

## 5.1.1 Scope of Chapter

The following sections cover prescribed forms used as applications for benefits payable under the RR Act. Included are instructions covering the filing, examination, cancellation, and denial of applications. The instructions also explain when a new application is required. The term "application" refers not only to paper forms, such as AA-1, AA-3, AA-17, or AA-19, but also to entry of information onto the Application Express on-line computer system (APPLE) with submission of signed certification form for the purpose of filing for retirement or survivor annuities under the Railroad Retirement Act.

This chapter does not cover Medicare applications. See Part 3, "Medicare Benefits".

Payments under the RR Act may not be made to any person, regardless of his qualifications, unless an application is filed with RRB by or on behalf of such person. An application must be executed on a form prescribed by RRB; however, an application filed with SSA or VA is considered an application filed with RRB under conditions set forth in this chapter.

Until a person's properly executed application is filed with RRB, Operations will not make a formal determination on the person's claim. The person must file an application for a formal determination before he can resort to RRB's appellate procedure.

Under the 1974 Act, if an application for one type of annuity is denied, but the applicant is eligible for another type of annuity, a new application is not required. However, the applicant must have been eligible for both annuities at the time the application was filed, and must have indicated a willingness to accept a reduced age annuity in the appropriate application item or APPLE screen (Beginning Dates, Filing Dates, Medicare Screen) if that is the alternative eligibility.

(Note: "Reduced age" refers only to annuities based on less than 30 years of railroad service, not to '83 Lawyear 60/30 cases which have a reduced PIA 1.)

**EXAMPLE 1:** A 63-year-old employee with 25 years of railroad service files an application for a disability annuity. He indicates on his application that he will accept an age-reduced annuity if not eligible for a disability or full age annuity. The same application can be used for setting ABD, retroactivity, and payment of a reduced age annuity.

**EXAMPLE 2:** A 63-year old spouse of an employee with less than 30 years of railroad service files an application for a spouse annuity based on having a disabled child in her care. She indicates on her application that she will accept an age-reduced annuity if not eligible for an unreduced annuity. The same application can be used for setting ABD, retroactivity, and payment of a reduced age annuity.

## 5.1.2 RRB Applications - Life Cases

The prescribed RRB application forms and their functions are described below.

A. AA-1 - Used for:

- A&SA
- SMIB enrollment (for eligible applicant);
- SUP ANN (for eligible applicant);
- Establishment of a period of disability for a deceased employee
- D/A (with AA-1d).

If an employee applicant files for a disability annuity on Form AA-1 (or APPLE PSP-RED-STAT-CD [3200]) and AA-1d, the disability annuity is denied, and the employee was eligible for an age and service annuity at the time of the original filing, the filing date of the original AA-1 (or APPLE equivalent) can be used to protect the ABD of the age and service annuity. In this situation, an applicant who is not eligible for a full age annuity must indicate willingness to accept a reduced age annuity. However, a formal denial letter for the disability annuity must be released to protect the applicant's appeal rights.

In addition, a denied age and service application may be used to protect the beginning date of a disability annuity provided that the employee was eligible for a disability annuity at the time of the original filing.

A new application is required when the applicant either did not indicate willingness to accept a reduced age annuity, and that is the basis for eligibility, or had no other eligibility at the time the application was filed. The filing date of the new application is used to establish eligibility and to determine the ABD.

B. AA-1d - Use as a supplement to Form AA-1 for;

- An annuity based on occupational disability or total and permanent disability; and,
- A disability freeze (period of disability) for Medicare based on disability.

**NOTE:** For an employee disability retirement annuity, Form AA-1d is one part of the application. If the Form AA-1d bears an earlier receipt date than the AA-1, use the receipt date of the AA-1d for the official filing date only if that date is necessary to provide the greatest benefit provided by law. In this situation, the AA-1d can be considered an expression of an “intent to file” as described in [RCM 5.1.15](#).

The Form AA-1d can be submitted by itself to file for a disability freeze for Medicare based on disability if the employee is already entitled to an age and service annuity.

- C. AA-3 - Used for:
- Spouse annuity;
  - SMI enrollment (for eligible applicant).
- D. AA-5 - Used for substitution of payee for an employee or spouse annuity--needed when RRB recognizes a person as representative payee to act on behalf of an applicant or annuitant. (See [sec. 5.1.7.](#))
- E. AA-19a (Ret.) - Used as a supplement to AA-3 when the spouse has in care a disabled unmarried child, age 18 or older. It can also be used to supplement AA-1 when a disabled child is claimed for inclusion in the overall minimum computation (O/M).

**NOTE:** A survivor application used in a presumption of death case is treated as a spouse annuity application for payment of a spouse annuity, if it is later determined that the annuitant is alive and a spouse annuity would be payable.

### 5.1.3 RRB Applications - Death Cases

Usually, an application for one type of survivor benefit may be considered an application for any other type of survivor benefit to which the applicant is or could become entitled to receive within the prescribed time limits.

A widow in receipt of a widow's current, or disabled widow(er)'s insurance annuity, at age 60, does not need to file another application for the conversion of the annuity to a widow(er)'s insurance annuity.

A spouse who has been receiving a spouse annuity will, upon the death of the properly insured annuitant or pensioner, be deemed to have filed an acceptable application for an insurance annuity and will receive such annuity unless evidence in the file or information on the G-476c (or AA-18) indicates ineligibility. Effective August 1, 1990, a spouse who is receiving a spouse annuity does not need to file an application for conversion of the annuity to a widow(er)'s insurance annuity unless the spouse's annuity was based on having minor children in her care.

The prescribed RRB application forms and their functions are described below:

- A. AA-5 - Used for substitution of payee for survivor applicant or annuitant (see [sec. 5.1.7.](#))
- B. AA-17 - Used for widow's or widower's insurance annuity. If widow is also applying on behalf of children, use AA-18.

- C. AA-17b - Used as a supplement to AA-17 when a widow(er) age 50-59 alleges disability and does not qualify for a widow(er)'s current insurance annuity at the time of filing. If a widow(er) later qualifies for a WCIA because (s)he has a child in his or her care for any month, Form AA-18 is required to make such payment(s).
- D. AA-18 - Used for a widow(er)'s and child's insurance annuity--needed when the widow(er) is applying for self and child(ren), regardless of the widow(er)'s age or disability.
- E. AA-19 - Used for a child's insurance annuity--may be filed by a child age 16 or older who is able to manage his own affairs, or may be filed on behalf of a child by some person. That person may be the widow(er) provided that (s)he is not also filing for a widow(er) annuity.
- F. AA-19a (Surv.) - Used as a supplement to application, AA-18 or AA-19, for a widow(er)'s and/or child's insurance annuity--needed when the widow(er) alleges that (s)he has a disabled child in his or her care or when a child alone becomes entitled to a child's insurance annuity because of disability.
- G. AA-19s - Used for a child's insurance annuity for a full-time student--needed when a child, age 18-(19), is attending school full time. It is also used when there will be a delay in processing a child's claim based on disability, if the child is an FTS. Thus, monthly benefits can be paid while the disability claim is being processed. (If the student is rated disabled, FTS benefits are no longer payable.) The student may file an application and be paid direct, or he may authorize the Board to make payments on his behalf to a representative payee. A court-appointed guardian may file on behalf of the student.
- H. AA-20 - Used for a parent's insurance annuity--if two parents wish to file, each must complete a separate application.
- I. AA-21 - Used for any lump-sum payment, a survivor annuity based on a J&S election, annuities unpaid at death, including a SUP ANN and accrued spouse annuities when the employee annuitant or pensioner is alive.

When the applicant is a widow who will become entitled to an insurance annuity within 3 months, obtain the appropriate insurance annuity application and do not request the filing of AA-21.

Use Form G-273a as a supplement to an application for a lump-sum death payment when no person assumes responsibility for payment of any part of burial expenses for the 90-day period after the date of the employee's death, and the funeral home is filing an application for the LSDP. Form G-273a is also required, in addition to an AA-21, if the LSDP is being authorized to the FH by the person who assumed responsibility for the expenses.

An applicant who files for an LSDP or for an insurance annuity is not required to file a separate application for a survivor annuity based on a J&S election or for annuities unpaid at death or for the RLS, except when the filing of AA-21a is required.

**NOTE:** If a LW widow(er) applicant unknowingly furnished an incorrect DOB on an AA21 and was paid the LSDP on that basis, the AA-21 may be used to protect the filing date of an AA-17 and the earliest insurance annuity beginning date provided that the AA-21 was filed within three months of the month the applicant became otherwise entitled to such annuity.

**EXAMPLE:** Employee died 1-2-60. AA-21 filed in 2-1960 by widow who claimed to be less than age 60. In 3-1961 she filed AA-17 and evidence that she had attained age 60 in 12-1959. The AA-21 may be used to permit an annuity beginning date of 1-1960.

If in 5-1962 the widow had filed an AA-17 and evidence showing that she had attained age 60 in 12-1960, the annuity beginning date could be set no earlier than 5-1961 (twelve months before the filing of the AA-17), since the AA-21 was filed more than three months before the month the widow became eligible.

- J. G-476c - Prior to August 1, 1990, this form was used in lieu of an application if the widow, at the time of the employee's death, was receiving a spouse's annuity which is to be converted to a widow's insurance annuity and she does not have an entitled child in her care. Beginning August 1, 1990, it is no longer necessary to secure form G-476c in spouse-to-widow(er) conversion cases.

**NOTE:** If an employee-annuitant has disappeared and is presumed dead and he is survived by a wife who is either receiving a spouse's annuity or would be eligible for a spouse's annuity if she filed, the normal survivor application is used to file for her monthly benefits. If she would not be eligible for a spouse's annuity until some future date, the survivor application is secured at the time she meets the eligibility requirements for a spouse's annuity.

### 5.1.4 SSA Applications - Life Cases

- A. Acceptance - An application filed with SSA by a wage earner or the wage earner's spouse for monthly insurance benefits under Title II of the SS Act, based in whole or in part on creditable railroad service, is considered an application filed with RRB, as explained below. If these conditions are met, the acceptability applies whether or not we have previously transferred compensation to SSA and whether or not credits previously thought to be under the SS Act were determined to be under the RR Act.
1. RR Act Entitlement Exists When SSA Application Filed - An application for life benefits under Title II of the Social Security Act is an application for an annuity if:

- The application was filed because the applicant did not know he or she was eligible for an annuity under the Railroad Retirement Act (RRA). The Board must have or receive evidence indicating why the applicant thought that he or she lacked eligibility for an annuity.

NOTE: An affirmative answer to the question on the Social Security application as to whether the applicant had performed RR service will not suffice as evidence that the applicant believed that (s)he lacked eligibility for a railroad annuity; and,

- The claimant would have been entitled to and would currently be entitled to an annuity if the applicant had applied for the annuity on the date the social security application was filed; and,
- The applicant asks the Board in a written statement to consider the application for social security benefits as an application for an employee or spouse annuity.

2. RR Entitlement Acquired Subsequent to Filing of SS Application - An application for life benefits under Title II of the Social Security Act is an application for an annuity if:

- The SS application was filed because the employee had less than 10 years of creditable railroad service.
- Having established entitlement to social security benefits, the employee continued working in railroad service and subsequently acquired 10 years of railroad service or at least 60 months of railroad service after 1995.

EXCEPTION: When a DIB was terminated before the completion of the 120th month of RR Act service or the completion of at least 60 months of RR service after 1995, the DIB application is not considered an application filed with RRB.

B. Application filed at SSA on or before 12-31-74 - Special provisions apply to cases in which establishment of a filing date before 1-1-75 would entitle the applicant to a windfall benefit that (s)he would not otherwise be entitled to.

1. If the individual filed an application with SSA for monthly benefits under Title II of the Social Security Act on or before 12-31-74, that application can be considered a valid RRB application if the following conditions are met:
  - (S)he could have been entitled to a railroad retirement annuity effective from his or her SSA filing date if (s)he had filed an application with the Board.

- (S)he requests in writing (before 2-22-83) that the Board use his or her SSA application as an RRB application.
2. In these cases the application filed at SSA does not need to have been based on any service covered under the RRA. (This provision however, only applies to those cases in which the individual would not be entitled to a windfall benefit based on his or her RRA application.)
  3. When the above conditions are met and the applicant elects to use his or her SSA application filing date to establish a filing date under the RRA, re-open the RRA claim and re-certify based on the filing date at SSA. In such a case, the RRA claim should have an ABD based on either the earliest date permitted by law, or if it is within the 3-month life of application rule, a date requested by the applicant. If using the SSA application filing date results in an earlier ABD or an increase in the annuity rate, re-certify the case and pay all accrual due.
- C. Filing - Receipt of the following information from SSA will denote the filing of an application with RRB.
1. The name and address of W/E (and of the W/E's spouse, if the spouse filed on the W/E's WR).
  2. The name of each employer involved who may be covered by the RRA.
  3. The amount of benefits, if any, paid by SSA to the W/E on the basis of service with such employers (and to the W/E's spouse, if the spouse was paid benefits on the W/E's WR).
  4. The date on which the W/E's claim or application was filed with SSA (and the same information for the W/E's spouse, if the spouse filed on the W/E's WR).

Note: While the SSA filing date may be used to protect the filing date at RRB, the ABD cannot be prior to the month in which the employee acquired sufficient service months, i.e., 120 or at least 60 service months after 1995.

### 5.1.5 SSA Applications - Death Cases

- A. Acceptance - An application filed with SSA on or after 10-1-46 for monthly benefits or an LSDP under section 202(c), (d), (e), (f), or (g) of Title II of the SS Act, as amended on 8-10-46, by reason of the death of a person who had performed service under the RR Act, is considered an application for the corresponding survivor benefit under Section 2d of the RRA.

1. SSA Transfers to RRB an Appropriate and Fully Completed SSA Application - An annuity or LSDP can usually be awarded without obtaining an RRB application, as long as all other RR Act requirements are met. However, an RLS may not be awarded on an SSA application (see RCM sections. [2.9.31-32](#)).
  - a. All necessary information must be provided on the SSA application, a supplementary application, or on another SSA or RRB form, which the applicant signed, before payment can be awarded.
  - b. Before awarding an LSDP, sufficient information must be in file to insure that no survivor in the case is currently entitled to an annuity.
  - c. In addition, the following information, besides the information on the SSA application, must be in file before an annuity can be awarded:
    - Information about any other survivors (widow, child, or parent) who could also be entitled to an annuity.
    - Information about the employee's employment.
    - Information about any work the applicant performed in the railroad industry.
    - Information about any annuity the applicant is receiving or will receive under the RRA on another earnings record.
- B. Filing - A written statement filed with SSA and indicating an intention to claim monthly benefits or a lump sum (either on the person's own behalf or on behalf of some other person) may be deemed an application filed with RRB if specific requirements are met.
  1. Such person or such other person was eligible for an annuity or lump sum under the RR Act at the time such written statement was filed with SSA.
  2. An application on a prescribed form is also furnished RRB.
- C. Initial Handling Upon Receipt - Depending on the status of the RRB survivor, certain steps need to be taken to process an SSA application transferred to RRB.
  1. The survivor is already in pay status at the time of the receipt of the SSA application.
    - a. If in pay status as a result of a spouse to widow conversion, no further handling is necessary. File down the application or send to claim files "Priority File Only".



- b. If in pay status as a result of an initial application, verify that the RRB and SSA information is consistent. If there are any discrepancies that may affect the annuity, resolve those discrepancies. If there are no discrepancies, file down the application or send to claim files "Priority File Only".
2. The survivor is not in pay status at the time of the receipt of the SSA application.
  - a. Handle as a first notice of death per current FNOD procedure.
  - b. Make a current connection determination.
3. The employee had a current connection at the time of death.
  - a. If a spouse to widow conversion needs to be processed, send an electronic mail message to the field office advising them to initiate contact with the widow and also enter APPLE data. File down the application or send to claim files "Priority File Only."
  - b. If an initial survivor annuity or LSDP needs to be processed, code in the application(s) and secure the file. Advise the field office of the SSA application(s) and to develop for any missing proofs. For an annuity, a signed G-476a (certification) must also be obtained (but need not be in file at the time of the award). When all the necessary proofs are in file, prepare the case for payment.
4. The employee did not have a current connection at the time of death.
  - a. If credits were previously transferred, copy the previous transfer packet (RR-3T and RR-90), attach it to the SSA application packet, and return to the SSA sender.
  - b. If credits were not previously transferred, code in the application on STAR. Notify the applicant of SSA jurisdiction. Prepare and release transfer packet to SSA with the SSA application attached (see [RCM 7.2.7](#)).

### **5.1.6 VA Applications in Death Cases**

Refer to [FOM1 110.45](#)

### **5.1.7 When New Application and Payee Substitution Forms are Required from Representative Payee**

(If the Board selects a representative payee after an application has been filed but before RR Act benefits are awarded, obtain an AA-5 and, unless the representative

payee previously filed in behalf of the incompetent, secure a new application from the representative. The official filing date of the new application will be the date the first application was received by RRB.

If the Board selects a representative payee after benefits are awarded, a new application is not required from the representative; obtain only an AA-5.

### **5.1.8 Questionnaires and Applications Formerly Used as Prescribed Forms**

#### **A. Earlier Applications and Their Functions**

- AA-1 was used for D/A and DF.
- AA-1f was used for DF.
- AA-19 was used for FTS benefits in survivor cases.
- T-3 was used to supplement a wife's application when the AA-3 was previously filed, and the spouse annuity was reinstated.

B. Questionnaires - Before 2-3-60 (the date of B.O. 60-12) insurance annuity applications could be considered officially filed on the date on which certain questionnaires were previously received showing the applicant's eligibility for such an annuity. Those questionnaires were RL-94, RL-94-F, T-30, T-30a, T-31, and T-32.

On and after 2-3-60, the official filing date of an insurance annuity application cannot be set on the basis of a previously submitted questionnaire filed by or on behalf of a person and showing such person's eligibility for such an annuity. However, questionnaire G-320 was used as a prescribed form to make direct payments in some survivors FTS cases because of the 1966 RR Act amendments.

### **5.1.10 Place of Filing**

An application may be filed at any office of the RRB, in person or by mail, or may be delivered for transmission by a regional director to receive custody thereof in the area where delivery is made.

Regulations under the RR Act also permit filing of an application at any U.S. Foreign Service office by an employee, spouse, or survivor living outside the U.S. Such offices are under State Department instructions to accept applications only where the claim originates in Hong Kong or when the 2-year limitation period has almost expired.

### 5.1.11 Limitations on Filing

- A. Employee Annuities - An acceptable application for an employee annuity must be filed with RRB within 3 months of eligibility to an annuity unless disability is involved and on or before the date of the employee's death.
- B. Spouse Annuities - An acceptable application for a spouse annuity must be filed with RRB within 3 months of eligibility to an annuity and on or before the date of the spouse's death.

**NOTE:** The three-month restriction does not apply for disability cases. The spouse of a disabled annuitant can file an application more than three months before the date on which the spouse's annuity can begin, if the AA-3 is filed on the same day as the employee disability annuity application. See [RCM 5.1.41B](#) for more information.

- C. Insurance Annuities - An application for an insurance annuity is not acceptable if it is filed more than 3 months before the first of the month in which the insurance annuity could begin to accrue, or if it is filed after the death of the survivor applicant, except a "deemed filed" insurance annuity application as shown in sec. [5.1.3](#). An annuity begins to accrue on the later of the earliest date permitted by law, or on a specific date chosen by the applicant.

An applicant may choose an annuity beginning date by naming the month, day and year in an application filed with the Board, or by submitting a signed statement which gives the month, day and year when the annuity should begin.

If the annuity has not been awarded, the annuity beginning date may be changed if:

- The applicant requests the change in a signed statement; and
- The statement is received by the Board on or before the applicant's date of death.

If the annuity has been awarded, the annuity beginning date may be changed if:

- The applicant requests the change in a signed statement; and
- The statement is received by the Board on or before the applicant's date of death; and
- The applicant shows that a different annuity beginning date is advantageous; and
- All payments made for the period before a later annuity beginning date are recovered by cash refund or set off (e.g.: full or partial withholding).

NOTE: When a change in ABD is at the request of the annuitant, due process procedures do not apply, even if an overpayment is created by the change. The same is true when an annuitant requests cancellation of the application after annuity payments have been made. See [5.1.31](#).

- D. Annuities Unpaid at Death - An acceptable application for annuities unpaid at death must be filed with RRB on or before the second anniversary of the death of the person to whom such annuities were originally due. This period may be extended under the Soldiers' and Sailors' Civil Relief Act of 1940, or when the applicant can prove "good cause" for not filing within the time limit. If RESCUE computes an accrued annuity for a deceased annuitant, the two year limit to file an application for the accrual is counted from the date of the RESCUE run, not the date of death. In addition, the Board waived the two year limit for accrued annuities computed by RESCUE in the special backlog run performed in March 2007.
- E. LSDPs - An acceptable application for LSDPs must be filed with RRB on or before the second anniversary of the death of the employee. This period may be extended under the Soldiers' and Sailors' Civil Relief Act of 1940, or when the applicant can prove "good cause" for not filing within the time limit.
- F. RLS - There is no time limitation on the filing of an acceptable application for an RLS.
- G. Soldiers' and Sailors' Civil Relief Act of 1940 - The 2-year period of limitations must be considered in conjunction with certain overriding statutory provisions set forth in the Soldiers' and Sailors' Civil Relief Act of 1940 which applies to all persons in the Armed Forces of the U.S. This act is explained in the SS Claims Manual sections 783-787. If an otherwise valid application is filed after the RR Act limitation period has expired and it appears that the provisions of the Soldiers' and Sailors' Civil Relief Act may apply, send the case to P&S for a decision on whether the application may be considered acceptable.
- H. Good Cause - An applicant has "good cause" for a delay in the filing of application for a lump-sum death payment or an annuity unpaid at death if the delay was due to:
- Circumstances beyond the applicant's control, such as extended illness, mental or physical incapacity, or communication difficulties; or
  - Incorrect or incomplete information furnished by the Board; or,
  - Efforts by the applicant to secure evidence without realizing that evidence could be submitted after filing an application; or,

- Unusual or unavoidable circumstances which show that the applicant could not reasonably be expected to have been aware of the need to file an application within the set time limit.

An applicant does not have "good cause" for a delay in filing if he or she was informed of the need to file within the set time limit but neglected to do so or decided not to file.

- I. Disability Freeze After Employee's Death - An acceptable application for a disability freeze after the employee's death must be filed within three months after the month the employee died.

### 5.1.12 Deterred from Filing

When a person (employee, spouse, or survivor) has notified RRB by telephone or in writing this includes electronic mail (e-mail) and facsimile transmission (fax) of his/her intention or desire to file an application for an annuity or payment but has been deterred to his/her detriment by action of the RRB or its employees from filing an application upon the prescribed form, a later duly executed application on the prescribed form can establish a filing date based on that oral or written notice if the following conditions exist:

- A. Deterring Action - The deterring action must have consisted of:
  - Failure to inform the person of the necessity of filing an application on a prescribed form; or
  - Failure to inform the person that his written statement could protect the filing date even though such a statement would not serve as an application; or
  - Failure to furnish the person with an appropriate form; or
  - Failure to correctly inform the person of his or her eligibility.
- B. Subsequent Action by the Applicant - The person, upon being informed of the necessity for filing an application on the prescribed form, and/or upon being supplied with such form or upon being informed of a changed ruling affecting his/her entitlement, must file the appropriate form during his/her lifetime and within 3 months (or other specified period) after the date a notice is sent to him/her, or after the date on which (s)he is informed of his/her new status.
- C. Handling Initial Applications in Deterred from Filing Situations - The field office should note on the G-230 or G-659a that a claim of deterred from filing is involved in the case. Included in the application package should be a memorandum giving the allegations and/or facts in the case and any other evidence pertaining to the issue that they have on file. The initial examiner must review the material in the memorandum and determine if one of the deterring actions specified in [5.1.12.A.](#) occurred. If so and if the criteria of [5.1.12.B.](#) are

met, then, deterred from filing applies. This decision must be documented in writing and sent to the supervisor for concurrence and signature. If a decision cannot be made at this level, the supervisor should refer the case to P&S - RAC for assistance.

D. Handling Payment and Notification in Retirement Deterred from Filing Situations

1. If deterred from filing applies in an initial retirement situation, the case will have to be dropped from RASI in order to pay from the correct ABD. The award letter should acknowledge that the deterred from filing claim has been honored and the ABD has been set accordingly.
2. If deterred from filing does not apply, the retirement case can pay on RASI. However, you must also send a letter to the annuitant on AB-25 back stationary explaining why a deterred from filing claim is not being honored. If the case is paid manually, the denial in the deterred from filing claim can be explained in the initial award letter.
3. If additional development is needed whether evidential from the field office or analytical from P&S - RAC, set a manual op code to prevent final payment. Once the determination is made, handle the case as stated above. If the case gets unreasonably delayed, the examiner in concurrence with his or her supervisor may allow the case to pay on RASI based on the application filing date, but the annuitant must be notified that the ABD is not a final determination and that we will notify him/her once a final decision has been made. This interim letter should not be released on appeals stationery. If deterred from filing is established, reopen the case and pay from the earlier date. If deterred from filing is not established, release a letter to the annuitant on AB-25 stationery explaining why the claim is not being honored.

E. Handling Payment and Notification in Survivor Deterred from Filing Situations

1. If deterred from filing applies in an initial survivor situation, the case will have to be adjusted on SURPASS in order to pay from the correct OBD. A regular ALTA award letter should be completed acknowledging that the deterred from filing claim has been honored and the OBD has been set accordingly.
2. If deterred from filing does not apply, the survivor case can pay as originally set up on SURPASS. A regular ALTA award letter should be completed informing the annuitant that the deterred from filing claim cannot be honored and that the OBD has been set accordingly.
3. If additional development is needed, whether evidential from the field office or analytical from P&S - RAC, adjust the current filing date on SURPASS to prevent final payment. Once the determination is made,

handle the case as stated above. If the case gets unreasonably delayed, the examiner in concurrence with his or her supervisor may allow the case to pay on SURPASS based on the current filing date, but the annuitant must be notified in an ALTA letter that the OBD is not a final determination and that we will notify him/her once a final decision has been made. This interim letter should not be released with appeals rights language. If deterred from filing is established, reopen the case and pay from the earlier date. If deterred from filing is not established, release a letter to the annuitant on AB-25 stationery explaining why the claim is not being honored.

### 5.1.15 Official Filing Date

The official filing date on an application, or any other form or document, is that stamped or written in the following manner:

OFFICIALLY FILED

(Date)

(Signature and Title of RRB Employee)

(Location of Office)

Forms requiring an official filing date are marked with the date that the form is received at the place of filing.

An application should be stamped "Officially Filed" as of the date of its receipt even though it may be unacceptable for some reason (see sec. [5.1.23](#)).

Under special circumstances, a date earlier than the date received may be established as the official filing date, but **ONLY** if using the application receipt date will result in a loss or reduction of benefit to the applicant.

- **EXAMPLE 1:** An individual deposits an application in the U.S. mail on a date that is late in the calendar month. Use the date of deposit in the mail, as shown by the postmark date, as the filing date if that date will result in a higher total benefit to the annuitant than using the date the application is received at RRB. Enter the date and hour of the postmark in the upper right hand margin of the application form. Enter the postmark date as the filing date on APPLE and explain in remarks. (Other alternative dates, such as the filing date at SSA and VA, or at a U.S. Foreign Service office, are covered in the sections immediately following this one.)
- **EXAMPLE 2:** An individual may demonstrate an intent to file an application for an RRB annuity or a lump sum, but circumstances prevent the receipt of the signed application in a Board office by the end of the same month.

If a written or oral communication with the applicant specifically expresses an intent to file a benefit application, and a later official filing date would result in a lesser total benefit to the applicant, the date of that earlier contact may be established as the official filing date. All such contacts must be documented.

All written statements and documented telephone contacts indicating an intent to claim benefits must be resolved by

- Securing an application as soon as possible; or
- Notifying a claimant in writing that an application must be submitted within 3 months to protect the filing date; or
- Obtaining a signed statement that the inquirer does not wish to file for benefits.

The date of the written statement or documented telephone contact can be used to protect the filing date of an application that is received within 3 months of the written notification described above. Enter that date in the protected filing date field on APPLE. Additional information concerning protected filing dates is contained in [FOM 110.55](#).

**NOTE:** For an employee disability retirement benefit, Form AA-1d is one part of the application. If the Form AA-1d bears an earlier receipt date than the AA-1, use the receipt date of the AA-1d for the official filing date only if that date is necessary to provide the greatest benefit permitted by law.

If an applicant (employee, spouse or survivor) died on a day observed by RRB as a non-work day and his or her application was received through the mail by RRB on the first business day after such non-work day, the application may be considered officially filed on such non-work day if it is established to have been mailed in sufficient time for receipt by RRB in the ordinary course of the mail on such day had the day been a business day.

### **5.1.16 Date of Filing with SSA or VA**

- A. SSA - The official filing date of an SSA application considered acceptable in RRB life cases, and of an SSA application or statement considered acceptable in RRB death cases, is the date as of which SSA certifies that such application or statement is deemed filed with that agency (see sec. [5.1.4](#)).
- B. VA - The official filing date of a VA application considered acceptable in RRB death cases is the date as of which the application would be deemed filed with SSA (see sec. [5.1.5](#)).



### 5.1.17 Date of Filing at U.S. Foreign Service Office

Applications submitted through a U.S. Foreign Service office are given effect as of the time they are received in such office. The time of filing will be shown by a date-stamp or similar evidence of receipt in the Foreign Service office.

If the application is not sent via a Foreign Service office, the date received by RRB will be the filing date.

### 5.1.18 Using RR Act Filing Date as SS Act Filing Date

Section 5(b) of the RR Act enables an applicant to elect to use his RR annuity filing date as his social security benefit filing date, or he may restrict his application to the RR annuity only. This provision applies to those applicants who are age 62 or older, disabled, or otherwise eligible for SS benefits but have not filed an application for such benefits. However, in cases in which the employee applicant has at least 60 railroad compensated service months (CSM) after 1995 but less than 120 total CSM, the applicant cannot restrict the application to an RR annuity only.

The form currently being used to handle these cases is Form RR-8, Notice of Protection of Filing Date for Social Security Benefits. This form will be completed by the F/O

- In all cases in which the applicant indicates on the application that he wants to use his application for an RR annuity to protect his filing date to a Social Security benefit, and ,
- In all cases in which the employee applicant has at least 60 CSM after 1995 but less than 120 CSM. In this type of case, the applicant cannot restrict the application to an RR annuity only.

After completing Form RR-8, the F/O will forward the original to the servicing SSA-D/O and SSA will contact the applicant to file an SS benefit application using our filing date. A copy of the RR-8 will be sent to headquarters with the RR annuity application to be imaged.

### 5.1.20 Examining Application

Examine an application for the presence of the official filing date, completeness of the information furnished, and proper signature. When the application is found to be unacceptable because of improper or omitted signature, illegibility, incompleteness or alteration, take appropriate corrective action as described in the following sections.

### 5.1.21 Signature

- A. General - An application should be signed in longhand by the applicant, by his fiduciary, or by another person acting in the applicant's behalf. A printed

signature is acceptable if that is the usual manner in which the applicant signs his name and it can be determined by comparison of the signature on the application with other signatures of the applicant in the file that the application was signed personally by the applicant.

Ordinarily the signature must be written in ink or with indelible pencil. If a signature appears in pencil in such manner that the imprint will permanently remain as a record of the authentication and there is no reason to question its authenticity, no effort will be made to determine whether it was written with one kind of pencil or another.

The applicant may sign his (her) full name or one or more given names may be represented by initials. However, a signature is acceptable if signed with only one given name and the surname even though the signer may have other given names. If the signer is a married woman or a widow, she should use her own given name(s) and her husband's surname. If she signed her application using her husband's given name(s) preceded by "Mrs.," do not request her to re-execute an application for this reason alone.

This is to say that a person's signature should be consistent with his customary manner of signing his name. In Italy, it is customary for a woman to sign her maiden name rather than her married name. In Spanish-speaking countries, a woman may use double surnames, that is, the surname of her father and the surname of her mother; or she may perhaps use the surname of only her mother. If questions arise on the different foreign signature patterns, refer them to the translator.

A signature is not acceptable if it has been altered; but if a signer happens to retrace for better legibility, that is not an alteration.

- B. By Mark - If the applicant, because of illiteracy or physical disability, is unable to sign his name in the usual manner, he may sign by mark. Should he require assistance, his hand may be guided, or it will suffice if he touches the pen or indelible pencil used after the mark has been made in his presence.

The applicant's name must be written- on the signature line. In addition, his mark must be witnessed by two persons who should sign their names in ink or with indelible pencil and give their complete addresses. When an RRB employee signs as a witness to a mark, his signature alone will suffice. Thumb prints used in lieu of a mark are also acceptable if properly witnessed. Broadly speaking, whatever a person intends to be his signature and recognizes as such for the purpose at hand, is his signature and is acceptable as such.

- C. By Fiduciary - When a fiduciary files an application in his official capacity (guardian, trustee, administrator, executor, committee, conservator), he should sign his name and show the capacity in which he acts for the person on whose behalf the application is filed. For example: "John Doe, as guardian of Richard

Roe." However, an application bearing the signature of a fiduciary which is not followed by such a description is acceptable if otherwise in order.

When joint guardians have been appointed, and in cases where two or more persons have been designated by a court to act jointly for an estate with equal authority as co-administrators, co-executor, etc., the application should be signed by both fiduciaries. However if an application is received signed by only one of the persons so appointed, it is acceptable. Do not request a new application solely for the purpose of obtaining the signature of the other fiduciary.

When an application is filed by a legal representative on behalf of a person who is or may be entitled to RR Act benefits, he must submit evidence of his appointment. If the evidence is acceptable but the application has not been signed by the fiduciary, furnish him with a new application form as prescribed in sec. [5.1.23A](#).

- D. By a Person Other Than a Fiduciary - A person other than a legal representative of an individual should sign his name and immediately following his signature show the word "for" followed by the name of the one for whom he is acting. For example: "John Doe for Richard Roe." However, if the name of the individual for whom he is acting is not shown after the signature of the person executing the application, the application is acceptable if there is clear indication as to the identity of the individual on whose behalf it is filed.

### **5.1.22 Acceptable Application**

If an application is properly executed, it is valid if received by RRB on or before the date of the applicant's death. It is valid even though it may have been received later on the date of death than the time of death. It may be acceptable if received on the first business day after a non-work day on which occurred the death of the applicant (see sec. [5.1.15](#)).

An application received by RRB on or before the applicant's death will, in the absence of evidence to the contrary, be conclusive evidence of the filing of the application by the applicant, or in behalf and by authority of the applicant.

### **5.1.23 Unacceptable Application**

See [FOM1 110.95](#) for information regarding unacceptable applications.

### **5.1.24 Alteration of Application**

An application cannot be altered in any respect by the person who executed and signed it, or by the legal representative of such person, or by the one recognized by RRB to act in behalf of such person.

In the event of the death of an applicant, changes or alterations in the application made by a person who acted for or under authority of the applicant are considered as acts of the applicant.

### 5.1.30 Cancellation

An application for annuity may be cancelled by an employee, spouse, survivor applicant, or annuitant under the following conditions:

- A. Before an Award - Before an annuity is awarded, an application for the annuity may be cancelled if:
- The applicant files a written request with RRB that the application be "cancelled" or "withdrawn"; and
  - Such individual is alive at the time the request for cancellation is filed, or if such individual is deceased, it appears that the rights of no person other than the person by whom, or in whose interest, the cancellation is requested will be adversely affected.

The employee's request to have his application cancelled also cancels an application filed by his spouse.

Do not consider as requests for cancellation such statements as: "suspend action on my claim," "postpone action on my claim," "hold up action on my claim," "I don't want an annuity now," etc. If an applicant makes such a statement, treat his case as one in which an indefinite ABD has been set (see sec. [5.1.42](#)).

Do not consider as a cancellation the withdrawal of an application for a regular annuity, awarded before 7-1-66, in order to obtain another annuity award after 6-1966, to qualify for a SUP ANN. (See [chapter 1.4](#), "Supplemental Annuities.")

- B. After an Award - After the award has been made, the application may be cancelled whenever an employee, spouse, or survivor annuitant:
- Requests in writing filed with RRB that the award and application be cancelled; and
  - Is alive at the time the request for cancellation is filed; and
  - Secures and submits the written consent of any other person who would lose entitlement because of the cancellation; and
  - Repays the annuity payments that he received and the payments received by any auxiliary beneficiary whose application is being cancelled. Repayment can be made by cash refund or by set off (e.g.

full or partial withholding) against the annuity as described in chapter [6.6](#), "Erroneous Payments."

**HISTORICAL NOTE:** An employee age 60-64 with 30 years of service who has been awarded a reduced A&S annuity or disability annuity with an ABD before July 1, 1974 cannot cancel his application and subsequently file under another application requesting an ABD after June 30, 1974 for the purpose of:

- Qualifying for an unreduced A&S annuity effective July 1, 1974 or later;  
or
- Allowing someone else to qualify for benefits based on the employee's railroad service, effective July 1, 1974 or later.
- **NOTE:** Due process procedures do not apply to overpayments created by an annuitant's request to cancel an application. Therefore, the ORCS program cannot be used to produce the overpayment letter as all ORCS letters have appeal and annuitant rights paragraphs. Prepare a special letter using RRAILS without appeal rights and do not follow due process procedure. [See 5.1.31](#).

- C. Advising Spouse of Advantage of Cancellation Before 1/1/2002 - Before the repeal of the RRA maximum effective 1/1/2002, the filing of a spouse application could cause a reduction in total family income in certain situations involving the RRA maximum reduction. When this occurred, examiners gave the spouse the option to cancel his or her application.

In these cases, the RRA maximum reduction in the employee annuity exceeded the spouse annuity rate. When the spouse annuity was awarded after the employee annuity paid final, an overpayment in the employee annuity (due to the RRA maximum reduction) was higher than the accrual due the spouse.

When this happened, the examiner asked the F/O to advise the spouse of the advantage of cancelling his or her application. If F/O contact wasn't possible, the examiner prepared a letter giving the rates with and without the spouse annuity and advising the spouse of the option to cancel. The option to cancel was mentioned only if the employee and spouse were living together.

- D. Cancellation of the WIA in a Spouse-to-Widow Conversion Case- If a widow(er) in a spouse to widow conversion case cancels his/her application, only the widow(er)'s application is cancelled. The spouse annuity due prior to the month of the employee's death is not impacted. These cancellations should be handled at Headquarters by SBD.

### 5.1.31 Handling Requests for Cancellation

When a request for cancellation of an award and application is received, have the field explain the effect of the cancellation to the annuitant and secure a statement from him of his reasons for requesting cancellation, and his understanding of the effect of the cancellation.

If a spouse application has been filed, the employee should state that he realizes the cancellation of his application cancels the application filed by his spouse.

If the annuity has already been paid, the annuitant must secure and submit the written consent of any other person who would lose entitlement because of the cancellation. For example, if an employee annuitant wishes to cancel his application, a statement should also be secured from the spouse consenting to the cancellation. Additional amounts payable to the members of the family group may be used to repay the annuity payments of the annuitant whose application has been cancelled, provided no objection is made to this method of repayment.

Due process procedures do not apply to overpayments created by an annuitant's request to cancel an application or to change a designated ABD. This means that there is no 30-day period between actions and no rights to reconsideration, review, or waiver of overpayment. Do not include appeals paragraphs in correspondence regarding the cancellation or the overpayment recovery process. Do not use the ORCS program to create the overpayment letter. Prepare a special letter using RRAILS.

### 5.1.32 Effect of Cancellation

The effect of a cancellation is the same as though an application had not been filed. When the employee's application is cancelled, any application filed by his spouse is also cancelled. If the spouse asks to have her application cancelled, her request has no effect on the employee's application. A request to cancel an application for an insurance annuity affects only the applicants or annuitants named in the request for cancellation or withdrawal. For example, if a widow files a Form Aa-18 applying for insurance annuities for herself and her children and later requests that her application for the widow's current insurance annuity be cancelled or withdrawn, only her own application and not the application filed on behalf of the children in the Form AA-18 will be cancelled. If the person filing on behalf of children for insurance annuities requests that the application for certain of the children be cancelled, the application will be cancelled only for the children named in the request.

When an insurance annuity application is cancelled, that application cannot be considered as one on which a "constructive award" can be made. In a "constructive award" a determination must be made by an authorizer and a notification thereof must be given to the applicant. That notification letter will state the monthly annuity to which the applicant has been found entitled and the reason why payment of the annuity must be withheld. When the case is placed in payment status, the official filing date of the

application (the application on which the "constructive award" was made) controls the annuity beginning date.

### 5.1.33 Cancellation by a Representative Payee

If a cancellation is received from a representative payee, ascertain if the payee is requesting only that he be withdrawn as payee or if he wants to cancel the annuitant's application.

If it is the representative payee's explicit desire to cancel the annuitant's application, take every precaution to protect the interest of the annuitant. Be certain that the representative payee understands the effect of the action. Secure a statement from him showing why it will be to the annuitant's advantage to cancel.

If the representative is a court-appointed guardian, handle in accordance with chapter 5.10, "Representative Payees".

If the representative is a payee selected under section 19(a) of the Act (other than a court-appointed guardian), and it appears that the cancellation is not to the annuitant's advantage, secure a timely application, if that is to the annuitant's advantage, from another qualified applicant on the annuitant's behalf.

### 5.1.34 Action by Examiner Following Cancellation

- A. If the cancellation request is received prior to an award being made, cancel the application on APPLE in all cases. To do this, select the application being cancelled on the Application Menu screen and press the F5 key. This will change the application status to Cancel. In retirement cases, dump the application from RASI.

An ALTA RL-31 will automatically be released to the claimant (or to a representative payee if one is shown on APPLE in survivor cases or on RASI in retirement cases). Action to close out the application without award will occur mechanically.

NOTE: If the cancellation request is received in a field office, the field will take the above actions and notify RIS or SIS, as appropriate. In disability cases, the field will also notify DSUBD.

In spouse-to-widow conversion cancellations prior to an award being made, terminate the MA annuity with FAST S/T code 59. The effective date of the termination is always the month and year of the employee's death.

The examiner should control the case and send it to the Operations Analyst, who will update the PREH IW record with the "061" cancellation code.

- B. If cancellation request is received after an award was made, reopen the award to cancel the application. Prepare an RL-31a, Acknowledgment of Application Cancellation - Payments Outstanding. Application cancellation letters do not get appeals backings and should not contain a statement that the application is denied. We cannot deny an annuity to a person who has, by cancellation of his application, not asked for it.

If the applications filed by or on behalf of other persons have been cancelled, a special letter will have to be prepared. The letter should be modeled on the RL-31 or RL-31a depending on the situation. The letter should state whose application has been cancelled.

Copies of cancellation letters should be distributed as follows:

- An original to the applicant, and
- A copy to the last RR employer (in employee cancellation cases only), and
- A copy to be imaged.

NOTE: In retirement cases, if a partial, but not a final award has been paid, dump the application from RASI.

EXCEPTION: If an application is cancelled after an award, but no payment is released (zero accrual award), the examiner is to release a RL-31 letter.

- An original to the applicant, and
- A copy to the last RR employer (in employee cancellation cases only), and
- A copy to be imaged.

In spouse-to widow conversion cancellation cases where the WIA has already been awarded, terminate the WIA annuity with FAST S/T code 61.

### **5.1.35 New Application Required after Cancellation**

A person whose application has been cancelled may reapply for the same benefit by filing a new application with RRB. The date on which the new application is filed will be the official filing date in the case.

When a widow(er) cancels an application for an insurance annuity, the application continues to be effective as an application for a deferred lump-sum payment.



### 5.1.40 Application Filed Within Three Months Before ABD

In this event, the application (for employee, spouse, or insurance annuity) will be coded into the active load and processing of the case should begin.

If the date last worked or the date of relinquishment of rights changes after the application has been filed, or if an A&S application is filed without a relinquishment of rights date, a G-88 certifying the correct date must be obtained. Contact the local field office.

Follow instructions in section [5.1.44](#) if the requested information or evidence required is not submitted within 45 days (60 days for applicants residing outside the U.S. or Canada).

### 5.1.41 Application Filed More Than Three Months Before ABD

- A. Retirement Annuities Based on Age- If the applicant chooses an annuity beginning date in a month which is more than three months after the date the application is filed, send the applicant a formal notice of denial with appeal rights, unless the applicant is the spouse of a disabled employee annuitant as described in section B. With the denial notice, give the applicant a statement of the conditions under which a person may qualify for an annuity and tell him that he will have to file a new application when he meets the necessary qualifications and wishes to receive an annuity.
- B. Retirement Annuities Based on Disability: An application for a disability annuity may be filed more than three months in advance of the annuity beginning date. In addition, the spouse of a disabled employee may file an application more than three months before the date on which the spouse's annuity can begin if the application is filed on the same day that the employee's disability application is filed. In these cases, RASI will pay the employee annuity but not the spouse annuity. Retirement Initial Section (RIS) will:
1. Check for a spouse application once the employee's disability has been rated by DSUBD.

NOTE: If the employee is rated "not disabled" and the employee application cannot be used to pay an employee annuity based on age (see [5.1.2](#)), the employee and spouse applications must both be denied.) DSUBD will send the employee a denial letter. RIS will send the spouse a denial letter.

2. Check the filing date and the annuity beginning date for the spouse and the annuity type and annuity beginning date for employee.
3. If the spouse's annuity beginning date is more than three months after the filing date, dump the case and send an electronic mail message with the

claim number to your Manager or Senior Examiner. He/she will code in an AA-3 on STAR and send an electronic mail response to you advising that payment is required.

Do not deny these cases unless they lack evidence that is necessary for the claim. If you have any questions, please see your Senior Examiner or Manager.

**NOTE:** Normal filing date limitations apply to a spouse who does not file on the same day as the disabled employee. In these cases, if the employee's disability rating is not yet complete, the field office will estimate the earliest possible spouse ABD based on the employee's DLW and claimed onset date, as well as spouse age and eligibility factors.

- If the filing date is within 3 months of the estimated ABD, the field will take the application. If the final employee ABD after disability rating is complete is more than 3 months later than the spouse filing date, do not deny the case. Refer the case to the RIS supervisor.
- If the estimated ABD is more than 3 months in the future, the field will advise the spouse to file at a date that is within 3 months of the estimated date. If the spouse insists on filing even if the estimated ABD is more than 3 months in the future, the application will be submitted for denial and an explanatory email will be sent to RBD mailbox.

C. Insurance Annuities - If an application for an insurance annuity other than a disability annuity is filed more than three months before the date on which an RR Act annuity could begin, send the applicant a disallowance letter without the appeals paragraph unless that application is being used to pay an LSDP. If used to pay an LSDP, the notification letter will instruct the payee to file a new application when eligible for a monthly annuity. See [chapter 7.1](#), "Jurisdiction Determination," when case may be under SSA jurisdiction.

### 5.1.42 Application Filed When Indefinite Annuity Beginning Date

If an applicant sets an indefinite annuity beginning date (such as "will advise later," "the expiration of UI or SI benefits," etc.), send him a formal notice of denial as prescribed in the preceding section.

### 5.1.43 Continuing Application Concept

At one time, it was the policy of RRB to consider all denied applications for employee or spouse annuities as effective for any annuities for which the applicants later became eligible. That was known as the continuing application concept.

That policy now continues only with respect to those employee or spouse applications on which the notice of decision was dated on or before 9-7-61. Stated another way, that

concept no longer applies to an application that is denied for any reason if the date of the notice of the formal decision is after 9-7-61.

To give full effect to this change in policy, Operations takes formal denial action not only when an applicant (employee, spouse, or insurance annuity applicant) is ineligible, but also when he fails to prosecute his claim and when he files his application more than three months before the date his annuity could begin (EXCEPTIONS - SUP ANN cases as shown below.)

- A. Decision Made After 9-7-61 - After 9-7-61, applications for recurring payments (including SUP ANN's) cannot be abandoned without formal denial action (EXCEPTIONS--An informal denial of a SUP ANN, by F/O personnel because the applicant apparently has less than 25 years of RR service or does not have a current connection, or as shown in section [5.1.41C](#).) This means that an applicant for a recurring payment must be given a formal decision on his application. By so doing, an application that is denied will no longer have continuing effect and the applicant will have recourse to RRB appellate procedure.
- B. Decisions Before 9-7-61 - On or before 9-7-61, applications for recurring payments were removed from the pending load by a formal denial, SSA transfer or by abandonment because the applicant failed to prosecute his claim.

Following the 9-1961 RR Act amendments, Operations released letters that informed applicants (whose claims were not in an active status and had not been certified for payment) of present or future eligibility under the amended Act, and that terminated the continuing effect of their applications. Those letters were RL-62b (9-61), T-60 (10-61) and T-61 (10-61).

The effect of each of these letters constitutes a formal denial after 9-7-61, and each has the same effect of any other formal denial.

- C. Inactive CWOA Cases Requiring Decisions - Screening clerks are instructed to forward to claims examiners any case in which an application was coded inactive or closed without award (denied or abandoned) on or before 9-7-61, if incoming correspondence is not a notice of death or would not reactivate the application and an RL-62b (9-61) was not released to the applicant.

The purpose: to make a formal decision in the case. Form Letter RL-62, formal notice of denial, is used to notify the applicant about the termination of the continuing effect of his application. On receipt of such a case, the claims examiner should take any action required on the incoming correspondence.

If a case is one in which the applicant had made a formal appeal and Operations decision had been sustained, do not release an RL-62. But in the other inactive or closed without award cases, set up a formal notice of denial RL-62 for release to the applicant at his latest address of record.

If an RL-62 is returned as undeliverable, file it and the returned envelope in the claim folder. Take no further action in the case. But that case will henceforth be considered as one in which the denied application does not have continuing effect.

### 5.1.44 Denial for Failure to Prosecute Claim

- A. When Evidence or Information Is Not Submitted - If no reply is received to a request for information or evidence after 45 days from the date of the last request, release a notice of denial unless there is a field interim status report in the folder. (Refer to B below for denial of insurance annuity.) If there is a field interim status report in the folder, do not deny the case until the field has sent a notice that the case has been abandoned.

On the other hand, if within that period the applicant does not submit the required information or evidence but states that he is trying to get it and requests additional time to do so, grant him the additional time. Tell the applicant the period of the extension. (No rules can be set on what additional time may be granted in a case. That must be determined on the basis of the facts at hand. But give every consideration to any reasonable period of time that the applicant may specifically request. Continue to grant extensions as long as an applicant requests them, provided that he is making a sincere effort to prosecute his claim.)

Maintain a call up on cases in which formal notices of denial, if appropriate, will be released at the expiration of the prescribed period.

NOTE: If the applicant lives outside the U.S. or Canada, allow a two-month period for completion of the claim before releasing a notice of denial.

- B. Insurance Annuity - If an insurance annuity applicant has submitted all required evidence and on the bases of that evidence is determined to be ineligible, deny his claim. Should there be no other potential beneficiaries to an insurance annuity in the case, any claims for an LSDP or RLS should be processed to a conclusion and any payments provided by law made to the qualified person(s).

If an insurance annuity applicant fails to prosecute his claims by submitting the requested evidence and his claim is denied for that reason, withhold a decision on any LSDP or RLS claims in the case for one year from the date of the formal denial.

Tell an applicant for a lump-sum payment in cases of this type that RRB is unable to process his claim for the period of one year because of the possibility that a person filing for an insurance annuity may establish his right to such annuity. State that at the end of the year his claim will be considered further. Be particularly careful that these letters do not commit RRB to a payment at the end

of the one-year period. They should commit RRB only to a consideration of payment at the end of that period.

Keep this fact in mind: If the statements on the application of a person applying for a lump-sum payment would, at face value, disqualify him, payment cannot be made to him (even though he were otherwise qualified) unless such statements are disproved. (For example, a person applying for a lump sum as payer of the employee's burial expenses stated on his application that the employee was survived by a minor child. The child would have superior rights in the case.)

Code these cases for call up on the first of the month following the expiration of a one-year period from the date on which the insurance annuity applicant was formally denied for failure to prosecute his claim.

### **5.1.45 Evidence Received Within One Year of Date of Denial Notice**

If an applicant submits the required evidence within one year from the date of the formal notice of denial but it does not show that he was eligible on or before the date of denial, he will have to file a new application before an annuity can accrue to him. In such a case, retroactivity will be on the basis of that new application.

If the evidence did establish that the applicant was eligible on or before the date of the formal notice of denial, he will not have to file a new application before an annuity can accrue to him (see section [5.1.47](#)).

### **5.1.46 Evidence Received One Year or More After Date of Denial Notice**

If an applicant submits the necessary evidence one year or more after the date of the formal notice of denial of his claim, and he does not establish that his untimely submission of the evidence was not due to negligence on his part, he will have to file a new application before an annuity can begin to accrue to him. In that case also, retroactivity will be on the basis of the new application.

Even though an applicant did establish that he was not negligent in submitting evidence, a new application would be required if the evidence failed to show that he was eligible on or before the date of denial. (In a situation where the applicant did establish that he was not negligent and the evidence shows that he was eligible on or before the date of denial, see the following section.)

### **5.1.47 Re-Openings**

Applications that have been denied, and thus cease to be effective, can be re-opened under the conditions set forth in [Chapter 6.2](#), "Re-openings." An application that was denied because of the applicant's failure to establish eligibility may be re-opened with

full retroactivity if the conditions outlined in [Chapter 6.2](#) are met. A new application is required if the conditions outlined in that chapter are not met.

After a denial or a decision on an application, an applicant cannot change his application to agree with the proof he submits; but before a decision is made on his application, he can do so. This does not mean that the proof cannot be accepted. It may be, but the previously denied application containing statements at variance with that proof cannot be re-opened; a new application is required.

### **5.1.48 Cases in Which Annuities Terminated**

An annuitant whose payments were terminated (entitlement ended, e.g., recovery from disability) for any reason after 9-7-61, will have to file a new application to receive any annuity for which he may later qualify.

For this purpose, "termination" means ending of entitlement due to a terminating event. It does not include a change in the type of a spouse annuity to which the spouse is entitled or the stopping of payments when a child attains age 18 if the child later establishes his eligibility as either a disabled child or an FTS and payments are reinstated from the month he attained age 18. (See sec. [2.4.8](#).)



