of the SS Act are involved. Also refer to SAPT any cases in which a disabled child refuses to accept vocational rehabilitation services.

2. 1981 Amendment Tier II Amount - The 1981 Amendment Tier 2 applies in the following situations:

the widow(er)'s annuity is vouchered 10-1-86 or later

the case is an 'D' case, and the widow(er)'s annuity was vouchered 10-1-81 or later

the case is an 'A' case and the employee's annuity is first vouchered 10-1-81 or later

The gross tier 2 is 50% of the deceased employee's tier 2. A smaller percentage is payable if the maximum applies. The tier 2 is payable until the last child attains age 18.

3. 30% Tier II Amount Prior to Last Child's Age 16 Attainment - The 30% tier 2 is payable thru age 16 in the following situations:

- the case is an 'D' case and the widower's annuity was vouchered 9-30-81 or earlier
 - the case is an 'A' case and the employee's annuity was first vouchered 9-30-81 or earlier and the widow(er)'s annuity was vouchered 9-30-86 or earlier
 - In such cases, the tier 2 component is equal to 30% of the widow(er)'s gross tier I after reduction for age.
4. 30% Tier II Amount Effective With Last Child's Age 16 Attainment - In most cases, a 30% tier II is payable until the last child attains age 18. These cases are known as the Costello court cases, because a Board ruling to pay a 30% tier II to eligible widow(er)s was a result of this court case. The widow(er)'s Tier II is computed based on a hypothetical Tier I (Tier I including the widow(er) and any other entitled beneficiary(ies). The hypothetical Tier 1 is also used to compute any other beneficiary's Tier II.)

If any of these conditions are met, a 30% tier II is payable thru the last child's age 18 attainment:

The child attained age 16 after 5-14-86.

The child attained age 16 before 5-14-86 but the widow(er) was not terminated at the time of age 16 attainment, and was still in pay status on 5-14-86.

The child attained age 16 before 5-14-86, the widow(er) was not terminated at the time of age 16 attainment, but was eventually terminated at some point before 5-14-86. However, no overpayment letter was released before 3-14-86 explaining the overpayment and giving the appeal rights. In other words, if an overpayment letter was released 3-14-86 or later, the 30% tier II is payable thru age 18 attainment. The date 3-14-86 is used, because that is 60 days before 5-14-86, the date the Costello Decision was made. At that point it was decided that if the widow(er) still had a right to administrative and/or court review of an action denying benefits as of 5-14-86, the tier II should be paid until the widow(er) no longer had a child under age 18 in her/his care. As long as the overpayment letter was released on or after 3-14-86, she had rights to administrative and/or court review.

The child attained age 16 before 5-14-86, the widow(er) was not terminated at the time of age 16 attainment, but was eventually terminated at some point before 5-14-86. An overpayment letter was released (before or after 3-14-86), and the widow(er) questioned either the overpayment or the reason for termination.

The child attained age 16 before 5-14-86, the widow(er) was terminated timely, but she appealed the termination.

The widow(er) had filed an application for annuity based on the care and custody of a child between the ages of 16 and 18 prior to 5-14-86, and a denial had not been processed as of 5-14-86.

5. 30% Tier II Not Payable Effective With Last Child's Age 16 Attainment - The following conditions will not allow the 30% tier II to be payable once the last child attains age 16:

The child attained age 16 before 5-14-86, was terminated timely, and the widow(er) did not appeal the termination.

The child attained age 16 before 5-14-86, was not terminated timely, but was terminated eventually and the overpayment letter was released before 3-14-86. She did not question the overpayment in the time allowed for appeals. Whether the overpayment was recovered or not is not relevant.

It should be noted that if either of these two conditions above apply, the widow(er) is eligible to receive a 1981 Amendment tier II as long as she refiled. The OBD cannot be before 10-1-86.

6. 1937 Act Tier II - If the widow(er)'s WCIA was awarded under the 1937 RR Act, the 30% tier II remains payable through the last child's age 18 attainment.
7. Spouse Minimum Additional Amount - In certain cases, a spouse minimum additional amount may be payable in tier II. In general, a widow(er) is entitled to a spouse guaranty rate if (s)he was entitled to a spouse annuity rate in the month before the employee's death. See the detailed instructions contained in RCM 8.9 (G-364.1 instructions) to determine whether the spouse minimum amount should be disregarded or used; and, if used, whether any additional tier II spouse minimum amount is payable.
8. Vested Dual Benefit - The VDB amount is only payable to a widow who was vested as of December 31, 1974. A young mother is vested for a VDB computation if the following requirements are met:

The deceased employee had 10 years of RR service BEFORE 1-1-75;
and

The widow has a permanently or transitionally insured status under the SS Act as of 12-31-74.

NOTE: A young father is not entitled to a VDB because he could not have received such a benefit at SSA on 12-31-74.

Detailed instructions for determining vested dual benefit entitlement are found in RCM 2.1.

The terminating events for VDB entitlement described in RCM 2.1.67 also apply to WCIA cases. In addition, VDB entitlement ends when no child of the deceased employee is entitled to a CIA. If the WCIA is paid on the basis of the widow(er) having a disabled child in care and the child recovers from his disability, VDB entitlement ends with the second month following the month in which the child recovers from the disability.

- B. Spouse Minimum Guaranty - The spouse minimum guaranty provides that a spouse, who was entitled to an annuity the month before the death of an employee and was insured for survivor benefits, will receive a widow(er)'s insurance annuity of not less than the amount (s)he received the month prior to the employee's death. If the spouse annuity included an OM increase, the OM increase is excluded from the spouse minimum guaranty. The spouse minimum guaranty is considered in the tier II component and the VDB component if applicable. For more detailed information refer to the G-364.1 instructions in RCM 8.9.
- C. Widow(er) Initial Minimum Amount (WIMA) Guaranty.—The Railroad Retirement and Survivor Improvement Act of 2001 guarantees that a widow(er) type beneficiary's annuity will be calculated using 100 percent of the tier 2 that would have been used to compute the annuity for the deceased employee on the survivor OBD. This guaranty is called the WIMA, and is effective February 1, 2002.

The WIMA is computed as a component of the 1981 Amendment tier 2; therefore, only widow(er)s and young mother/father paid under the 1981 Act are eligible for the guaranty.

2.3.15 Eligibility Requirements

In addition to being the legal, or de facto (deemed) widow(er) of the employee, the applicant must meet the following requirements:

- A. Age - The widow or widower must be under age 65 when initially awarding a WCIA.
- B. Marriage Requirement - The widow(er) must meet one of the marriage requirements explained in RCM 2.1.15B.
- C. Child in Care - The widow(er) must have a child of the employee, who is entitled to a CIA (other than an FTS), in care, at the time (s)he files an application.

2.3.16 Eligibility When Employee Had Less Than 120 Months Of Service

For a complete explanation of the 120 service month requirement and the exceptions to this requirement please see RCM 5.6.4.

2.3.17 Entitlement Requirements

To be entitled to a WCIA, the widow(er) must meet:

- Meet the requirements in the preceding sections; and
- Not have remarried (a remarried widow(er), however, can receive an annuity for months prior to the month (s)he remarries); and
- Not be age 65 and entitled to a WIA; and
- File an effective application.

2.3.18 Beginning Date

The beginning date and retroactivity of a mother's /father's insurance annuity (WIA) is explained in FOM-I-111.20, FOM-I-111.51 and FOM-I-112.9.3.

2.3.19 Restrictions

- A. Restricted Employment - A widow(er) may not receive a WCIA for any month during which (s)he works for an employer covered by the RR Act.
- B. Earnings Restrictions - Regular survivor earnings restrictions apply until the month before attainment of age 72 if attainment of age 72 is before 1-1-83 or age 70 if attainment of age 70 is 1-1-83 or later.
- C. Child Not in Care - A widow(er) may not receive a WCIA for any month in which (s)he does not have a child entitled to a CIA in care.

2.3.20 Surviving Divorced Mother/Father Also Entitled To Other RR Act Annuity

- A. Entitled to RR Act Retirement Annuity - A widow(er) may receive both a retirement annuity under the RR Act and a WCIA, but the WCIA must be reduced in tier I.
- B. Entitled to RR Act Parent's Insurance Annuity - When the widow(er) of an insured employee is also entitled to a parent's insurance annuity based on the earnings record of another employee, (s)he will normally receive the higher of the two annuities. However, at the widow(er)'s election, s(he) may receive benefits on the record that results in a LOWER monthly annuity rate. For example, it may be

to a widow(er)'s advantage to elect to receive the lesser benefits for herself, so that other entitled beneficiaries can receive higher benefits for themselves.

The election to receive a smaller annuity is revocable and may be made on a month-by-month basis. A signed statement by the applicant is sufficient proof of election. This differs from an election to receive an RLS, which is an irrevocable election and must be made on Form G-126.

If it appears that it would be to a widow(er)'s advantage to receive the lesser annuity, release a memo to the F/O advising them of the facts of the case and requesting a contact with the annuitant. If the widow(er) wants the smaller annuity, secure a signed statement that establishes that the widow(er) is aware that (s)he is electing the smaller benefit.

An LSDP is not payable on the account that the annuity is not paid on because there is eligibility to a monthly benefit, whether or not it is paid.

If it does not appear to be to the widow(er)'s advantage to receive the smaller annuity, award the higher annuity, and terminate the lower annuity.

2.3.21 When Entitlement Ends

A WCIA ends with the month before the month in which any of the following events occur:

- The widow(er) dies; or
- The widow(er) attains age 65 and is entitled to a WIA; or
- The widow elects to receive a parent's insurance annuity; or
- The widow(er) remarries; or
- The widow(er) no longer has in care a child of the deceased employee who is entitled to a CIA (other than FTS.) Generally, a child is "in care" through the last month the widow(er) and child stopped living together regularly, if they lived together for at least one full day of that month (see RCM 4.7.99 for a complete definition of "child in care").

NOTE: If the WCIA is paid on the basis of the widow(er) having a disabled child in care and the child recovers from disability, pay the WCIA for two months after the month in which the child recovers.

2.3.30 Evidence Requirements

Evidence	When Required
Application	Always
Death of Employee	Always
Age of Child	Always
Relationship of Child	Always
In Care	Always. Ordinarily, the widow(er)'s statement on the application that the child lives with him/her will be sufficient. No additional proof of living with is required unless the file contains conflicting information.
Marriage	Always. (Prior to 6-1-58 documentary evidence was not required for a spouse annuity; spouse's statement of marriage was accepted if verified by the employee on G-346.)
Amount of Other RRA Annuity	Always.
Amount of SSA Benefits	Always.
Age of Widow(er)	If widow(er) will attain age 60 before youngest child attains age 18. In such a case, WCIA may be awarded without POA but case should be controlled to secure it.
Age of Employee	In "A" cases POA is required only if the employee's DOB has not been previously verified Effective 03-01-2004 POA of deceased employee is required in all "D" cases when a survivor recurring application is filed.
Legal Adoption of Child	When widow(er) seeks to qualify on that basis.
Disability of Child	When widow(er) claims child 18 or over is disabled.
Termination of Prior Marriage	When there is reasonable doubt whether prior marriage of employee or widow(er) was ended.
M/S	When the employee's M/S after 1936 would be creditable either under RR Act or under SS Act.

Guardianship (AA-5)	If guardian or other legal representative is selected as representative payee.
Amount of Wages and SEI	If employee worked in SS employment after 1936, or engaged in SEI after 1950.
Living With	Generally required only in cases of entitlement prior to 11-1-66.
Public Pension Information	Always.

2.3.36 Use of Payments Made On Behalf Of Children

If the widow(er) does not agree to use payments made on behalf of the child(ren) for the benefit of such child(ren), do not pay the widow(er) the child(ren)'s share. In such a case, develop for a substitute payee to receive the child(ren)'s share.

2.3.37 Handling Cases Involving an Alleged Disabled Child

- A. General - When a case involving an alleged disabled child is received, prepare a G-325. Request a wage breakdown and report of employers from SSA if the child has an SS A/N or has worked after 1936. Forward the case to the disability programs section for a disability determination. Make the "in care" determination before sending the folder to the disability programs section, if possible. See C below.

NOTE: It is not necessary to wait for the wage breakdown or outstanding medical evidence. Send the file to DPS as soon as the development action is initiated. If material is received while the case is in DPS, forward the material directly to DPS.

B. Child Age 18

1. Child Rated Disabled - Handle as follows:

- a. Widow(er) Initially Filing - Make an "in care" determination in accordance with RCM 4.7. If the widow(er) does not have the child in care, deny the widow(er)'s application, but award a CIA to the child.
- b. Widow(er) Currently on Rolls - If the child's disability was developed as the result of an RL-175 notice, handle as in 'a' above. If the child is still in care, prepare a manual award to process the case.

2. Child Rated Not Disabled - Handle as follows:

- a. Widow(er) Initially Filing - If the widow(er)'s eligibility depends solely upon having the alleged disabled child in care, deny the application.
- b. Widow(er) Currently on Rolls - When the child's disability was developed as the result of an RL-175 notice and the widow(er)'s continuing eligibility depends on the child, prepare the denial letter by completing Form G-225. Take appropriate action to terminate payments effective with the month the child attains age 18.

If the alleged disabled child is also an FTS, develop to pay him as such when it is apparent that he will not qualify as a disabled child. In such a case, the widow(er) cannot qualify on the basis of having an FTS in care, but the child's annuity may be continued.

NOTE: If the widow(er) will no longer be entitled on the basis of a child in care, but alleges (s)he is disabled in response to the RL-175, develop the widow(er)'s claim in accordance with RCM 2.2.

- C. Child Age 16 or 17 Prior to August 1, 1992 - The field office will develop an AA-19a and medical evidence only if it appears the child will qualify the mother or father for tier I benefits, since the child will not be paid as a disabled child until age 18. Therefore, if it is determined that the disabled child will not qualify the mother or father for tier I benefits because the child is not "in care" as defined in RCM 4.7, the child should not be rated for disability until age 18. If the "in care" requirements for a disabled child are not met, the widow(er) is still entitled to an annuity until the child attains age 18, marries, dies, or leaves her care.

If the widow(er) and child are not currently being paid, they may be paid an annuity before the case is sent for a disability rating.

1. Child Rated Disabled - Handle as follows:
 - a. Widow(er) Initially Filing - As long as the child is "in care," the widow(er) is entitled to a full annuity. The child is paid with the beneficiary symbol "C" until age 18. Send a G-59 to Research to inform them that the minor child is disabled. Include code paragraph 524.1 or 524.2 and 836.3 in the award letter.
 - b. Widow(er) Currently on Rolls - As long as the child is "in care," the widow(er) is entitled to a full annuity. The child is paid with the beneficiary symbol "C" until age 18. Send a G-59 to Research to inform them that the minor child has been rated disabled. If no award action is necessary, release code letter 560.3 to the widow(er). If the annuity must be adjusted or reinstated, include code paragraph 524.1 or 524.2 and code paragraph 836.3 in the award letter.

2. Child Rated Not Disabled - Handle as follows:

- a. Widow(er) Initially Filing - The widow(er) is technically entitled to an annuity until the child attains age 18, marries, dies, or leaves her (his) care, but no tier I is payable. Pay widow the 1981 tier II only until the child attains age 18.
- b. Widow(er) Currently on Rolls - The widow(er) is technically entitled to an annuity until the child is 18, marries, dies or leaves her (his) care. However, tier I is no longer payable. Take appropriate action to adjust payments effective with the month the child attains age 16.

D. Child Attains Age 16 on or After August 1, 1992

Beginning August 1, 1992, the Board approved a change in policy which ceased the termination of tier I benefits to the young mother/father whose last child attained age 16. Therefore, the disability determination for a child will now be developed at the time the child attains age 18.

2.3.40 Initial WCIA Awards

A widow(er) must be under age 65 when initially awarding a WCIA. Although a widow(er) of an insured employee may be eligible for a WIA at age 60, consider a widow(er) age 60 through 64 with a child in care as a young mother/father (75% beneficiary). Such a widow(er) will convert to a 100% beneficiary with age reduction, if appropriate, effective with the earlier of:

- The first day of the month in which (s)he no longer has a child in care; or
- The first day of the month in which (s)he attains age 65.

If the widow(er), age 60 or over, who is entitled to a WCIA, asks if (s)he could receive a higher rate, recompute the case at the WIA rate reduced for age and furnish the widow(er) full information. (S)he may elect to receive this rate if (s)he wishes.

WCIA cases can be awarded via SURCAL unless one of the circumstances listed in RCM 9.1 Appendix B, G-360 instructions exists. Handle manually any case which falls into one or more of the listed exceptions.

2.3.45 Spouse To WCIA

- A. General - So that (s)he may continue to receive benefits without interruption, the widow(er) of an employee with at least 120 months of RR service and a C/C is deemed to have filed an application for WCIA. (S)he continues to receive the spouse annuity until the WCIA is awarded, unless evidence in file creates doubt as to the eligibility for a WCIA. However, such payments are restricted to a

"reasonable" period after the month in which the employee died. If first notice of death is received more than six months after the month of death, suspend the spouse annuity and request the F/O to determine why the widow(er) has not filed.

- B. Application Filed Before the 6 Month Notice Received - If the widow(er) is not eligible for a WCIA terminate the spouse annuity and set up any overpayment in accordance with RCM 6.6.

When the widow(er) is eligible for a WCIA, prepare the case for payment. Do not terminate the spouse annuity if the WCIA will be awarded on a recurring basis. However, if the initial award will be a one-payment-only due to death, child no longer in care, etc., terminate the spouse annuity.

- C. Application Not Filed Before the 6 Month Notice Received - If the 6 month notice is received and an application has not been filed, request the F/O to determine why the widow(er) does not file (e.g., death or child not in care) and whether payments made to the widow(er) after the employee's death were proper.

If the widow(er) meets all requirements for entitlement to and receipt of WCIA, other than the filing of an application, the spouse payments made before filing an application are not erroneous. The rule applies regardless of the reason for failure to file (i.e., whether (s)he died or merely neglected to file) and, if (s)he died, regardless of the date (s)he died.

If the widow(er) died before filing an application, the widow(er)'s share of the WCIA or any difference between the widow(er)'s share and the spouse annuity in force at death is an annuity due but unpaid at death (see RCM 2.7).

2.3.46 DWIA To WCIA

If the widow(er) is currently receiving a DWIA and (s)he now has an eligible child in care, convert the DWIA to WCIA. As long as (s)he continues to have an entitled child in care, (s)he may receive a WCIA.

2.3.47 Converting WCIA To WIA

The widow(er) of an employee with 120 months RR service and a C/C is eligible for a WIA at age 60. No application is needed to convert an in-force WCIA to a WIA.

Ordinarily, a WCIA is not converted to a reduced WIA until the widow(er) is no longer entitled to a WCIA. However, if a widow(er), aged 60-64 entitled to a WCIA, asks to receive a higher rate, tell the widow(er) the amount of the reduced WIA and the consequences of electing to receive it. (S)he may elect to be paid the WIA rate after (s)he has been furnished this information. If (s)he does so, do not offer the widow(er) the option to cancel (Code Paragraph 509) in the award letter when initially awarding, or

recertifying to, the reduced WIA. Retroactivity of the WIA rate in such a case is restricted to the latest of the following:

- The 12th month before the month (s)he submits the election; or
- The month in which (s)he attained age 60; or
- The month of the widow(er)'s WCIA DOE.

Usually conversions from WCIA to WIA will occur as follows:

- A. At or After Age 50, But Before Age 60 - If a widow(er)'s entitlement to a WCIA terminates in or after the month in which (s)he attains age 50 and before (s)he has attained age 60, (s)he may continue to be paid only if (s)he qualifies for a disabled widow(er)'s annuity (DWIA).
- B. At or After Age 60, But Before Age 65 - If the last child in the widow(er)'s care attains age 18 or leaves the widow(er)'s care while the widow(er) is between the ages of 60 and 65 and in pay status, the widow(er)'s annuity must be converted to a reduced age WIA rate (provided that all eligibility requirements are met) based on the widow(er)'s age at the time of the conversion.

Upon receipt of such a case,

- review file to determine if proof of age for the widow(er) is in file, and
- recertify WCIA to (D)WIA or, if benefits were terminated, prepare a reinstatement-recert award for the (D)WIA.

NOTE: If proof of the widow(er)'s age is not in file, initiate development for the proof through the field office. Do not award the WIA until this proof is received.

- C. Offering Cancellation Option - If the widow(er) is between the ages of 60 and 65 and the WIA rate is reduced in tier I, the option of returning the WIA check(s), cancelling the annuity and reapplying later must be offered with the first payment at the reduced rate. Use CP 509 for this purpose. In EDP awards CP 509 will be included automatically. In manual awards, in addition to the usual information included in the ALTA award letter, request CP 509.

If the WIA at 65 will be no higher at 65 because the RIB limitation rule applies initially, do not offer the widow(er) an option to cancel.

If the widow(er) has been rated disabled for Medicare purposes, add the following to the award letter if CP 509 is included:

"If you choose to terminate your annuity payments now and select a later beginning date, you will no longer be qualified for Medicare before age 65".

- D. Conversion of WC-to-W, Widow Age 65 - If, in the month in which a widow(er) attains age 65, (s)he still has a child under age 18 in care, the diary program will produce a referral. The referral will contain the message "NO COMPUTER ACTION TAKEN--PROCESS MANUALLY--WIDOW AGE 65--CHILD INVOLVED." Upon receipt, convert the case to a WIA even though the maximum may prevent any increase in the monthly benefit rate. Establish the widow(er)'s OBD as the first of the month in which (s)he attained age 65.

When the child's annuity terminates, recertify the widow(er)'s annuity to the full WIA rate to which (s)he is entitled.

NOTE: If the conversion will cause the total family benefits to decrease; send the case to SAPT before the conversion.

2.3.100 Surviving Divorced Mother's (Father's) Annuity

A surviving divorced mother (father) is an individual divorced from an employee who has died and who had 120 months of railroad service and a current connection but only if (s)he:

- is the natural mother (father) of the employee's child, or
- legally adopted the employee's child while (s)he was married to him (her) and before the child attained age 18, or
- is the mother (father) of a child who was legally adopted by the employee while (s)he was married to him (her) and before the child attained age 18, or
- was married to the employee at the time both of them legally adopted a child under age 18.

Note, however, that the surviving divorced mother (father) must have in her (his) care a child who is under age 16 or age 16 or over and disabled to be entitled to a benefit.

2.3.101 Surviving Divorced Mother's (Father's) Annuity

The annuity consists of a tier I component only. It is equal to a 75% share of the EE's PIA or maximum. This amount is reduced by:

- The amount of any SS benefit.

The Railroad Retirement net tier I amount or total employee annuity. Refer to RCM 8.9, G-364.1, item 42 instructions. If the surviving divorced mother/father becomes entitled to a railroad retirement spouse annuity, only the higher of the spouse or surviving divorced mother's/father's annuity is payable.

Two-thirds of the amount of any public pension if first eligible for a public pension 7-1-83 or later. If first eligible for a public pension before 7-1-83, the surviving divorced mother/father may be exempt from public pension offset; if not, Tier I is reduced by the full amount of the public pension. (See RCM 2.1.300-2.1.314 for further information on public service pensions.)

Payment of the Tier I benefit may be affected by certain SSA nonpayment provisions. Refer to SAPT any cases in which alien nonpayment provisions, conviction for subversive activities, deportation, (including deportation of the deceased employee due to associations with the NAZI government of Germany during World War II), or other nonpayment provisions of the SS Act are involved.

2.3.102 Eligibility Requirements

In addition to having been divorced from an employee who has died and who had 120 months of railroad service or at least 60 months of RR service after 1995, and a current connection, an applicant for a surviving divorced mother's (father's) annuity must meet the following requirements:

- A. Age - The surviving divorced mother (father) must not be entitled to a surviving divorced spouse's annuity, that is, (s)he should be under age 65.

NOTE: If an individual files who is over age 65, and who has a child under age 16 or over age 16 and disabled in her (his) care, and (s)he cannot qualify as a surviving divorced spouse because (s)he does not meet the 10-year marriage requirement, (s)he may be paid as a surviving divorced mother (father).

- B. Marriage - The surviving divorced mother (father) must:

- have been finally divorced from the employee. (There is no 10-year marriage requirement.)
- Be unmarried.

(S)he may qualify as a surviving divorced mother (father) even though (s)he remarried after the divorce from the employee as long as the later marriage or marriages have terminated.

NOTE: If an applicant is married at the time of filing, but was unmarried at some time in the retroactive period, (s)he can be paid for those months in the retroactive period during which (s)he is entitled. (See RCM 2.3.104 "Beginning Date" for information on retroactivity.)

If, at the employee's death, the divorce has not become effective so as to finally dissolve the marriage, the applicant may qualify as a young mother (father) rather than as a surviving divorced mother (father).

- C. Child in Care - The surviving divorced mother (father) must have in her care the employee's natural or legally adopted child who is;
- under age 16 or age 16 or older and disabled, and
 - entitled to a child's annuity on the employee's account. (The child does not actually have to be receiving an annuity.)
- D. RIB - The surviving divorced mother (father) must not be entitled to an RIB which equals or exceeds 75% of the employee's PIA.

2.3.103 Filing

To be entitled to a surviving divorced mother's (father's) annuity, the applicant must:

- meet the eligibility requirements outlined above.
- file an application.

Surviving divorced mothers (fathers) will complete an AA-18 to apply for an annuity.

2.3.104 Beginning Date

The beginning date and retroactivity of a surviving divorced mother's/father's insurance annuity is explained in FOM-I-111.20, FOM-I-111.51 and FOM-I-112.9.3.

2.3.105 Restrictions

- A. Earnings Restrictions - A surviving divorced mother (father) under age 70 is subject to regular survivor earnings restrictions.
- B. Child Not in Care - A surviving divorced mother's (father's) annuity is not payable for any month in which (s)he does not have a child entitled to a child's annuity in her (his) care.

2.3.106 Surviving Divorced Mother (Father) Entitled To Other RR Act Annuity

- A. Entitled to RR Act Retirement Annuity - A surviving divorced spouse may receive both a surviving divorced mother's (father's) annuity and a retirement annuity under the RR Act, but the surviving divorced mother's (father's) annuity must be reduced for the net tier I amount of the retirement annuity, or if applicable, the total retirement annuity.
- B. Entitled to 1974 Act Spouse's, Widow's or Parent's Annuity - If the surviving divorced mother/father annuity is larger, entitlement to the other annuity exists;

however, it is not payable. If the surviving divorced mother/father annuity is smaller, no entitlement exists and the annuity should be terminated using code 46, or denied as appropriate. Any overpayment should be recovered from the 74 Act annuity.

If the 74 Act Annuity terminates and the surviving divorced widow(er)'s current insurance annuity is payable, a new application will be required.

NOTE: The surviving divorced mother/father cannot elect to receive the smaller 1981 Act annuity as there is no entitlement.

- C. More Than One 1981 Act Survivor Annuity Involved - If an individual files for more than one of these annuities (s)he is only entitled to the larger annuity. Therefore, deny the smaller annuity per usual procedure.

2.3.107 RLS Previously Paid

See the instructions in the section on surviving divorced spouse in RCM 2.1.108.

2.3.108 When Surviving Divorced Mother (Father) Marries

When a surviving divorced mother (father) remarries, her/his annuity terminates unless (s)he marries an individual entitled to a retirement or disability or widow(er)'s, father's/mother's, parent's or child's disability benefit under the RR or SS Act.

- A. Marriage Not to a Qualifying Beneficiary - If the surviving divorced mother (father) reports that (s)he has married and it does not appear that (s)he married one of the above beneficiaries, terminate her (his) annuity, notify her/him with code paragraph 505.2, and recover any overpayment in the usual manner. Transfer any SS benefit we are certifying to SSA. If that marriage terminates, (s)he can become entitled to an annuity as a surviving divorced mother/father, or spouse again, beginning with the month the marriage ends.
- B. Surviving Divorced Mother (Father) Alleges That Marriage is to a Qualifying Beneficiary - If the surviving divorced mother (father) alleges that her (his) marriage was to one of the above beneficiaries, the field office will secure the date of marriage and the spouse's name and social security number.
- Use the spouse's SSN to verify that (s)he is receiving a retirement or disability, widow(er)'s, father's/mother's, parent's or child's disability benefit at RRB or SSA.

NOTE: If the surviving divorced mother (father) marries an annuitant entitled to a widow(er)'s, father's/mother's, or parent's benefit at RRB, the marriage will cause his (her) annuity to terminate. However, if (s)he was entitled to that annuity at the time (s)he married the surviving divorced mother (father) that marriage will not cause the surviving divorced mother's (father's) annuity to end.

- If the spouse's entitlement cannot be verified before the next check is released (i.e., before FAST S/T cut-off), suspend the annuity and notify her/him with code paragraph 505.5.
- If it is determined that her (his) entitlement to a surviving divorced mother's (father's) annuity can continue, reinstate her (his) annuity if it was suspended. (S)he will continue to be paid as a surviving divorced mother (father); (s)he will not be converted to a "remarried" beneficiary. If benefits were not suspended and they may continue; no action is necessary. If the surviving divorced mother (father) qualified for continued benefits because (s)he married a child's disability beneficiary, inform her in the reinstatement letter that (s)he must notify us if her (his) spouse's disability benefits terminate.
- If it is determined that the marriage will not qualify the surviving divorced mother (father) for continued benefits, terminate the annuity and recover any overpayment in the usual manner.

2.3.109 When Entitlement Ends

The entitlement of a surviving divorced mother (father) ends with the month before the month in which one of the following occurs:

- (s)he dies.
- (s)he remarries, unless the marriage is to an individual entitled to a retirement or disability benefit or a widower's father's/mother's, parent's or disabled child's benefit under the RR Act or SS Act.

Before the 1983 SS Amendments, if the marriage was to an individual receiving a disability benefit or a child's disability benefit, her/his entitlement ended the same month the spouse's benefits terminated unless the spouse's benefits terminated because (s)he died or became entitled to a retirement benefit at age 65.

Under the Amendments, surviving divorced mother's (father's) benefits payable for May 1983 or later are not terminated if the spouse's last month of entitlement to a disability benefit is May 1983 or later (i.e., the disability benefit terminates in June 1983 or later).

If a surviving divorced mother's (father's) annuity was terminated because the spouse's disability ceased, (s)he cannot be re-entitled to a surviving divorced mother's (father's) annuity if the spouse qualifies for a disability annuity again.

- no natural or legally adopted child of hers (his) who is under age 16 or disabled is entitled to a child's annuity on the deceased employee's account.
- (s)he attains age 65. If (s)he was married to the employee for 10 years, (s)he will qualify for an annuity as a surviving divorced spouse.

NOTE: If, when the surviving divorced mother (father) attains age 65, (s)he has a child in her (his) care and does not meet the 10-year marriage requirement for entitlement as a surviving divorced spouse, (s)he may continue to be paid as a surviving divorced mother (father) as long as the child is in care.

- (s)he becomes entitled to an RIB which equals or exceeds 75% of the employee's PIA.
- (s)he becomes entitled to a railroad spouse annuity which is higher than the annuity (s)he is receiving as a surviving divorced mother (father).

2.3.110 Effect Of SS Entitlement On Surviving Divorced Other's/Father's Annuity

The surviving divorced mother cannot be entitled to an RIB on her (his) own earnings record that equals or is larger than 75% of the employee's PIA.

- If the surviving divorced mother (father) is entitled to such an RIB at the time (s)he files for an annuity as a surviving divorced mother (father), deny her (his) application.
- If the surviving divorced mother (father) becomes entitled to such an RIB after her (his) entitlement as a surviving divorced mother (father):
- terminates her (his) annuity
- transfer any SS benefit which RRB is certifying to SSA (see SSC procedure "Transferring SSA Payment Jurisdiction to SSA" sec. 1000 et seq.)

If the surviving divorced mother (father) is entitled to a DIB which exceeds 75% of the employee's PIA or to an RIB which is larger than her (his) annuity rate but not larger than 75% of the employee's PIA, (s)he would technically be entitled to an annuity, but her (his) annuity rate would be zero. Since the surviving divorced mother (father) is included in the family maximum, and her (his) inclusion would cause a reduction in the total benefits payable to the family group, advise her (him) to withdraw her (his) application if her (his) annuity rate would be zero.

2.3.111 Evidence Requirements

Evidence	When Required
Application	Always
Death of Employee	Always
Age of Child	Always

Relationship of Child	Always
Compensation, Wages and SEI	Always
In Care	Always. Ordinarily, the surviving divorced mother's (father)'s statement on the application that the child lives with her (him) will be sufficient.
Marriage	Always
Amount of Other RRA Annuity	Always
Amount of SSA Benefits	Always
Age of Surviving Divorced Mother (Father)	If surviving divorced mother (father) will attain age 60 before the youngest child attains age 16, and the surviving divorced mother (father) was married to the employee for 10 years. In such cases, the surviving divorced mother's (father's) annuity may be awarded without POA but the case should be controlled to secure it.
Age of Employee	In "A" cases POA is required only if the employee's DOB has not been previously verified Effective 03-01-2004 POA of deceased employee is required in all "D" cases when a survivor recurring application is filed.
Legal Adoption	When surviving divorced mother (father) seeks to qualify on that basis.
Disability of Child	When surviving divorced mother (father) claims child 16 or over is disabled.
Termination of Prior Marriage	When there is reasonable doubt whether prior marriage of employee or surviving divorced mother (father) was ended.
M/S	When the employee's M/S after 1936 would be creditable either under RR Act or under SS Act.
Guardianship (AA-5)	If guardian or other legal representative is selected as representative payee.

Proof of Divorce From EE	Always
Proof of Termination of Remarriage	If the surviving divorced spouse had remarried after her (his) divorce from the EE or if (s)he remarried after her (his) initial entitlement to a surviving divorced mother's (father's) annuity and her (his) annuity terminated.
Spouse SSN	If a surviving divorced mother (father) marries an individual whose eligibility for benefits allows her (his) entitlement to continue.
Public Pension Information	Always

2.3.112 Awarding Initial Surviving Divorced Mother's (Father's) Annuity

A surviving divorced mother (father) must be under age 65 when (s)he is initially awarded a surviving divorced mother's annuity, unless (s)he does not meet the 10-year marriage requirement and (s)he has a child under age 16 or over age 16 and disabled in her care.

If a surviving divorced spouse is age 60-64 and (s)he has a child in care, (s)he may be paid either as a surviving divorced mother (father) or as a surviving divorced spouse, whichever is more advantageous. Note that the surviving divorced mother (father) is included in the family maximum while the surviving divorce spouse is not and that a child may be paid the sole survivor minimum if the only other beneficiary is a surviving divorced spouse.

Unless it is advantageous to pay her (him) as a surviving divorced spouse, (s)he may be paid as a surviving divorced mother (father) and converted to a 100% beneficiary with age reduction, if appropriate, effective with the earlier of:

- The first day of the month in which (s)he no longer has a child under age 16 or over age 16 and disabled in her (his) care; or
- The first day of the month in which (s)he attains age 65.

If the surviving divorced spouse is age 65 or older and (s)he cannot qualify for an annuity as a surviving divorced spouse since (s)he was not married to the employee for 10 years, (s)he may be paid an annuity as a surviving divorced mother (father) as long as (s)he has a child under age 16 or age 16 or over and disabled in her (his) care.

2.3.113 Disabled Surviving Divorced Spouse To Surviving Divorced Mother

If a disabled surviving divorced spouse has an eligible child under age 16 or 16 and over and disabled in her (his) care, her (his) annuity may be converted to a surviving divorced mother's (father's) annuity for as long as (s)he continues to have an entitled child in her (his) care.

2.3.114 Surviving Divorced Mother (Father) To Surviving Divorced Spouse

A surviving divorced spouse must have been married to the employee for 10 years before the divorce became final. Therefore, in order to be converted to a surviving divorced spouse's annuity, the surviving divorced mother (father) must meet the 10-year marriage requirement. The surviving divorced mother (father) will have submitted proof of marriage and proof of divorce at the time (s)he filed for the surviving divorced mother's (father's) annuity. If (s)he meets the marriage and other requirements, her (his) annuity can be converted to a surviving divorced spouse's annuity as described below. If (s)he does not meet the 10-year marriage requirement, her (his) annuity will terminate when (s)he is no longer eligible as a surviving divorced mother (father).

Converting before entitlement to a surviving divorced mother's (father's) annuity ends - Ordinarily, a surviving divorced mother's (father's) annuity is not converted to a reduced surviving divorced spouse's annuity until (s)he is no longer entitled to a surviving divorced mother's (father's) annuity. However, if a surviving divorced mother (father) age 60-64, asks to receive a higher rate, tell the annuitant the amount of the reduced surviving divorced spouse's annuity, and the consequences of electing it. (S)he may elect to be paid the reduced surviving divorced spouse's annuity after (s)he has been furnished with this information. (If (s)he does so, do not offer the option to cancel when recertifying as a spouse. Retroactivity of the surviving divorced spouse's rate is restricted to the latest of the following:

- The month she submits the election; or
- The month in which (s)he attained age 60; or
- The month of the surviving divorced mother's annuity DOE.

Conversion from surviving divorced mother (father) to a surviving divorced spouse will generally be as follows:

- A. At or After Age 50, but Before Age 60 - If a surviving divorced mother's (father's) entitlement ends in or after the month in which (s)he attains age 50 and before (s)he attains age 60, (s)he may continue to be paid only if (s)he qualifies for a disabled surviving divorced spouse's annuity.

- B. At or After Age 60, but Before Age 65 - If the last child in the mother's (father's) care attains age 16 or leaves the mother's (father's) care while the mother (father) is between age 60 and 65 and in pay status, the mother's (father's) annuity must be converted to a reduced age surviving divorced spouse's rate (provided that all the eligibility requirements are met) based on the surviving divorced spouse's age at the time of conversion. If (s)he does not meet the 10-year marriage requirement her (his) annuity is terminated.

Handle a case in which a surviving divorced mother (father) is being converted to a surviving divorced spouse's annuity because the child attained age 16 as follows:

- terminate the divorced mother's payments; and
- prepare a new award (reinstatement-recert) for the surviving divorced spouse.

When converting the surviving divorced mother's annuity to a reduced surviving divorced spouse's annuity, use the first of the month in which the last child left the surviving divorced mother's or father's care as the DOE.

- C. Offering Cancellation Option - If the surviving divorced spouse is between the ages of 60 and 65 and her (his) annuity is reduced for age, the option of returning the checks, cancelling the annuity and reapplying later must be offered with the first payment at that reduced rate.

If the surviving divorced spouse's rate will be no higher at age 65 because the RIB limitation applies initially, do not offer the option to cancel.

- D. At Age 65 - If in the month in which a surviving divorced spouse attains age 65 (s)he still has a child under age 16 or over age 16 and disabled in her care, convert the annuity to a surviving divorced spouse's annuity if (s)he meets the 10-year marriage requirement. Establish her (his) surviving divorced spouse's OBD as the first of the month in which (s)he attains age 65.

If (s)he does not meet the 10-year marriage requirements, allow her (his) annuity to continue until the child attains age 16 or is no longer in her (his) care.

2.3.200 Remarried Young Mother's (Father's) Annuity

A remarried young mother (father) is the surviving legal or defacto spouse of a deceased employee who has an eligible child under age 16 or over age 16 and disabled in her (his) care who remarried after the employee's death but is now unmarried unless (s)he remarried after (s)he attained age 60 or (s)he remarried after entitlement to a young mother's/father's or remarried young mother's/(father's) annuity and that marriage was to an individual entitled to a retirement or disability benefit or a widow(er)'s, father's/mother's, parent's or child's disability benefit under the RR Act or SS Act.

2.3.201 Remarried Young Mother's (Father's) Annuity

The annuity consists of a tier I component only. It is equal to a 75% share of the EE's PIA or maximum. This amount is reduced by:

- The amount of any SS benefit payable.
- The net tier I amount or the total Railroad Retirement annuity as defined in RCM 8.9 G-364.1 item 42 instructions. If the surviving divorced mother (father) becomes entitled to an RR retirement spouse annuity, only the larger of the spouse or remarried young mother's (father's) annuity is payable.
- Two-thirds of the amount of any public pension if first eligible for a public pension 7-1-83 or later. If first eligible for a public pension before 7-1-83, the remarried young mother/father may be exempt from public pension offset; if not, Tier I is reduced by the full amount of the public pension. (See RCM 2.1.300-2.1.314 for further information on public service pensions.)

Payment of the tier I benefit may be affected by certain SSA nonpayment provisions. Refer to SAPT, any cases in which alien nonpayment provisions, conviction for subversive activities, deportation, (including deportation of the deceased employee due to associations with the NAZI government of Germany during World War II), or other nonpayment provisions of the SS Act are involved.

2.3.202 Eligibility Requirements

- A. Age - The remarried young mother (father) must not be entitled to a remarried widow(er)'s annuity, that is, (s)he should be under age 65.
- B. Marriage - The remarried young mother (father) must meet the marriage requirement for a widow as explained in RCM 2.1.15. Either her marriage(s) after the employee's death must have ended so that (s)he is now unmarried or if (s)he remarries after her (his) entitlement to a young mother's (father's) or remarried young mother's (father's) annuity, that marriage must have occurred after (s)he attained age 60 or it must have been to an individual entitled to a retirement or disability or widow(er)'s, parent's, father's/mother's or child's disability benefit.
- C. Child in Care - The remarried young mother (father) must have in her (his) care a child of the deceased employee who is:
- under age 16 or age 16 or older and disabled and
 - entitled to a child's annuity.
- D. RIB - The remarried young mother (father) must not be entitled to an RIB which equals or exceeds 75% of the employee's PIA.

2.3.203 When Application Required

To be initially entitled as a remarried young mother (father) the applicant must:

- meet the eligibility requirements outlined above, and
- file an application

No application is required for a remarried young mother's (father's) annuity if (s)he was entitled to a young mother's (father's) annuity in the month (s)he married an individual entitled to a retirement or disability or widow(er)'s, parent's, father's/mother's, or child's disability benefit.

The field office will secure proof of remarriage and the new spouse's social security number so that his (her) entitlement can be verified.

2.3.204 Beginning Date

The beginning date and retroactivity of a remarried young mother's/father's insurance annuity is explained in FOM-I-111.20, FOM-I-111.51 and FOM-I-112.9.3.

2.3.205 Restrictions

- A. Earnings Restrictions - A remarried young mother (father) under age 70 is subject to regular survivor earnings restrictions.
- B. Child Not In Care - A remarried young mother's (father's) annuity is not payable for any month in which (s)he does not have a child entitled to a child's annuity in her (his) care.

2.3.206 Remarried Young Mother (Father) Also Entitled To Other RR Annuity

- A. Entitled to RR Act Retirement Annuity - A remarried young mother (father) may receive both a remarried young mother's (father's) annuity and a retirement annuity under the RR Act, but the remarried young mother's (father's) annuity must be reduced for the net tier I amount or, if applicable, the total amount, of the retirement annuity.
- B. Entitled to 1974 Act Spouse's, Widow's or Parent's Annuity - If the remarried young mother/father annuity is larger, entitlement to the other annuity exists; however, it is not payable. If the remarried young mother/father annuity is smaller, no entitlement exists and the annuity should be terminated using code 46, or denied as appropriate. Any overpayment should be recovered from the 74 Act annuity.

If the 74 Act Annuity terminates and the remarried young widow(er)'s current insurance annuity is payable, a new application will be required.

NOTE: The remarried young mother/father cannot elect to receive the smaller 1981 Act annuity as there is no entitlement.

- C. More than One 1981 Act Survivor Annuity Involved - If an individual files for more than one of these annuities, (s)he is only entitled to the larger annuity. Therefore, deny the application for smaller annuity per usual procedure.

For further information, see RCM 2.1.208.

2.3.207 RLS Previously Paid

See the instructions in the section on Remarried Widow(er)s in RCM 2.1.209.

2.3.208 When Entitlement Ends

The entitlement of a remarried young mother (father) ends with the month before the month in which one of the following occurs:

- (s)he dies.
- (s)he remarries before age 60, unless the marriage is to an individual entitled to a retirement or disability benefit or a widow(er)'s, father's/mother's, parent's or disabled child's benefit under the RR Act or SS Act.

Before the 1983 SS Amendments, if the marriage was to an individual receiving a disability benefit or a child's disability benefit, her (his) entitlement ended the same month the spouse's benefits terminated unless the spouse's benefits terminated because (s)he died or became entitled to a retirement benefit at age 65.

Under the 1983 Amendments, remarried young mother's (father's) benefits payable for May 1983 or later are not terminated if the spouse's last month of entitlement to a disability benefit is May 1983 or later (i.e., the disability benefit terminates in June 1983 or later).

If a remarried young mother's (father's) annuity terminated because the spouse's disability ceased, (s)he cannot become re-entitled to a remarried young mother's (father's) annuity if the spouse qualifies for a disability annuity again.

- no child of the deceased EE under age 16 or disabled is entitled to a child's benefit.
- (s)he attains age 65 and is entitled to a remarried widow(er)'s annuity.
- (s)he becomes entitled to an RIB which equals or exceeds 75% of the employee's PIA.

- (s)he becomes entitled to a railroad spouse or widow(er)'s annuity which is higher than the annuity (s)he is receiving as a remarried young mother (father).

2.3.209 Evidence Requirements

Evidence	When Required
Application	Always, unless the remarried young mother (father) was entitled to a young mother's (father's) annuity in the month (s)he married an individual entitled to certain benefits.
Death of Employee	Always
Age of Child	Always
Relationship of Child	Always
Compensation, Wages and SEI	Always
In Care	Always. Ordinarily, the remarried young mother's (father's) statement in the application that the child lives with her (him) will be sufficient.
Marriage	Always
Proof of Termination of Remarriage	If widow(er) remarried before her (his) entitlement.
Spouse's SSN	If a currently entitled annuitant marries an individual whose eligibility for certain benefits allows her (his) entitlement to continue.
Public Pension Information	Always
Amount of Other RRA Annuity	Always
Amount of SSA Benefits	Always
Age of Remarried Young Mother	If remarried young mother (father) will attain age 60 before the youngest child attains age 16. In such a case, the remarried young mother's/father's annuity may be

	awarded without POA but, the case should be controlled to secure it.
Age of Employee	In "A" cases POA is required only if the employee's DOB has not been previously verified Effective 03-01-2004 POA of deceased employee is required in all "D" cases when a survivor recurring application is filed.
Legal Adoption of Child	Only when remarried widow(er) seeks to qualify on that basis.
Disability of Child	When remarried young mother (father) claims child 16 or over is disabled.
Termination of Prior Marriage	When there is reasonable doubt whether prior marriage of employee or remarried young mother (father) was ended.
M/S	When the employee's M/S after 1936 would be creditable under either RR Act or SS Act.
Guardianship (AA-5)	If guardian or other legal representative is selected as representative payee.

2.3.210 Young Mother (Father) Currently On the Rolls Remarries

When a young mother (father) remarries her (his) young mother's (father's) annuity terminates but she may be entitled to further benefits as a remarried young mother (father) if (s)he marries after age 60 or (s)he marries an individual entitled to a retirement or disability or widow(er)'s, father's/mother's, parent's or child's disability benefit under the RR Act or SS Act.

Similarly, a remarried young mother/father who qualifies for initial entitlement as a remarried young mother (father) (and is, therefore, unmarried at the time of initial entitlement) and who remarries may continue to be entitled only if (s)he marries after age 60 or (s)he marries an individual entitled to one of the above benefits. Handle this situation according to the procedure in RCM 2.3.108, i.e., terminate or suspend depending on whether there is or may be continued entitlement.

- A. Handling - When notice is received that the young mother (father) has married, terminate the young mother's (father's) annuity. Use code 44 on FAST S/T.
- If (s)he is entitled to a remarried young mother's (father's) annuity, reinstate benefits under her (his) new beneficiary code or payee symbol. If (s)he is entitled to an SS benefit, allow that benefit to continue under the young mother's (father's) claim number.

- If it is determined that there is no further entitlement transfer her (his) SS benefit to SSA.
- If (s)he is entitled to an annuity, but it is disadvantageous to the family group to include the young mother (father) in the computation, terminate the young mother's (father's) annuity and adjust the remaining family members based on the young mother's (father's) exclusion (except in split family groups). Advise the mother (father) we will not include her in the computation since her (his) inclusion would cause the amount payable to the family group to be less. Also inform her (him) that if it will be advantageous to include her (him) in the family group at a later date, we will make the necessary adjustment.

B. Overpayment Involved

- If checks have been released for any month in which there is no entitlement, ask for the gross amount back according to current overpayment procedure.
- If there is entitlement to a remarried young mother's (father's) annuity for a month for which a not-due payment of her young mother's (father's) annuity was made, withhold the accrual to recover her (his) young mother's (father's) annuity overpayment, start benefits in the current month, and follow due process procedures to recover the remaining overpayment.

2.3.211 Awarding Initial Remarried Young Mother's (Father's) Annuity

A remarried young mother (father) must be under age 65 when initially awarding a remarried young mother's (father's) annuity. If a remarried widow(er) is age 60-64 and (s)he has a child in care, (s)he may be paid either a remarried widow(er)'s annuity or a remarried young mother's/father's annuity, whichever is higher. If paid as a remarried young mother (father), (s)he will convert to a 100% beneficiary with age reduction, if appropriate, effective with the earlier of:

- The first day of the month in which (s)he no longer has a child under age 16 or over age 16 and disabled in her (his) care; or
- The first day of the month in which (s)he attains age 65.

If the remarried young mother (father), age 60 or over, asks if (s)he could receive a higher rate, recompute the case at the remarried widow(er)'s rate reduced for age and furnish the remarried widow(er) with full information. (S)he may elect to receive this rate if (s)he wishes.

2.3.212 Remarried Disabled Widow(er) To Remarried Young Mother (Father)

If a disabled remarried widow(er) has an eligible child under age 16 or 16 or over and disabled in her (his) care, convert her (his) disabled remarried widow(er)'s annuity to a remarried young mother's (father's) annuity. As long as (s)he continues to have an entitled child in her (his) care, (s)he may receive a remarried young mother's (father's) annuity.

2.3.213 Remarried Young Mother (Father) To Remarried Widow(er)

Conversions from remarried young mother (father) to remarried widow(er) will be as follows:

- A. At or After Age 50, But Before Age 60 - If a remarried young mother's (father's) entitlement ends in or after the month in which (s)he attains age 50 and before (s)he has attained age 60, (s)he may continue to be paid only if (s)he qualifies for a disabled remarried widow(er)'s annuity.
- B. At or After Age 60, But Before Age 65 - If the last child in the mother's (father's) care attains age 16 or leaves the mother's (father's) care while the mother (father) is between the ages of 60 and 65 and in pay status, the mother's (father's) annuity must be converted to a reduced age remarried widow(er)'s rate (provided that all the eligibility requirements are met) based on the remarried widow(er)'s age at the time of the conversion.

To adjust such a case, terminate the remarried young mother/father payments and prepare a new award for the remarried widow(er) as a reinstate-recert award.

When converting the remarried young mother's (father's) annuity to a reduced remarried widow(er)'s annuity, use the first of the month in which the last child left the remarried young mother's (father's) care as the DOE.

- C. At Age 65 - If in the month in which a remarried widow(er) attains age 65 (s)he still has a child under age 16 in care, convert the annuity to a remarried widow(er)'s annuity.

Appendices

Appendix A - Surviving Young Mother/Father Legislative History

Effective Date	Surviving Young Mother/Father Insurance Annuity Provision
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1-1-47	If the deceased employee is completely or partially insured, the unremarried surviving young mother who has in her care a child of the employee eligible for a child's insurance annuity may receive an annuity equal to $\frac{3}{4}$ of the basic amount.
11-1-51	Benefit increased to full basic amount and survivor O/M computation introduced. O/M annuity equal to 75% of deceased employee's PIA.
9-1-54	Surviving young mother may qualify on basis of having in her care the employee's disabled child over 18 who became disabled before age 18.
9-1-55	Dual benefit reduction in RR formula annuity no longer required.
9-1-57	"Not living with" surviving young mother can be included in survivor O/M computation.
9-1-58	Survivor O/M computation could include in awards made before 10-5-72: <ul style="list-style-type: none"> • Young mother or young surviving divorced wife) with child-in-care whose subsequent marriage ends in death and who is not entitled to SS benefits on the W/R of the subsequent husband; or • Young mother with child-in-care who marries a person entitled to certain types of SS benefits.
10-1-61	Remarried surviving young mother eligible on second husband's earnings if he dies within one year.
9-1-65	Survivor O/M could include in an award made before 10-5-72: <ul style="list-style-type: none"> • Unmarried surviving divorced wife with child-in-care (mother of the employee's son or daughter); or • Remarried young mother with child-in-care who is now unmarried (age at the time of the remarriage is immaterial if the subsequent marriage had terminated).
11-1-66	Living with no longer required for surviving young mother with child-in-care.
2-1-68	De facto surviving young mother with employee's child in care eligible for an annuity.

	Duration of marriage requirement lowered to 9 months (3 months if death was accidental).
1-1-1975	The 1974 RRA revised the annuity calculation to Tier 1 and Tier 2.
3-1-75	Surviving young father with employee's child in care becomes eligible for a WCIA.
9-1-81	Tier 1 entitlement of surviving mother/father based on minor child ends when child attains age 16 (unless child is disabled) for new entitlements as of this date. For young mother/father with an ABD before 9-1-1981, a grace period extended the payment to the young mother/father based on a child age 16 or age 17 through the earlier of the child's attainment of age 18 or August 31, 1983.
10-1-81	Surviving divorced young mother/father with a natural or legally adopted child of the employee in care may receive an annuity. Certain remarried young mothers/fathers with children in care can qualify for an annuity.
6-1-82	Retroactivity of tier I limited to six months.
8-1-1992	Nancy Johnson administrative ruling restored tier 1 to the young mother/father annuity until the child attains age 18.
9-1-83	Retroactivity of tier 1 and tier 2 limited to six months for applications filed 9-1-83 or later.
7-1-1996	A stepchild must be dependent on employee for 1/2 support at the employee's death to qualify their parent for a survivor mother/father annuity.
1-1-2002	Survivor annuity payable to young mother/father with child-in-care based on the earnings record of a deceased employee who had less than 120 months of railroad service, but at least 60 months of railroad service after 1995 and a current connection with the railroad industry. Tier 1 is payable only when the employee had sufficient quarters of coverage based on combined railroad compensation and SSA wages for an insured status under the SS Act.
2-1-2002	Widow(er) Initial Minimum Amount (WIMA) established for widow(er), disabled widow(er) or surviving young mother/father annuity rates payable from 2-1-2002.

Appendix B - Effect of 1981 SS Act Amendments on the Payment of Mother's and Father's Annuities.

A. General Information

Under the 1981 Social Security Amendments, effective with September 1, 1981 beginning dates, a young mother's/father's or remarried mother's/father's benefit will only be paid if the mother or father has in care a child under age 16, 16 or 17 and disabled or 18 and over if the child is entitled to a disabled child's annuity. (A divorced mother or father is entitled only if (s)he has a child under 16 or a child age 16 or over who is disabled.) For cases with a beginning date prior to September 1, 1981, there was a grace period which extended payment to a young mother/father based on a child age 16 or 17 through August 31, 1983.

There were no conforming amendments in the Railroad Retirement Act. However, the Railroad Retirement Act defines the computation of the tier I of a mother's/father's annuity as the amount which SSA would pay if SSA had survivor jurisdiction. So in any case in which SSA would pay nothing, nothing would be paid in tier I. But even in cases in which no payment is made to the young mother or father, (s)he is technically entitled until the youngest child attains 18, dies, marries or leaves her (his) care (whichever occurs first). The concept of entitlement is especially important when determining a prescribed period for a disabled widow(er)'s annuity.

Exception: If a young mother/father was awarded under the 1937 Act, and (s)he had been continuously entitled since the initial 1937 Act award, the 1981 Social Security Amendments had no effect on that mother's or father's annuity payments.

B. Grace Period

The grace period allowed continued payment of a full annuity to a young mother (father) through the earlier of the month before the last child attained age 18 or August 31, 1983. The grace period applied to a young mother (father) only if (s)he had a minor child in her (his) care. The benefit to which (s)he was entitled in August 1981 could be:

- a) a young mother's annuity;
- b) a spouse's annuity based on a minor child; or
- c) inclusion in the O/M based on a minor child.

The young mother (father) must have been entitled in August 1981. If (s)he was entitled prior to August 1981, lost entitlement prior to or in August 1981, and became reentitled after August 1981, (s)he did not get the grace period.

EXAMPLE: A young mother terminated in January 1981 because the last child (age 16) left her care. In September 1981, the child returned to her care. Since she was not entitled in August 1981, she was not entitled to the grace period and she could not be paid.

If the young mother (father) was entitled in August 1981, the grace period would apply to the remarried mother's/father's annuity, even if there was a break in entitlement.

EXAMPLE: A young mother married in September 1981. Her marriage ended in divorced in January 1982 and she applied for a remarried mother's annuity. The grace period applied to her annuity.

Appendix C - Family Codes

A. Assigning the Family Code

Because the entitlement of a young mother/father-type annuitant (i.e., young mother/father, divorced mother/father or remarried mother/father) is dependent upon the entitlement of a minor or disabled child, it is important to have some mechanism which will "tie" the young mother/father-type annuitant to each child who causes the young mother/father-type entitlement. This mechanism will be the family code. Without the family code it will be impossible for SURVEA to produce correct attainment letters and folder referrals. And, if SURVEA does not properly move a folder, overpayments are likely to result.

The family code will be a single digit number which should correspond to the payee code for the young mother/father-type beneficiary. The family code will be the same in the record of the young mother/father. If a split family situation exists, and there are two young mother/father-type annuitants, young mother/father "B" and the "B" children would all have another family code.

Children who do not entitle a young mother/father do not have a family code. Therefore, there will be no family code input on a student or on any child who does not belong to a family group containing a young mother/father.

Examples:

- Situation 1: The family group consists of a young mother with two minor children aged 10 and 12, and a student.

Beneficiary	Payee Code	Family Code
M	1	1

C1	2	1
C2	3	1
TS	4	-

- Situation 2: The annuitants on the claim number consist of a divorced widow, a young mother, a minor child and a disabled child (a child in the young mother's care).

Beneficiary	Payee Code	Family Code
KW	1	-
M	2	2
C1	3	2
D1	4	2

- Situation 3: There is a split family group, consisting of a young mother with 2 children aged 2 and 4, divorced young mother with 2 children aged 15 and 17, and a student.

Beneficiary	Payee Code	Family Code
M	1	1
C1	2	1
C2	3	1
KM	4	4
C3	5	4
C4	6	4
NS	7	-

- Situation 4: The family group composed of two minor children only. An aunt is the representative payee.

Beneficiary	Payee Code	Family Code
C1	1	-
C2	2	-

B. Inputting the Family Code - Initial Manual Awards

When processing an initial award to a family group on a G-364/G-364.1, the family code must be input on the G-364.

C. Inputting the Family Code - SURCAL

When a case is processed through SURCAL, the family code will be shown on the SURCAL input form (G-360a).

D. Inputting the Family Code - Post Adjudicative Awards

In most post-adjudicative handlings, the family code will already exist in the beneficiary's records. If the code exists, it is correct, and it doesn't need to be deleted, no action is necessary.

If the family code is in the record, it will be shown in at least one of these places:

- If the case was decombined as a function of the mass decombining job processed in October 1983, there should be a folder record which includes the beneficiary's date of birth, payee code and family code.
- Starting with the 1-3-84 MOMS tape, the family code, if it exists, will be shown in the first two positions of the second line (i.e., to the left of the box containing the policing code.) The family code will always be shown as a two digit number (e.g., 01, 02...09). If the only number that is shown to the left of the policing code box is a single digit, it is a twin code, not a family code.

The family code will not exist in the following types of cases unless it has already been input by G-607's/G-59, or by an award action involving a G-364 with a 12-83 or later revision date:

- Multiple beneficiaries are still paid on a single payee code -- When processing the award to decombine, input the family code for each applicable beneficiary on the G-364.
- Family group was decombined prior to October 1983 - When handling this type of case, input the family code for each applicable beneficiary by G-607's and a G-

59, if no award action is involved. If an award is involved, input the code on the G-364.

- Young mother/father-type beneficiary was not in current pay status; children were - In these cases, the children will not have a family code because the young mother/father-type beneficiary did not exist for payment purpose. When a reinstatement award (or initial award if the young mother/father-type beneficiary has just become entitled) is processed for the young mother/father-type beneficiary, input the family code on the G-364 for the young mother/father-type beneficiary. If the children are also involved in the award action, use the G-364 to input their codes. If an award action is not necessary for the children, use a G-607 and G-59 to input the code for each child. The family code must be the same number as the payee code on which the young mother/father-type beneficiary will now be paid.
- Disabled children - If a case handled in the mass decombining job consisted of a young mother/father-type beneficiary, some minor children and a disabled child, it is probable that a family code was entered in the records of the young mother/father-type beneficiary and the minor children, but not the disabled child. In cases in which the disabled child can cause the young mother/father-type beneficiary's entitlement, input the family code by a G-607 and G-59 for the disabled child only, whenever an award action for the disabled child is not required. If an award action is required for the disabled child, input the code on the G-364.

E. Correcting and Deleting Family Codes

If a family code for a particular beneficiary needs to be corrected or deleted, submit a G-607 and G-59 for only the beneficiary involved.

Examples:

Beneficiary	Payee Code	Family Code
M	1	1
C1	2	1
C2	3	1
KM	4	4
C3	5	4

C2 leaves M's care and goes to live with KM. Use a G-59 and G-607 to change C2's family code to 4.

Beneficiary	Payee Code	Family Code
M	1	1
C1	2	1
C2	3	1

C2 attains 18 and is converted to a student. Delete the family code for C2/TS by a G-59 and G-607.

Appendix D - Effect of August 14, 1992 Board Order (Nancy Johnson Cases)

General Information

On August 14, 1992, the Board approved a change in the payment policy which continues payment of tier I benefits to young mothers and fathers until their youngest child attains age 18. The effective date of this decision is August 1, 1992. The Board Order does not apply to young remarried widow(ers) and young surviving divorced spouses.

These cases are known as "Nancy Johnson" cases because the Board order to reinstate the young mother's/father's tier I was a result of a court case filed by Ms. Nancy Johnson.

A. Case Handling

The following guidelines should be used in determining how a case should be handled.

1. Tier I Currently Being Paid

Effective August 1, 1992, do not terminate the tier I component of a young widow(er) whose last child has attained age 16. Age 16 attainment referrals will be retained in SAPT until SURVEA is changed to stop issuing the referral.

2. Tier I Previously Suspended or Terminated Prior to August 1, 1992

Tier I may be reinstated August 1, 1992 to the young mother or father if all of the following conditions are met:

- Tier I was properly terminated or suspended in accordance with the procedure in effect prior to August 1, 1992, and
- The annuitant whose tier I terminated filed a timely reconsideration request or appeal, and
- The reconsideration request or appeal was not resolved prior to August 1, 1992, and
- The child is under age 18 on August 1, 1992.

3. Tier I Suspended or Terminated August 1, 1992 or Later

Since the Board Ruling is effective August 1, 1992, any case where the tier I was terminated or the case was recertified to remove the young mother's or father's tier I after August 1, 1992, the tier I must be reinstated from August 1, 1992.

Example: M's last child attained age 16 in June 1992. On August 5, 1992, a recertification award was processed to remove M's tier I from June. Since the voucher date is after

August 1, 1992, M's tier I should be reinstated effective August 1, 1992 to comply with the Board decision. (Her tier I is not payable for June and July.) If the tier I overpayment made to M as a result of the late adjustment exists, recovery of the overpayment will be waived. If accruals due any other family members were previously withheld, the withheld amounts should be repaid in full.

NOTE: In this same example, if a suspension or termination had been entered before August 1, 1992, tier I should not be reinstated. Any overpayment established and in the process of recovery should continue to be pursued.

When reinstating the tier I portion of a young mother's/father's annuity, include the following paragraph:

"The tier I portion of your annuity is being reinstated due to a change in Board policy effective August 1, 1992. The tier I component is now payable under the same eligibility standards as tier II.

4. Initial Entitlement Cases

In WCIA cases where the last child is under age 16 on the OBD but attains age 16 prior to August 1, 1992 and the annuity has not yet been awarded, the young mother or father should be paid as follows:

- Tier I should be included for any month the child is under age 16.

- Tier I should not be paid from the time the child attains age 16 through July 31, 1992. If a family maximum is involved, adjust the other beneficiaries to a higher tier I amount for this period.
- Tier I should be reinstated to the young mother or father effective August 1, 1992.

EXAMPLE: An AA-18 application was filed by M on July 1, 1992. The employee died in May 1992. M's only child was born 7-15-76. M would be paid tier I benefits for the months of May and June. Her tier I is zero effective July 1, 1992; but is again payable effective August 1.

When initially awarding the young mother's/father's annuity in this type of case, include the following paragraph:

"Your tier I component is payable for the period prior to your child's attaining age 16. Because of a change in Board policy, effective August 1, 1992, your tier I component is payable under the same eligibility standards as your other annuity component."

B. Overpayments

In any case where the tier I component of a young mother or father's annuity was not terminated timely in accordance with the policy in effect prior to August 1, 1992 and where recovery of a resulting overpayment is not being made as of July 31, 1992, recovery of the overpayment will be waived. Forward these cases to OPR. Notate on the G-26 that this is a "Nancy Johnson Overpayment Case".

If recovery of an overpayment has already been initiated through withholding (full or partial) or cash installments, continue the recovery. If the beneficiary suddenly stops repayment, refer the case to the Chief of Compliance through SAPT.

