

2.4.1 Eligibility Requirements

To be eligible for a child's annuity, a child of an employee who had at least 120 months of RR service or at least 60 months of RR service after 1995, and a C/C, must:

- A. Be unmarried at the time of filing an application for initial entitlement (A child who is widowed or divorced at the time of filing an application for initial entitlement is considered unmarried. However, if the child marries subsequent to being awarded an initial CIA, all current and future entitlement to a CIA is terminated, even if the child is later widowed or divorced. The end of the marriage that caused the loss of entitlement will not reestablish entitlement. One exception can be if the marriage that terminates entitlement is annulled. Refer these cases to the General Counsel through Policy and Systems); and
- B. Have been dependent on the employee when he died; and
- C. Be under age 18; or
- D. Be over age 18 and either:
 - 1. A full-time student age 18-19; or
 - 2. Be disabled before age 22.

2.4.2 Entitlement Requirements

To be entitled to a child's annuity, a child must meet the above eligibility requirements and an application must be filed by or on behalf of that child.

Note: A child who is payable as a student must file his or her own application, unless the student is incompetent.

2.4.3 Child Entitled On the Record Of More Than One Deceased Employee

A child may not receive a child's annuity on more than one earnings record; normally (s)he will receive only the higher of the two annuities, but (s)he may elect to receive the lesser of two such annuities. For example, it may be to a child's advantage to receive the lesser annuity so that other entitled family members 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 child'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 child wants the smaller annuity, secure a signed statement that establishes that the child 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 child's advantage to receive the smaller annuity, award the higher annuity and terminate the current annuity.

2.4.4 Eligibility Of Stepchildren

A. General

Effective July 1, 1996, to be eligible for a child's annuity as the stepchild of an employee, the stepchild must have been receiving at least one-half support from the employee. Prior to July 1, 1996 a stepchild was deemed dependent if he or she was living with the employee at the time of the employee's death.

B. Point at Which One-Half Support Must Be Met

Dependency must be established at the time of the employee's death unless the employee has a period of disability freeze that continued until he met the conditions for entitlement to an RIB or DIB or until his death. If the deceased employee had a disability freeze that continued until he became entitled to an RIB or DIB or died, the dependency requirements can be met at either of the following points:

- At the beginning of the period of disability (DF), or
- At the time the employee became entitled to a DIB, or
- At the time the employee became entitled to an RIB.

In cases where there would otherwise be no break in entitlement, a dependency determination made for retirement spouse eligibility, O/M determinations, or Medicare entitlement should carry forward after the employee's death.

If there has been a break in entitlement, the dependency requirement must be met even if the child was previously determined to be dependent upon the employee for the purpose of increasing the employee's O/M, Medicare entitlement, or qualifying a spouse for an annuity.

C. Reasonable Period for Determining One-Half Support

In determining whether the one-half support requirement is met at the applicable point in time, analyze the stepchild's support status for a "reasonable period"

before that point. (Usually, the reasonable period is the 12 month period immediately preceding the month of the dependency point. Refer to RCM 4.7.40 - 4.7.43 for more discussion on the "reasonable period" for determining support and exceptions.)

D. How to determine One-Half Support - General

One-half support will be determined by either applying the "Pooled Income Method" or by counting employee contributions.

1. Under the "Pooled Income Method", all income coming into the household is pooled for the support of the household and each member shares equally in the funds used for support. (Note: In using this method, we need to determine all income coming into the household.)

The pooled income method of support cannot be used if:

- All household income was not pooled;
- There is evidence indicating all income for support was not shared equally (e.g., one household member had large medical expenses);
- Separate family groups live in the same household;
- The stepchild and the stepparent lived in different households. (If the employee was under a court-order to pay child support, that is considered to be "living in the same household and, in that situation, the pooled income method could be used.)

If using the "pooled income" method results in one-half support being missed by a narrow margin, also compute the child's support using employee contributions.

The pooled income method is determined as follows:

- a. Determine the support period
- b. Compute the total gross income coming into the family from all sources during the support period.
- c. Depending on the facts of the case, use the following situations to determine how to figure support.

SITUATION 1 - Employee is the Only Person in the Household With Income

If the employee is the only household member with income, the one-half support requirement is met.

SITUATION 2 - The Employee and the Stepchild Have Income

- a. Divide the total amount of income coming into the household by the number of members in the household. This amount constitutes the cost of each member's support. Dividing this amount by 2 equals one-half of each member's support.
- b. Compare the child's outside income to the one-half support figure. If the child's income exceeds one-half support, the employee did not provide at least one-half support. If the child's income is equal to or less than the one-half support figure, the employee provided at least one-half support.

EXAMPLE: The employee died in July 1996. At the time of his death, he was living with his wife Gerri and her son Gerald. During the year before his death, the employee's income was \$24,000. His wife had no income. His stepson, Gerald, received \$6,000 from his natural father during the year prior to the employee's death. The total family income, \$30,000, was pooled.

Dividing \$30,000 by the number of household members (three) produces an amount of \$10,000 as the cost of each family member's support. One-half of this amount is \$5,000. Since Gerald's income of \$6,000 is more than \$5,000, the employee did not provide one-half support to Gerald during the support period.

SITUATION 3 - The Employee and Spouse Have Income; Stepchild May or May Not Have Outside Income

REMEMBER THAT IT IS THE EMPLOYEE CONTRIBUTIONS TO THE STEPCHILD THAT MUST EQUAL OR EXCEED ONE-HALF SUPPORT.

- a. Divide the total amount of income by the number of members in the household. This amount constitutes the cost of support for each member. Divide the support amount by 2 and you will get the one-half support amount for each family member.
- b. If the child's outside income exceeds one-half the cost of support, the employee could not have been providing at least one-half support. If the child's income is equal to or less than one-half support, or if the child has no outside income, proceed to step c.
- c. For each member of the household whose income exceeds the cost of support (e.g., the employee and spouse), the cost of support is subtracted from his/her income. The balance is the amount available for that individual's support of other household members.

- d. To compute the balance of the child's support which comes from the contributions of the employee and spouse, subtract the child's income from the cost of support.
- e. Compute the proportion of the employee's contributions to the child as follows:

Using the amounts arrived at in c., (the employee's and spouse's balance available for support of other household members), add the two figures together. Determine what proportion of the total amount the employee's contribution represents. This fraction is the proportion of the child's support that the employee contributed.

- f. Apply the fraction derived in e. to the balance of the child's support (the amount arrived at in d) to determine how much of the balance of support the employee contributed. If the result is equal to or greater than one-half the cost of the child's support, the one-half support requirement is met.

EXAMPLE

John Dillinger, the employee became entitled to a disability annuity in July 1996. The support period to be used is the 12 months before he became disabled. In that year, John lived in the same household with his wife Marie and her son, James. John died in October 1996 and James is now applying for a survivor child's insurance annuity based on John's account.

John's income during the 12 month support period was \$20,000. Marie's income for the same period was \$15,000, and James received \$4,000 during the period from his natural father. All household income was pooled. The total family income was \$39,000; the cost of each member's support was \$13,000. One-half is \$6,500. Since James income did not exceed \$6,500, it must be determined whether John was providing at least one-half of his support.

Both John's income and Marie's income exceeded the cost of each one's support (\$13,000). For each, the cost of support is subtracted from his/her income. The balance of John's income available for support of other household members is \$7,000 (\$20,000 minus \$13,000); for Marie, the balance is \$2,000 (\$15,000 minus \$13,000).

The amount of James' income is subtracted from the cost of his support (\$13,000 minus \$4,000 = \$9,000). The balance of his support came from the contributions of John and Marie.

In order to determine how much of the balance of James' support came from the employee, the following rule applies: The proportion of one member's contributions to any other member is the same as the proportion of his/her contributions (minus his/her own support) to the total of the remaining amounts available for support by the contributing members.

The proportions are computed as follows:

	John	Marie
Income	\$ 20,000.00	\$ 15,000.00
Cost of own support	- 13,000.00	- 13,000.00
Balance available for support of other household members	\$ 7,000.00	\$ 2,000.00

The employee's contribution to James' support equals 78% of \$9,000 (the balance of James' support). The proportion of 78% is computed by dividing \$7,000 (the balance available from John) by \$9,000 (the total remaining support available from John and Marie).

Since 78% of the balance of James' support (\$9,000) is \$7,020, and this amount is greater than \$6,500 (one-half the cost of James' support), the employee provided one-half support and the requirement for James' entitlement is met.

2. If the pooled method does not apply, or if use of the pooled method results in one-half support being missed by a narrow margin, compute the stepchild's support based on the employee's contributions as shown below:
 - a. Compute the stepchild's income from sources other than the employee.
 - b. Compute the employee's net contributions to the stepchild.
 - c. Add the figures from steps 'a' and 'b' to determine the cost of the stepchild's support. One-half of the amount equals one-half of the stepchild's support.
 - d. If the stepchild's income from sources other than the employee, exceed one-half the cost of the stepchild's support, the one-half requirement is not met. If the employee's contributions to the

stepchild equal or exceed one-half the cost of the stepchild's support, the requirements is met.

The examples below illustrate the principles used in computing one-half support in cases where family income is not pooled.

EXAMPLE 1: Employee, Spouse and Stepchild Have Income; Employee and Spouse Did Not Pool Their Income

The employee, Anna Smith, died in August 1996. During the 12-month period before she died, she lived with her husband, Philip and his son, Mitchell, from a previous marriage. Mitchell is filing for benefits as a stepchild on Anna's record. During the support period, Anna's income was \$20,000. Philip's income was \$18,000, and Mitchell received \$2,000 from his natural mother. Two other children in the household had no income.

Development determined that the pooled income method cannot be used in this case because not all family income was pooled. Anna's income was used for household expenses such as mortgage, utilities, taxes, food, and insurance; while Philip's income was used for all other expenses, such as clothing and medical expenses.

Anna's net contribution to Mitchell's support must be determined. Development indicated that the value of Mitchell's room and board was \$2,400 for the period. Since Anna paid for all household expenses, the \$2,400 amount constitutes her contribution to Mitchell's room and board. The amount Philip contributed toward Mitchell's other expenses, such as clothing and medical expenses, equaled \$2,000. Total family income was \$40,000.

The total cost of Mitchell's support was determined by adding all his sources of income: \$2,400 from Anna, \$2,000 from Philip, and \$2,000 from his natural mother. Thus, the total cost of his support equaled \$6,400. One-half of this amount is \$3,200.

Since the \$2,400 Anna contributed to Mitchell was less than one-half of his support (\$3,200), the one-half support requirement was not met.

EXAMPLE 2: Employee, Spouse, and Stepchild Have Income; Child's Income Not Pooled with Rest of Family Income

The employee, Michael Johnson, died in August 1996. During the 12-month period before he died, he lived with his wife, Juanita, and

her daughter from a previous marriage, Judy. Judy has filed for benefits on Sarah's record as a stepchild.

During the 12-month support period, Michael had \$30,000 in income. Juanita's income was \$24,000. Judy received \$4,000 in child support payments from her natural father. Although Michael and Juanita pooled their income, Judy's child support payments were not pooled with the household funds; but were used exclusively for her own needs such as clothing and medical care. Therefore, the pooled income method cannot be used.

Development determined that the value of Judy's room and board for the period was \$4,000. Since Michael and Juanita pooled their income, the proportion of their contributions to Judy that may be attributed to Judy must be computed. In order to determine this proportion, compute the proportion that Michael's income (\$30,000) represents with respect to the total of his income and Juanita's income (\$54,000). Since Michael's income represents 56% of the total, assume that Michael paid that percent of Judy's room and board. (This rule applies unless the facts in the case indicate otherwise.) Thus, Michael contributed \$2,240 ($\$4,000 \times 56\%$) to Judy's room and board.

In computing Michael's contributions to Judy's other needs such as clothing and medical expenses (which totaled \$5,000), Judy's \$4,000 income from her natural father is first deducted from her total expenses. The remainder is \$1,000. The 56% calculated above is applied to this \$1,000 to determine the amount Michael contributed to Judy for these expenses, (\$560).

The total of all contributions to Judy (from Michael, Juanita, and Judy's natural father) equaled \$9,000. The breakdown is as follows:

Judy's income from her natural father	\$4,000
Michael's and Juanita's contributions to Judy's room and board	4,000
Michael's and Juanita's contributions to Judy's other expenses	1,000
TOTAL COST OF JUDY'S SUPPORT	\$9,000

One-half of the cost of Judy's support is \$4,500. Michael's contributions to Judy (\$2,240 plus \$560) equaled \$2,800, which is

less than \$4,500. Therefore, the one-half support requirement is not met.

EXAMPLE 3: Employee and Spouse Have Income; Employee Has Extraordinary Medical Expenses

Adam West, the employee, became disabled in August 1996. For the 12-month period before his death, he, his wife Mae, and her daughter Amy, lived in the same household. Amy is now filing for benefits as a stepchild on Adam's record.

For the 12-month period, preceding his death, Adam had \$28,000 in income. Mae's income was \$20,000. Amy had no income. The pooled income method cannot be used because not all family income was pooled; Adam spent \$4,000 of his income on medical expenses for himself during the 12-month period. The remaining amount of his income was pooled with Mae's to pay for family expenses.

To determine the amount of Adam's income available for support of the household, the \$4,000 in medical expenses is deducted from his total income, leaving a balance of \$24,000. The proportion represented by this \$24,000 in relation to the \$44,000 total of this amount and Mae's income must be determined: It equals 55% (\$24,000 divided by \$44,000). The value of each household member's room and board was determined to be \$5,000. It is assumed that Adam contributed 55% of this amount, or \$2,750. The total of Adam's and Mae's contributions to Amy for her other expenses, such as clothing and medical care, amounted to \$3,000. Adam's share of these expenses is assumed to be 55%, or \$1,650.

The total cost of Amy's support was \$8,000 (the amount Adam and Mae contributed for her room and board, \$5,000 and to her other expenses (\$3,000). One-half the cost of her support was \$4,000. Adam contributed a total of \$4,400 to her (\$2,750 in household expenses plus \$1,650 in other expenses). Since \$4,400 is greater than \$4,000, Adam contributed at least one-half of Amy's support.

2.4.5 Eligibility Of Child Adopted By Surviving Spouse After Employee's Death

A child legally adopted by the employee's surviving spouse is deemed to be the legally adopted child of the employee at his (her) death if the child was living in the employee's household at the time of his or her death (refer to RCM 4.4.26) and either:

- The adoption was completed within 2 years of the employee's death 8-29-60, whichever is later; or

- The adoption was completed at any time after the employee's death if the adoption proceedings were started by the employee before (s)he died. (This rule only applies for months after January 1968.)

In addition to the above requirements, the child must not have been receiving substantial contributions towards his (her) support from:

- A public or private welfare agency which furnishes services or assistance to children;
or
- Anyone other than the employee or his(her) spouse.

NOTE: If an LSDP was previously paid and a child who was later adopted by the widow(er) qualifies under this section, the LSDP must be recovered. The child's eligibility is considered to be retroactive to the month of the employee's death, even though payment of the annuity may not be retroactive to that month. However, a deferred LSDP may be payable if the annuities payable in the 12-month period after the employee's death do not equal the amount of the LSDP.

2.4.6 Beginning Date - General

The beginning date and retroactivity of a child's insurance annuity (WIA) is explained in FOM-I-111.20, FOM-I-111.51 and FOM-I-112.9.5.

2.4.7 One Application Concept

An application filed by, or on behalf of, a minor child protects the child's rights to benefits as a disabled or student child when (s)he attains age 18.

If a child is disabled before age 18, he need submit only an informational supplement (AA-19a) to his original application and furnish the Board with evidence of disability in order to receive benefits.

If a child is an FTS in the month he attains age 18, he need only submit an informational supplement (G-315) to his original application to receive benefits. However, if the child's entitlement ends after age 18 and before age 19 because he is not an FTS, he must file a new application to reestablish entitlement if he again becomes an FTS while still eligible for benefits. (See the following section for the special application and retroactivity provision applicable to FTS annuities.)

If payments ended the month before the month the child attained age 18, and the child later establishes his eligibility as either a disabled child or FTS, reinstate annuity payments effective with the month the child attained age 18, provided the evidence of full-time attendance or disability is submitted within 1 year of the termination date.

2.4.8 Special Application And Retroactivity Provisions For Student Children

The filing of an application (G-315) by, or on behalf of, a child age 18 through 19 is not a legal requirement, in certain cases, to establish or continue a child's entitlement to benefits. In actual practice, however, the Board now obtains an G-315 in every student case. This section explains when the filing of an application is required and when it is only obtained for informational purposes, and the retroactivity of student annuities.

A. Application Requirements

1. When Filing of Application Is Required - An AA-19 and G-315 are required from or on behalf of, a child:

- To establish entitlement if the child age 18-19 has never previously qualified for a child's annuity; or
- To reestablish entitlement if the child's annuity terminated when the child attained age 18 or recovered from disability before age 19. (A child is a full-time student even though payment "terminated" because the Board did not have knowledge of child's school attendance); or
- To reestablish entitlement if the child's annuity terminated after age 18 because the child was not a full-time student.

2. When Filing of Application Not Required--The filing of an application is not required in the following situations to establish or continue a child's entitlement although one is obtained for information purposes.

- If the child attains age 18 and is a full-time student in the month (s)he attains age 18. This applies in cases where payments to the child ended with the month before the month that the child attained age 18 because the Board did not have knowledge that he or she was a full-time student. In such cases, reinstate annuity payments from the month the child attained age 18, after the field office has received proof of the child's full-time attendance.

EXAMPLE: Roger attained age 18 in 9-95 and his child's annuity payments ended as of 8-31-95. Roger was attending Central Catholic High School full-time but he failed to submit proof to the Board of his status. He continued attending school full-time and filed an AA-19 and G-315 on 3-29-96. Since he was an FTS in 9-95, the month he attained age 18, an application was not required to continue his entitlement and his annuity can be reinstated from 9-1-95.

B. Annuity Retroactivity - If an application is not required, payments can be made retroactively up to 12 months prior to the verification of full-time attendance.

If an application is required, limit retroactivity to the usual 6 months or 12 months if the application was filed before 9-1-83.

2.4.9 Beginning Date When Child Is Legally Adopted By Employee's Spouse After Employee's Death

- A. Child Adopted Within 2 Years of Employee's Death - A child's annuity may begin on the latest of the following dates:
1. September 1, 1958; or
 2. The first day of the month of the employee's death; or
 3. The first day of the sixth month before the month in which the application is filed on behalf of the child. (Twelfth month if application was filed before 9-1-83).
- B. Child Adopted (More than 2 Years) After Employee's Death - A child's annuity may begin on the latest of the following dates:
1. February 1, 1968; or
 2. The first day of the month of the employee's death; or
 3. The first day of the sixth month before the month in which the application is filed on behalf of the child. (Twelfth month if application was filed before 9-1-83).

2.4.10 Amount Of Child's Annuity

A child's insurance annuity consists of Tier I and Tier II.

- A. Annuity Components
1. Tier I - The tier I component is equal to a 75% share of the survivor PIA #1 or a proportionate share of the SS maximum. The PIA #1 is based on the RR employee's combined wages and compensation. This share is reduced for SS benefits.

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 SASS any case in which a disabled child refuses to accept vocational rehabilitation services. Refer to RCM 4.9 for alien nonpayment provisions.

2. Tier II - The tier II component is equal to:
 - a. 30% rate (1974) Act tier II): If the employee began receiving an RR retirement annuity before October 1, 1981 or the employee died before October 1, 1981, the tier II component is equal to 30% of the gross tier I after any reduction for the maximum.
 - b. Share of EE's tier II (1981 Amend tier II): If the employee began receiving an RRA retirement annuity on October 1, 1981 or later, the employee died on October 1, 1981 or later; or the voucher date of the initial survivor award is 10-1-86 or later, the tier II component is based on a percentage of the EE tier II which would be payable if the employee were alive on the child's OBD. The basic tier II is reduced for entitlement to the vested dual benefit but is not reduced for age. A child is entitled to a 15% share of the employee's tier II. The statutory percentage may be changed if there are other entitled beneficiaries and the total paid to all the beneficiaries is less than 35% or exceeds 80% of the employee's tier II.
 - c. In certain re-entitlement cases, tier II is not payable. (See DCM 3.10.10.)

2.4.11 Earnings Restrictions

- A. Restricted Employment - A child's annuity is not payable for any month the child works for an employer covered by the RR Act.
- B. Other Employment - Regular earnings restrictions apply to the earnings of a minor child and a student age 18-19. However, do not assess work deductions against the earnings of a disabled child age 18 or over. Send all cases in which earnings or work activity are reported for a disabled child age 18 or over to the disability programs section. If a child age 16-18 is qualifying a person for a mother's/father's annuity because of a disabling condition and earnings or work activity is reported for the child, also send the case to the disability programs section.

2.4.12 When Entitlement Ends

- A. A child's annuity ends with the month before the month in which the child:
 1. Dies.
 2. Marries.
 3. Attains age 18, unless the child is disabled before age 22 or an FTS.

- B. In addition to the above events, the child's annuity of a disabled child ends on the last day of the second month following the month in which the child recovers from disability.
- C. In addition to the events listed in A, above, the child's annuity of an FTS age 18-19 ends when the child is no longer considered a full-time student (see sec. 2.4.61).

2.4.13 RLS Previously Paid To Child

Payment as designated beneficiary of the RLS may have been made to a child previously ineligible for a child's annuity, (e.g., grandchild, child not disabled at age 18 but disabled before age 22). If one of these beneficiaries received all or any portion of the RLS, recover the RLS from annuities due but only to the extent that the RLS was paid to the child.

2.4.20 Evidence Requirements

See FOM1 420.20.1

2.4.21 Additional Evidence for Minor Child

Evidence	When Required
Guardian or Other Legal Representative (AA-5)	If a person other than the natural, adoptive, or step-parent files an application on behalf of a minor child.
Responsibility of Minor -Child-Field Interview	If a child age 16-17 11/12 files an application in his own behalf. Assume that a "responsibility" interview has taken place if the application was filed in person with contact representative.

2.4.22 Additional Evidence for Disabled Child

Evidence	When Required
Medical Evidence for Child	If child claims to have become disabled before age 22.
Wage Information for Child	By quarter and employer if child claims to have become disabled before age 22.

2.4.23 Additional Evidence for Full-Time Student

Refer to FOM 1-525.10

2.4.24 One Application Concept

Refer to FOM 1-505.5.5

2.4.25 Special Retroactivity Provisions For Students

Refer to FOM 1-505.5.6

2.4.26 Child Eligible As A Student Or Disabled Child

Refer to FOM 1-525.5.3

2.4.30 Type of Application

The following types of applications are used for a child's annuity:

- A. Application for Mother's/Father's and Child's Annuity
(AA-18) - Used when the widow(er) is filing for herself (himself) and child(ren).
- B. Application for Child's Annuity - (AA-19) - Used when filing for minor child's, student, or disabled child's annuity.
- C. Application for Determination of Child's Disability
(AA-19a) - Used as a supplement for a disabled child age 18 or older.
- D. Student Questionnaire - (G-315) - Used as a supplement for a student's annuity as follows:

Initial Entitlement: Forms AA-19 and G-315 are secured.

Child to Student Conversion: Only form G-315 is secured.

2.4.31 Examining the Application

Examine the application carefully to make sure all questions are answered. Give particular attention to the answers to the following questions.

- A. Appointment of Legal Guardian - If there is indication that a guardian or other legal representative has been appointed and the application is filed by someone else, have the field office secure an application and Form AA-5 from the guardian

or legal representative if the guardian or legal representative is recognized as representative payee.

- B. Use of Payments Made to Claimants on Behalf of Children - Do not pay any applicant who does not agree to apply the payments made to him for the use and benefit of any child or children on whose behalf he has made application. This applies to legal guardians as well as the other persons who apply on behalf of children.
- C. Name of Each Child Who Survived the Employee - Assume that the application is filed on behalf of all children unless other information (e.g. RL-94-F, G-659a, etc.) indicates otherwise. If the claimant is not filing for all of the children listed on the application, the reason must be stated. If no reason is given, request the field office to secure the information.
- D. Name of Each Child Not Residing With Applicant - When a child is not residing with the applicant, who is other than the child's legal guardian or other legal representative, have the field office secure a statement from the applicant and the person with whom the child is residing, stating the degree of responsibility assumed by the applicant for the welfare and care of the child.
- E. Preventing Overpayments to Children - When making the initial payment to a child who is within 4 months of attaining age 18, control the case to enter a FAST S/T transaction to terminate the annuity at age 18. The termination should be entered as soon as the initial payment voucher clears.

2.4.32 Protecting Interests of Children

Every effort should be made to protect the interests of each child eligible for benefits. When requesting the field office to develop a claim on behalf of a child, tell them that the case should not be abandoned until all efforts to secure an application and required evidence have been exhausted. Neglect or lack of interest by a prospective payee in filing or furnishing evidence should not deprive a child of his rights to benefits.

If the person assuming responsibility for the child refuses to file an application or furnish necessary evidence, have the field office advise that person fully of the child's rights to these benefits and that any delay in filing may cause the child to lose part of the benefits he may be entitled to. Ask them to impress upon the person the fact that these benefits are a matter of right and not relief or charity. If the person persists in his refusal and will not agree to have another person file for the child, refer the case to the section supervisor.

2.4.33 Application Filed As A Result Of RL-175

Refer to FOM 1-525.35.3

2.4.34 Securing SS Entitlement Data

Obtain a report of SS benefit data in any case in which there is information indicating that a child is entitled to or has filed for SS benefits on his own or any other wage record in accordance with chapter 7.4.

2.4.40 Relationship & Dependency Requirements

The following sections briefly discuss the relationship and dependency requirements which a child must meet in order to qualify for a child's annuity. More detailed information about parent-child relationship and dependency requirements is in RCM 4.4 and 4.7.

2.4.41 Parent-Child Relationship

To qualify for a child's annuity, a child must be the deceased employee's:

- A. NATURAL LEGITIMATE CHILD who is:
 - 1. A child of a ceremonial marriage; or
 - 2. A child of a voidable marriage; or
 - 3. A child of a void marriage in some States; or
 - 4. A child legitimate under State law; or
 - 5. A legitimate child under State law even though there has been no marriage or act of legitimation.
- B. ILLEGITIMATE CHILD who has rights under State Law for inheriting the employee's intestate personal property; or
- C. STEPCHILD if the employee and the child's mother or father meet the marriage requirements as described in RCM 4.4.80; or
- D. LEGALLY ADOPTED CHILD (includes a child adopted after the employee's death); or
- E. EQUITABLY ADOPTED CHILD; or
- F. DEEMED CHILD (includes an illegitimate child or a child of an invalid ceremonial marriage who would NOT have rights under State law for the purpose of inheriting the employee's intestate personal property, but can be deemed a child effective 2-1-68); or

- G. GRANDCHILD OR STEPGRANDCHILD. Effective 1-1-73, a grandchild or step grandchild of a deceased employee is deemed to be the employee's child for purposes of receiving a child's annuity if:
1. The child's natural or adoptive parents were either deceased or disabled when the employee retired, died, or became disabled; or
 2. The child was legally adopted by the employee's surviving spouse and the child's natural, adopting or stepparent was not living in the employee's household and making regular contributions to the child's support at the time of the employee's death. (For further information regarding the relationship requirements for a grandchild refer to RCM Chapter 4.4).

In addition, the grandchild or step grandchild must meet the dependency requirements. This can be established if the grandchild was living with and receiving one-half support from the employee when the employee retired, died, or became disabled. (See RCM 4.7.15 for detailed instructions regarding the establishment of dependency of a grandchild.) A great-grandchild does not qualify for a child's annuity.

NOTE: A grandchild does not have to meet the above requirements to qualify for a residual lump sum or accrued annuity due but unpaid at death.

2.4.42 Dependency Requirements - General

A child must be dependent on the employee at the time of the employee's death to be eligible for a child's annuity. In some instances, a child can be deemed dependent. If a child meets the requirements for deemed dependency, the presumption of dependency is conclusive; actual dependency on someone other than the employee will not defeat the presumption. Usually the statements on the application are sufficient to establish dependency. In some instances, documentary evidence is required.

The following chart shows when a child can be deemed dependent and when dependency must be proven.

Child's Status	Dependency
Natural Legitimate or Legitimated Child (Including a Deemed Child)	Deemed, unless the child was adopted by someone else before employee's death.
Legally Adopted Child	Deemed unless the child was adopted by employee's widow(er) after death.

Equitably Adopted Child	Established if, at death, the employee was living with or contributing to the child's support.
Stepchild	Established if, at death, the employee was living with or contributing 1/2 of the child's support.
Grandchild - For Months After 12-1972	Established if the grandchild was living with and receiving 1/2 support from the employee when the employee retired, died, or became disabled.

2.4.50 Disabled Child Age 18 Or Over

A child may qualify for a child's annuity if (s)he has a permanent physical or mental condition which began before (s)he attained age 22, that prevents him (her) from engaging in any regular employment. A disabled child, whose annuity is terminated because of recovery from disability, can become re-entitled. See DCM 3.10.10 for re-entitlement requirements. Once awarded, the annuity remains payable for as long as the child is disabled or until a terminating event occurs. A disabled child is eligible even if the widow(er) previously elected and received a residual lump sum. No recovery of the residual lump sum is to be made. (However, the widow(er) is not eligible for a (disabled) widow(er)'s annuity or a mother's/father's annuity.

2.4.51 Development Of Child's Disability

A determination of the alleged disability of a minor child is not required until the child attains 18, although a disability determination may be made as early as age 16 in order to qualify the mother or father for tier I benefits. If a child is rated disabled before age 18, (s)he will not be rated again at age 18 unless there is evidence that the condition has changed. When an alleged disabled minor child is on the rolls, development action is started 4 months before the child attains age 18, in order to avoid interruption of benefits.

- A. Child on Rolls Before Age 18 - When a child on the rolls is 4 months from attaining age 18, the computer will print an RL-175 letter. This letter notifies the child's payee that benefits will terminate when the child attains age 18, unless the child is either disabled or an FTS. The payee is advised to contact the nearest field office to develop the necessary evidence. The filing date of an AA-19a has no bearing on the retroactivity of benefits. If payments ended at age 18, reinstate the child's annuity effective with the month the child attained age 18, regardless of when the AA-19a is filed, provided the evidence of disability is submitted within 1 year of the attainment of age 18.
- B. Child Not on Rolls Before Age 18 - When an inquiry is received about benefits for an alleged disabled child, or there is information in file indicating that such a child survives, request the field office to develop the claim in accordance with the instructions in the FOM. Enter in the "Remarks" block of Form G-659a, any

information in the file that may aid the field office in their development action (e.g., child alleged to be incompetent, child confined in mental institution etc.). If the alleged disabled child resides outside the U.S. or Canada, write directly to the claimant or the person who inquired on behalf of the child. Inform the person of the evidence required to support his claim.

When the application is received and eligibility determined, prepare a G-325 and submit the case to the disability programs section for a determination. If additional evidence concerning the alleged disability is required, the disability programs section will request it.

NOTE: If the field office advises that there will be a delay in securing medical evidence for an alleged disabled child who is under age 19 and attending school full time, have them develop the child's eligibility as an FTS so the benefits may continue without interruption.

2.4.52 Securing Breakdown of Wages and Employers From SSA

If the alleged disabled child has an SS number, or has worked, secure a wage breakdown and names of employers by teletype from SSA. If the wage breakdown shows a possible insured status, obtain a report of SS entitlement data for the child by requesting a G-90 on the child's social security number. In either case, after the report is received, send the case to the disability programs section for a determination of disability. If the case is already in the disability programs section when the report is received, forward the report to DPS.

2.4.53 Child Previously Rated Disabled for Retirement Purposes

Once a child has been rated disabled for inclusion in the employee's O/M, or for the purpose of awarding a wife's annuity under the RR Act, forward the claim to the Disability Programs Section (DPS) in the Bureau of Disability and Medicare Operations when an application for a child's annuity is received after the employee's death.

2.4.54 Employment of Disabled Child

The earnings of a disabled child are not subject to regular work deductions. However, when there is information received or in file indicating that the child is or has been employed, and the employment was not previously reconciled with the disability, send the case to the disability programs section. Examiners in that section will determine whether the employment can be reconciled or if the child has recovered from disability.

2.4.55 Selecting Payee for Disabled Child

A disabled child who can manage benefit payments in his own interest is considered mentally competent and can receive direct payment of his annuity. When making the

disability rating, the disability programs section will determine the competency or incompetency of the disabled child.

If it is determined that the child is competent to manage benefit payments in his own interest, an application will be secured from the child. In all other cases, a representative payee will be selected for the disabled child as outlined in RCM 5.10-- normally by the appropriate field office.

2.4.56 Effect of Dependent Parent's Entitlement

Prior to September 1, 1983, the presence of a child normally precluded a dependent parent from receiving a parent's annuity. Effective September 1, 1983, we will pay a tier I benefit to a parent even if there is a disabled child entitled.

2.4.60 Full-Time Student Age 18-19

Refer to FOM 1-505

Appendices

Appendix A - Legislative History

Effective Date	Child and Student Annuity Provisions
1-1-47	Survivor annuity provided for each dependent, unmarried child under 18 of a deceased insured employee. Each child received 1/2 of Basic Amount (BA) under RR formula.
10-30-51	Benefit amount increased to 2/3 of BA.
11-1-51	Survivor O/M computation for child annuitants.
11-1-51	Entitlement does not end if child adopted by stepparent, grandparent, aunt, or uncle.
9-1-54	Eligibility extended to dependent disabled children age 18 or older if disability began before age 18.
9-1-58	Child adopted by widow(er) within 2 years after employee's death became eligible.
9-1-60	Child deemed to be stepchild if natural or adopting parent had an invalid ceremonial marriage.
9-1-60	3-year relationship of stepchild reduced to 1 year.

1-1-65	Eligibility extended to children under age 22 if full-time students.
11-1-66	Entitlement does not end if child adopted by a brother or sister.
2-1-68	Stepchild qualifies if employee and child's parent were married at least nine months before day of employee's death. Nine months requirement deemed if marriage lasted three months and employee's death either was accidental or occurred during active duty while in U. S. Armed Forces.
2-1-68	Child adopted by surviving spouse any time after EE's death deemed employee's adoptive child if adoption proceeding started by employee before death.
2-1-68	"Deemed" child and child of invalid marriage become eligible.
1-1-73	Extended eligibility to children disabled before attaining age 22.
1-1-73	Extended eligibility to students age 22 if their school term has not been completed.
1-1-73	Child entitlement not ended because of adoption.
1-1-73	Dependent grandchild or step grandchild qualifies if: <ul style="list-style-type: none"> • the grandchild's parents are deceased or disabled, or • the grandchild was adopted by the surviving spouse and the child's parents were not "living with" and contributing to the grandchild's support.
1-1-75	The 1974 RRA revised the annuity calculation to Tier 1 and Tier 2.
6-29-76	Illegitimate child with inheritance rights is deemed dependent.
8-13-81	Social Security Act Amendments <ul style="list-style-type: none"> • Student is defined as a child age 18-19 who is in FTA at an educational institution. • An educational institution is a school that provides elementary or secondary education, respectively as determined under the law or the state or jurisdiction. This affected payment of the tier I portion of RR Act annuity. <p>The phasing out of benefits to student beneficiaries already on the rolls. Phase-out students are designated and the reduction of benefits began.</p>

	A student entitled to a 1981 tier 2 could continue to receive a tier 2 payment until age 22.
6-1-82	Retroactivity of tier 1 limited to six months.
6-1-82	No benefits are payable to "phase-out" students for the summer months (5, 6, 7 & 8). Phase-out students are students who were entitled to a child's benefit in August 1981 and were in FTA at a post-secondary school for any month prior to May 1982.
8-1-82	No benefits are payable to post-secondary students unless they qualify as "phase-out" students or they are entitled to a survivor annuity consisting of a 1981 Amendment tier II only based on the employee's ABD or date of death.
10-1-82	Benefits to phase-out students were reinstated at a reduced rate (25% reduction effective in 1982; 50% in 1983 and 75% in 1984).
8-12-83	Conforming Railroad Retirement Act Amendments. Effective with children age 18 or initial entitlement of September 1983 or later, a student must meet the definition of student and educational institution described above. With the exception of phase-out students and those students entitled prior to September 1983, student benefits end with the earlier of: attainment of age 19 or graduation from high school.
8-1-1992	Nancy Johnson administrative ruling.
7-1-1996	A stepchild must be dependent on employee for 1/2 support at the employee's death to qualify for an annuity.
1-1-2002	Child or student may qualify for a survivor annuity 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.

Appendix B - Phase Out Students and Pre-1981 Amendments Student Provisions

Refer to FOM1 Article 5 Appendixes C

Appendix C - Guides To Foreign Secondary School Systems

Refer to FOM1 Article 5 Appendixes B

