

## **110.5 What Is An Application Filed With The RRB?**

In general, an application filed with the RRB is one that is filed on an official form set up by the RRB for that purpose.

An application filed for benefits under Title II of the Social Security Act on a form set up by that agency can, under certain conditions, be considered an application filed with the RRB.

An application for survivor benefits filed with the Department of Veterans Affairs on one of its forms is also considered an application for a survivor annuity under the Railroad Retirement Act.

## **110.10 Need to File an Application**

In addition to meeting other requirements, a person must file an application to become entitled to an annuity or lump sum under the Railroad Retirement Act. The filing of an application is necessary to:

- Permit a formal decision on whether the person is entitled to an annuity or lump sum;
- Protect the person's entitlement to an annuity for as much as 6 or 12 months before the application is filed, depending on the kind of annuity;
- Provide the right to appeal if the applicant disagrees with the decision on the claim.

## **110.15 Where to File an Application**

### **110.15.1 Applicant in U.S., Mexico or Canada**

An applicant who lives in the United States, Mexico or Canada may file an application at any RRB office in person, by telephone or by mail. An applicant may also give the application to a RRB field employee who is authorized to receive it at a place other than a RRB office. Refer to Appendices H and I which list Canadian provinces and territories and Mexican states and territories respective to field office locations.

### **110.15.2 Applicant Outside of U.S.**

An applicant who lives outside of the United States, Mexico or Canada may correspond directly with the Chicago Field Office or file an application with the assistance of any United States Foreign Service office for transmittal to the Chicago Field Office.

## 110.20 Life of an Application/Limitations On Filing

### 110.20.1 Monthly Insurance Annuities

An application for an insurance annuity, other than a disability annuity, is not acceptable if it is filed more than 3 months before the first of the month in which the annuity could begin to accrue. The three months should be counted as the month of filing, plus 3 months or the month of the ABD minus 3 months.

Example 1: The applicant calls and wants an ABD of July 17, 2015. He may file any day in April 2015, 3 months prior to the ABD month.

Example 2: The applicant calls and his DLW RR is July 31, 2015. The earliest ABD is August 1, 2015. The earliest filing date is any day in May 2015

Example 3: The age reduced applicant files in April 2015. The DLW RR is July 28, 2015. The earliest ABD is July 29, but age reduced annuitants cannot have an ABD on the 29<sup>th</sup> or 30<sup>th</sup> of the month in RASI. RASI will change the ABD to the first day of the following month. Therefore, the ABD would be August 1, 2015, which is more than 3 months after the filing date. RASI will dump the case and refer to the examiner for the denial letter. If the applicant insists on an ABD on the 29<sup>th</sup> or 30<sup>th</sup> of the month, enter a manual review code on the application with an explanation in Remarks, and the examiner will pay the case on ROC.

- A. Disability application filed more than 3 months before the ABD - An application for a disability annuity may be filed more than 3 months before the first of the month in which the annuity could begin to accrue. Disability applications for employee, widow(er)s and children are specifically exempted from the 3-month rule. If the waiting period of a disability annuitant causes the annuity to begin more than 3 months after the filing date, the application is filed timely.

In theory, a disability applicant could file any time before a future annuity beginning date (ABD). However, it is RRB policy that an application for a disabled employee should not be filed until the date last worked or the date the applicant is off the payroll (see [FOM-1-110.65.1](#) for an exception to this rule). The RASI (Retirement Adjudication System Initial) system will reject an application if the last day worked or on the payroll is a future date. In addition, we cannot verify lag service and compensation until the last day worked or on the payroll.

A disabled employee who is off the payroll may wish to designate a future ABD, e.g., because he is receiving other employer benefits. Such an employee may file more than 3 months before the ABD. However, RASI will process the application only if it is filed within 6 months of the ABD.

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.

The normal filing limitations apply to the spouse who does not file on the same day as the employee. Protected filing date procedures do not apply in this type of case. In cases where the employee's disability rating is not yet complete, make an estimate of 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 estimated ABD is within 3 months, take the application.
- If the estimated ABD is not within 3 months, advise the spouse to come back and file within 3 months of that estimated ABD. Make a record of the contact. If the spouse insists on filing anyway, submit the spouse application for denial. Send an email message explaining the situation to the RBD mailbox.

- B. When a new disability application is required - Because a disability application may be filed more than 3 months before the ABD, a new application is not required if the disability onset date is after the application filing date, and the disability onset date is before the date of the final decision (e.g., date of the denial letter or the reconsideration determination). In that case, the disability onset date is deemed to be the application filing date.

EXAMPLE 1: The employee filed an AA-1 and AA-1d on 7-19-84, claiming a disability onset date of 5-13-84. He was found to be disabled as of 3-20-85. A new application is not required, because the disability onset date is before the date of the final decision. RASI will drop the application, and the annuity will be paid manually, because the ABD is more than six months after the filing date.

EXAMPLE 2: The employee filed an AA-1 and AA-1d on 2-18-84, claiming a disability onset date of 9-2-82. His application was denied on 10-12-84. He requested reconsideration within 60 days; upon reconsideration, he was found to be disabled as of 12-7-84. His annuity will begin 6-1-85, after the expirations of the waiting period. A new application is not required because his disability onset date is before the date of the final decision - in this case, the reconsideration determination.

If the denied applicant does not request reconsideration or submit new evidence within 60 days of the denial notice, a new application must be filed. A new application is also required when reconsideration is not requested within 60 days, and the disability onset date is after the date of the original denial notice.

### **110.20.2 Lump-Sum Death Payments (LSDP)**

An acceptable application for an LSDP must be filed with the RRB on or before the second anniversary of the death of the employee.

### **110.20.3 Annuities Unpaid at Death**

An application for annuities unpaid at death must be filed with the RRB on or before the second anniversary of the death of the person to whom such annuities were originally due. An exception is made for RESCUE cases. Because an accrued annuity may not be detected by RESCUE until more than two years after the employee dies, an application for the RESCUE accrued annuity is valid if filed within two years of the date of the RESCUE run. In addition, the Board waived the two-year filing limit for accrued annuities computed by RESCUE in a special backlog run performed in March 2007.

### **110.20.4 Residual Lump sum (RLS)**

There is no time limitation on the filing of an acceptable application for an RLS.

### **110.20.5 Suspension of 2-Year Filing Limitation**

- A. The 2-year limitation on filing for an annuity unpaid at death or an LSDP can be waived if certain statutory provisions set forth in the Act of March 7, 1942, and in the Soldiers' and Sailors' Civil Relief Act are met.

The Act of 3-7-42 applies to any person who was reported "missing" or "missing in action" while on active duty as: an officer or enlisted person of the Army, Navy, Marine Corps, and Coast Guard, (including retired reserve personnel thereof), the Coast and Geodetic Survey and the Public Health Service. The Act may also encompass civilian employees of the executive departments, independent establishments and agencies during such time as the person may be assigned to duty outside the U.S.

The Soldiers' and Sailors' Civil Relief Act applies to all persons in the Armed Forces of the U.S.

If an otherwise valid application is filed after the two-year filing limitation has expired and it appears that the provisions of these statutes may apply, Headquarters will determine if the application is acceptable.

- B. The 2-year limitation on filing for an annuity unpaid at death or an LSDP can be waived if the applicant has "good cause" for a delay in the filing of an application, 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 RRB; 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. Headquarters will determine if "good cause" condition is met.

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.

### **110.20.6 Application Filed After Death**

Usually, an applicant must be alive when an application is filed. The following are exceptions to this rule.

- A survivor eligible for an annuity or lump sum may file an application to establish a period of disability for an employee who died before filing an application for a disability annuity. The application must be filed within 3 months after the month the employee died.
- A widow(er) may file an application for a spouse annuity after the death of the employee if the widow(er) was eligible for a spouse annuity in the month before the month the employee died.
- A person who could receive payment for the estate of someone who paid burial expenses of the deceased employee may file an application if the person who paid burial expenses dies before applying for the LSDP. The application must be filed within two years of the employee's death in such cases.

### **110.20.7 Retroactivity of Application**

The retroactivity of an application is explained in [FOM-1-112](#).

### **110.25 Filing Date of an Application**

An RRB application is officially filed on the date the completed, signed, application form is delivered into the custody of an authorized RRB or U.S. Foreign Service office representative. An application signed by Attestation is officially filed when the field representative annotates the completed application that the applicant:

- Intends to file the application;
- Understands the Penalty Clause; and
- Agrees to sign the application.

Under special circumstances an earlier date may be established as the official filing date, but consider another date ONLY if using the completed application receipt date will result in a loss or reduction of benefit to the applicant. The alternative official filing dates (postmark date, SSA filing date, VA filing date, intent to file, or protected filing date) are described below. You must determine that the application receipt date will not allow the applicant the greatest benefit before establishing an earlier official filing date based on these special provisions. See benefit retroactivity in [FOM1 110.20.7](#).

Once an application is filed, the filing date cannot be changed to a later date based on the applicant's request. The application must be cancelled and a new application must be filed if an applicant wishes to have a later filing date than the original date on record. Refer to [FOM1 110.110](#), Cancellation of Application for further information.

### **EXAMPLE:**

An employee and spouse previously filed for a full 60/30 annuity with a date of filing of 8/12/2013 and an ABD of 11/1/2013. The employee and spouse then requested that their date of filing be changed to 11/27/2013 due to it affecting their retirement health insurance from the railroad. Despite the fact that this will not change the ABD, the filing date cannot be moved to a later date. The application must be cancelled and a new application must be filed in order to move the filing date to a later date.

**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 Form AA-1d for the official file date only if that date is necessary to provide the greatest benefit permitted by law. See [FOM-I-110.55](#) for protected file date details. Both applications should be date stamped upon receipt. If the AA-1 is cancelled and a new AA-1 is filed to change the date of filing to a later date, a new AA-1d and G-251 are not required. The original AA-1d and G-251 are still valid and the new AA-1 date of filing should be used as the official file date since that will continue to be the date that provides the greatest benefit to the annuitant per the annuitant's request. In any other situation, a new AA-1d and any other forms required should be secured.

### **110.25.1 Postmark Date**

Applications made through the mail are considered filed when deposited in the U.S. mail, if this is more advantageous to the applicant than using the date of receipt at RRB. Enter the date and hour of the postmark in the upper right margin of the application form. Enter the postmark date as the filing date on APPLE when that is more advantageous than using the actual date received. Explain in remarks.

If an applicant died on a day observed by RRB as a non-work day, his or her application could be received by mail on the first business day following the non-work day. The application maybe considered officially filed on the non-work day if the postmark established that the application was mailed in time to have been received on the non-work day had it been a business day.

### 110.25.2 SSA File Date

The date the Social Security Administration considers their Title II benefits application officially filed may be used to establish the RRB official filing date if the conditions described in [FOM-I-110.30](#) are met, and the applicant requests the Board use that date.

### 110.25.3 VA File Date

In certain RRB survivor benefit claims, a Department of Veterans Affairs application filing date may be used for the RRB application official filing date. See details in [FOM-I-110.45](#).

### 110.25.4 Intent to File Date

The date the applicant first advised an RRB office that filing for benefits was intended may be considered for the official filing date if a loss of retroactive benefits can occur by using the completed application receipt date. Follow the requirements of this provision detailed in [FOM-I-110.55](#).

### 110.25.5 Attestation File Date

The application filing date for an application filed by Attestation is the date the Field Representative confirms and annotates on the APPLE Document Printing screen, the applicant's:

- Intent to file an application;
- Agreement that the information provided is correct;
- Agreement to sign the application.

## 110.26 Recording the Filing Date

As soon as an application or form requiring an official filing date is received, enter the current date and your field office number on the face of the application or form in the pre-printed spaces provided. If a pre-printed space is not provided on a form, note the form as follows:

"Officially Filed (Field Office Number)

(Date)

(Signature and Title of RRB Employee)

(Location of Field Office)"

Stamp "Officially Filed" on an application, and enter the date of its receipt, even if the application may be unacceptable for some reason. See [FOM-I-110.95](#).

**NOTE:** For employee disability retirement applications, the Form AA-1 and Form AA-1d may have different receipt dates. The date of the signed Form AA-1 is the official filing date to be entered on the application package and on mechanical claims systems.

## **110.30 When An Application Filed At SSA Can Be Considered An Application Filed At RRB**

### **110.30.1 Life Cases**

- A. General - An application filed for benefits under Title II of the Social Security Act based in whole or in part on creditable RR service, can be considered an application filed with the RRB if entitlement exists or is subsequently acquired under the RR Act.

**EXCEPTION:** When an SSA DIB was terminated before the 120th month of RR Act service was performed, the SSA DIB application is not considered an application filed at RRB.

The acceptability of such applications is contingent upon one of the following conditions:

1. The application was filed because the applicant was unaware of RR Act eligibility, and there is evidence in file showing that there was a basis for the applicant's belief that there was no eligibility for an annuity under the RR Act; and,

The applicant would have been entitled to an annuity if an RR application had been filed on the date the Social Security application was filed; and

The applicant submits a written statement requesting that the Social Security application be used at RRB.

2. The SSA application was filed because the employee had less than 10 years of creditable railroad service, and having continued working in railroad service, subsequently acquired 10 years of railroad service. The acceptability of such application applies whether or not we had 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.

- B. SSA Application Filed on or Before 12-31-74 - Special consideration is given to cases in which an application filing date for SS Title II benefits before 1-1-75 can be used to "vest" an individual for payment of a windfall under the 1974 Railroad Retirement Act.

If the individual filed for such benefits at SSA on or before 12-31-74, that application can be considered a valid RRB application if the following conditions are met:

- The individual would have been entitled to an RR annuity and SS benefit when the SS application was filed; and
- The individual requests in writing that the SS application be considered an application for the RR annuity.

In these cases, the application filed at SSA need not have been based on any service covered under the Railroad Retirement Act. If the individual is vested under the 1974 RR Act without regard to the SSA filing date, this provision cannot be invoked solely to permit an earlier RR ABD. If an individual who meets these criteria inquires about this non-vested status, or an examiner notices that this provision can apply in a particular case, you will be asked to secure a statement electing use of the SSA application to protect the filing date for the RRB application. Information regarding the financial advantage for the beneficiary will be included in the assignment.

### **110.30.2 Death Cases**

An application filed at SSA on or after 10-1-46 for monthly benefits or a lump sum death payment, due to the death of a person who performed service under the RR Act, can be considered an application for the corresponding survivor benefit under the RR Act.

If SSA transfers an appropriate and fully completed application to RRB, an annuity or LSDP can usually be awarded without obtaining an RRB application, as long as all other RR Act requirements are met.

**EXCEPTION:** A residual lump sum may not be awarded based on the SSA application.

All required information must be provided on the SSA application or on another SSA form, signed by the applicant, before an award can be made. Before an LSDP can be paid, sufficient information must be in the Headquarters file to ensure that no survivor is currently entitled to a monthly annuity.

If an LSDP will be paid based solely on a social security application, Headquarters personnel have been instructed to notify the appropriate RRB district office in order to prevent duplicate development. If a supplemental application or other development is necessary before payment can be made, an assignment will be sent to the servicing district office. When a social security application is used to pay a monthly survivor annuity at RRB, it is necessary to secure a signed certification form from the applicant. This can be obtained after the annuity is awarded. The assignment received to secure the certification form should include a summary of the case and state that payments are in force based on an application transferred from SSA.

To obtain the annuity certification form, detach the "Certification" page and the "Receipt for Your Claim" from the appropriate annuity application. Discard the rest of the application. Complete the certification form, and make all the entries on the "Receipt for Your Claim." Ask the annuitant for excess earnings information. The annuitant should

sign the certification and enter the date signed. Give the receipt and the appropriate informational booklet to the annuitant.

### **110.35 When an Application Filed At RRB Can Be Considered an Application Filed At SSA**

Section 5(b) of the 1974 Railroad Retirement Act (RRA) provides that "an application filed with the RRB for an annuity under this act shall, unless the applicant specifies otherwise, be deemed to be an application for any benefit to which such applicant may be entitled under this act or the Social Security Act."

The intent of this section of the RRA is to protect the filing date of an application for any monthly benefit the applicant is entitled to under Title II or Title XVIII (Medicare) of the Social Security Act on any person's wage record. However, it is still necessary for the applicant to complete a separate SSA application to receive benefits from SSA.

If the applicant has less than 120 months of service but more than 60 months of service after 1995, complete the application so as to protect the filing date at SSA. Release an RR-8 to the appropriate SSA office and advise the applicant that he/she must file at SSA if he/she wants to receive SSA benefits. The applicant is not required to actually file with SSA.

NOTE: The RR annuity application cannot be used to protect the filing date of an application for SSI payments (Title XVI) from SSA.

### **110.40 Notifying Applicant Of Dual Filing Rights**

The retirement and survivor application forms ask the applicants if they want the application filed at RRB used to protect the filing date for social security benefits. This provision applies only if the applicant has not yet filed for SS benefits, and is eligible or is within 3 months of being eligible for SS benefits.

When an applicant answers "Yes", (requesting protection of SSA filing date) complete form RR-8. Send the original to the SSA district office servicing the applicant's home address, and image a copy with the application.

### **110.45 Use of VA Application in Death Cases**

A Department of Veterans Affairs application filed 1-1-57 or later by a widow(er), child, or parent who is a survivor of a former member of the uniformed services is recognized by the Social Security Administration as an application for a corresponding benefit under its Act.

The Department of Veterans Affairs uses a VA Form 21-4180 when transmitting notification of receipt of an application for benefits. If this form is transferred to RRB by SSA or is received directly at RRB, it will be considered to protect the filing date of a widow(er), child or parent for an RR insurance annuity.

The RRB considers VA Form 21-4180 to be a "lead" form of notification to secure an RRB application. If headquarters receives this notification, the appropriate field office will receive an assignment to develop an application when this happens.

NOTE: An VA Form 21-4180 is not considered an application for an LSDP. It does not protect the filing date for such a payment.

## **110.50 When One Application Satisfies Filing Requirement for Other Benefits**

The filing of an application for one type of benefit can, under certain circumstances, eliminate the need to file for another benefit to which the applicant may be entitled. An applicant need not file another application to be entitled to any of the following benefits (even though supplemental forms or applications may be requested before payment can be made):

- A. An employee annuity based on age if:
  - The employee's application for a disability annuity is denied and the employee is eligible for the age annuity on the date the application was filed or on the date of the denial;
  - The employee is entitled to a disability annuity in the month before attainment of full retirement age (FRA). Upon attainment of FRA, a disability annuity is automatically converted to an age-and-service annuity.
- B. An employee annuity based on disability, if an application for an age annuity is denied and the employee is eligible for the disability annuity on the date the age annuity application is filed.
- C. An accrued employee or supplemental annuity, or a residual lump-sum, if the applicant is eligible for any of these payments when filing an application for a survivor annuity or a lump-sum death payment.
- D. A widow(er)'s annuity, if he or she is entitled to a spouse annuity in the month before the employee died.
- E. An aged widow(er)'s annuity, if he or she was entitled to a disabled widow(er)'s annuity in the month before attainment of age 60.
- F. A widow(er)'s annuity based on age or disability if the widow(er) (who was receiving an annuity, based on having the employee's child in care) is eligible for an age or disability annuity when the child is no longer in his/her care.
- G. A widow(er)'s annuity based on child of deceased employee in care if he or she is entitled to a disabled widow(er)'s annuity.

- H. A spouse annuity based on age for a wife or husband who is receiving an annuity for having the EE's child in care, if he or she is eligible for an unreduced age annuity when the child is no longer in care.
- I. A child's annuity if, in the month before the employee died, a spouse was entitled to an annuity for having the child in care.
- J. A benefit under Title II of the Social Security Act unless the applicant restricts the application only to a railroad annuity.
- K. A lump-sum death payment, if the applicant is an eligible widow(er), who will be entitled to an insurance annuity within three months. The monthly annuity application can be used to award both the lump-sum death benefit and the monthly annuity.

### **110.55 Protected filing date**

An individual may demonstrate intent to file an application for a RRB annuity or lump sum, but circumstances prevent the completion of the application process by the end of the same month. In such cases, using the completed, signed, application receipt date for the official filing date in a later month may cause the applicant a loss of retroactive benefits.

Refer to [FOM1 110.20.7](#) for rules on the retroactivity of each type of benefit. If a written or oral communication with the applicant specifically expresses the 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. It is very important for RRB representatives to document such contacts whenever it appears that benefits may be lost by waiting for the completed application form to be received.

Refer to [FOM-I-110.25](#) for additional information.

#### **EXAMPLE 1**

An age 62 employee sends a letter to the RRB for an estimate of annuity with age reduction, asking how much more he could receive at full retirement age, and what he would need to do if he decided to "take retirement". With no additional details provided, this is only an information request; the inquiry does not show that the person wants to file now.

#### **EXAMPLE 2**

An age 62 employee sends a letter to the RRB stating that he has been ill and doesn't think his doctor will let him go back to work. He asks for his papers about "getting retirement" and what extra records would he need to "get disability". This communication shows that the employee intends to file an application, possibly resulting in a retroactive disability annuity, and that the field may need the letter for protection of

the filing date if the person has been ill for a long time. This conclusion may be confirmed by a phone conversation with the prospective applicant.

Upon receipt of the communication expressing intent to file, the field office will respond with a notice stating that while the declaration of intent has been recorded, an official application will also be required to establish entitlement to benefits.

**NOTE:** 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. However, normal 3-month filing limitations apply to spouses who do not file on the same day as the employee. Do not protect filing date in these cases. See [FOM1 110.20.1](#) and [RCM 5.1.41B](#) for more information on this type of case.

### **110.55.1 Written Statement Filed with the RRB**

A written statement meeting the following requirements can be used to establish the official filing date of an application for an annuity or lump sum at the RRB. The written statement may be a letter or RRB form submitted by the prospective applicant. It may be delivered by hand or sent by mail, electronic mail (e-mail) or facsimile transmission (fax).

**NOTE:** If sent by mail, the postmark date may be used in the same manner as an application sent by mail. (See [FOM 110.25.1](#))

A form set up by the RRB to solicit information about persons who may be eligible for an annuity or lump sum (e.g., RL-94-F) is not, by itself, considered a written statement for this purpose. When an individual transmits a RRB form to an authorized RRB representative, however, information may be included that indicates a claim is intended. Consider this to be so if all of the following conditions are met:

- The statement must express intent to claim benefits under the Railroad Retirement Act.
- The statement must be signed by the prospective applicant or by the person who will file as representative payee.
- The statement must be received by the RRB, not more than 3 months before eligibility exists, under the same requirements as described in [FOM 110.25](#) for the actual official application.
- A completed application form must be filed with the RRB within 3 months of the date of your notice advising the prospective applicant that a formal application is required.
- The claimant must be alive when the application is filed.

## 110.55.2 Documented Telephone Contact

A declaration of intent to file an application is easier to determine when the inquirer can be interrogated during a telephone contact than when a judgment is based on information in a letter. It is appropriate to secure additional detail by telephone to supplement a written statement, or the telephone conversation may be the only contact.

When all of the following conditions exist, record the details of a telephone contact with a potential applicant, or the prospective representative payee, for purposes of protecting an application filing date.

- The inquirer expresses intent to claim benefits, and
- The inquirer appears to qualify for benefits or insists on filing, and
- A later filing date would cause loss of benefits.

When the earliest benefit beginning date is the month of filing, and the telephone contact is made during the last eight working days of the month, the completed application may not be received back by the field office before the end of the month. In such cases, use the telephone contact date for the official filing date.

Documentation of this type of telephone contact must be made immediately. The RRB representative's record of the telephone conversation becomes the written statement of an intent to file which can, later, be used as the official application filing date provided that:

- The telephone contact is not more than 3 months before eligibility exists; and
- The application form is filed within 3 months of the date an RRB reply to the applicant advises that an official application is required; and
- The claimant is alive when the application is filed. (See survivor benefit applicant exceptions in [FOM 110.20.6.](#))

To record these telephone contacts, include the following information in the General File Notes section of the Contact Log Scratch Pad or complete a Form G-94, *Record of Retirement or Survivor Claim Inquiry*, with the following information:

- RRB Claim number and Employee's name;
- Prospective applicant's name and social security number;
- Name, address and telephone number of inquirer;
- Date of contact;
- RRB representative and office contacted; and

- Include the following statement: “This person expressed an intent to claim benefits under the RRA.”

### **110.55.3 Field Office Handling of Written Statements & Documented Telephone Calls**

All written statements and documented telephone contacts indicating intent to claim benefits must be disposed of by:

- Securing an application as soon as possible; or
- Advising a claimant in writing that an application must be submitted within 90 days to protect that filing date; or
- Obtaining a signed statement that the inquirer does not wish to file for benefits.

Within 30 days of the receipt of a written statement or telephone contact expressing the intent to file for benefits, complete an application in person or over the telephone or schedule a date to meet with the inquirer to secure an application.

If you cannot develop an application within the 30 days after your receipt of the written statement or telephone contact, send the RL-346 letter (Protected filing date letter) to the inquirer but do not pend for reply. This letter informs the inquirer that we may be able to protect a filing date if an application is filed within 90 days of this letter. Keep the protective statement in the closed retirement file and image a copy of the RL-346 letter.

If you have a written statement and eligibility is doubtful, explain to the inquirer why he/she is not eligible for benefit. Also explain that the inquirer has the right to file an application to receive an official denial. Take the application if the inquirer insists on filing.

When mailing an application for completion, advise the applicant that the application must be filed within 90 days to protect the filing date. Various transmittal letters used by the field to send an application will include this notice. If the transmittal letter does not include the notice include the following information:

- The date of the applicant's initial contact.
- The enclosed application must be completed and returned within 90 days in order to protect the filing date of the application.
- If you do not file this application within 90 days, loss of benefits may occur.

When an application is transmitted with a protected date entered as the official filing date, enter the justification information from the G-94 or written statement in remarks section on APPLE. Enter the date for protected filing on the Summary Screen on APPLE. Image a copy of the G-94.

If no timely application is filed, image a copy of the telephone contact record (G-94) and the RL-346 letter. Retain the written statement closed retirement files.

#### **110.55.4 Headquarters Handling of Written Statement Filed with the Social Security Administration**

A written statement filed with the SSA, and sent to the RRB by the SSA, can be used to establish the RRB official application filing date in the same way as a written statement received directly from the prospective applicant. Such a statement must meet both the conditions for use of a SSA application at RRB and the conditions in [FOM1 110.55.1](#).

#### **110.60 Deterred From Filing Determinations**

When a person (employee, spouse, or survivor) contacts an RRB office by telephone or in writing (this includes electronic mail (e-mail) and facsimile transmission (fax), stating a desire to file for an annuity or lump sum but does not file because of the action or inaction of a RRB employee, that person is entitled to have a filing date established based on such a contact if the following conditions are satisfied:

- A. The RRB employee failed to:
  - Inform the person that it was necessary to file an appropriate application; or
  - Tell the person that a written statement could protect the filing date even though such a statement would not serve as an application; or
  - Give the person the proper application form; or
  - Correctly inform the individual of his or her eligibility.
- B. The person files an application on the prescribed form within 3 months after the date a notice is sent advising of the need to file an application.
- C. The claimant is alive when the application is filed except as provided in [FOM1 110.20.6](#).

Prepare a memorandum, giving the allegations and/or facts in the case. The memo should be written by the contact representative who handled the original inquiry, if that individual is still working in your office. If the individual is no longer working in your office, the memo should be written by the district manager. The memo should include the dates and results of any previous inquiries made by the individual. If no record of a previous inquiry exists, the memo should state that fact. Also submit any evidence available in your file regarding the application inquiry and the RRB's action or inaction. Send the memorandum and any available evidence to the appropriate adjudication unit. The memorandum should be submitted through the district or branch manager, who should review the statement and add any pertinent information.

A decision on the merits of a deterred from filing claim is made at headquarters by a claims specialist or supervisor. If additional evidence or statements are required in order to make a decision, an assignment will be received.

## **110.65 Advance Filing of Employee And Spouse Applications**

RRB regulations dictate that an application for an annuity must be denied if it is filed more than 3 months before the date an annuity can begin. Previously, the disadvantages outweighed the advantages and the practice of "advance filing" was discouraged. However, using Application Express (APPLE), the application now can be submitted to begin processing before the applicant actually stops railroad employment. The system will accept applications with railroad ending dates up to 3 months. The three months should be counted as the month of filing, plus 3 months or the month of the ABD minus 3 months. NOTE: The system does not count the days from the date the application is filed to determine the annuity beginning date (ABD). It only counts the months.

Example 1: The applicant calls and wants an ABD of July 17, 2017. Based on the requested ABD, the applicant is not restricted to filing his application April 17, 2017 or later. He may file any day in April 2017. The claims representative would advise the applicant accordingly.

Example 2: The applicant calls and reports his date last worked for the railroad will be July 31, 2017. Based on this information, the earliest allowed ABD would be August 1, 2017. The applicant indicates that he plans to file an application in April 2017. The claims representative would advise the applicant the earliest he or she would be allowed to file an application would be any day in May 2017.. If an application is filed before May 1, 2017, it will be denied.

Encourage applicants to schedule appointments when they wish to file an initial retirement application in advance. Prepare potential applicants during your pre-retirement counseling.

You must emphasize to the applicant his/her responsibility to advise you as soon as possible if any of the application data changes, or if (s)he changes his/her mind about filing for an annuity, because the application will begin processing immediately after the APPLE data has been released.

Advise the applicant that any non-railroad work that they begin before the annuity beginning date is considered LPE and MUST BE REPORTED.

If the annuity beginning date will be affected by any change or the applicant reports he is starting work, send an E-mail message to RIS immediately, notifying them of the change, so that action can be taken to prevent an incorrect payment.

Partial rates can be entered in APPLE (Summary screen) because payment will not be paid until the month after the first full month of retirement.

No G-88 will be required to confirm the DLW claimed unless the DLW entered on the application changes. The certification made by the applicant at the time of filing as to the anticipated date last worked is acceptable. However, if the DLW changes after filing, and the new date falls outside of the three month rule, the application will be denied.

See [FOM 1720](#) for the special handling procedures of Forms G-88 and G-88A.2 in advance file cases.

**EXCEPTION:** Because survivor applications are not handled mechanically and last person service is not a consideration for entitlement to a survivor annuity, advance filing for this class of beneficiaries can be advantageous. However, it is important to stress the effect of earnings on such applicants if they are working.

Do not trace payment based on an advance-filed application until at least 45 days after a check could have been received. For example, if an individual files February 1, 2001 and has an April 1, -2001 ABD, the earliest date a payment could be received would be around mid-May, assuming a May 1, 2001 voucher date.

### Disability Annuity Applications

A disability application may be filed more than 3 months before the ABD. A new application is not required if the disability onset date is after the application filing date, and before the date of the final decision (e.g., date of the denial letter or the reconsideration determination). The disability onset date is deemed to be the application filing date. As such an application for a disability annuity may be filed more than 3 months before the annuity beginning date. This includes disability application for employee, widow(er)s and children.

In theory, a disability applicant could file any time before a future ABD. However, it is RRB policy that an application for a disabled employee should not be filed until the date last worked or the date the applicant is no longer in compensated service (see [FOM-1-110.65.1](#)). 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. Note: The normal filing limitations apply to the spouse who does not file on the same day as the employee. Protected filing date procedures do not apply in this type of case. For an example, see [FOM I 110.20.1a](#).

**EXAMPLE 1:** The employee filed an AA-1 and AA-1d on July 19, 2016, claiming a disability onset date of May13, 2016. His application for disability was granted on March 20, 2017. A new application is not required, because the disability onset date is before the date of the final decision.

**EXAMPLE 2:** The employee filed an AA-1 and AA-1d on February 18, 2016, claiming a disability onset date of September 2, 2015. His application was denied on March 12, 2017. He requested reconsideration within 60 days. On May 19, 2017, the Program

Evaluation and Management Services Reconsideration Section found he was disabled with an onset date of December 7, 2016. His annuity will begin June 1, 2017, after the expirations of the six month waiting period. A new application is not required because his disability onset date is before the date of the final decision.

### **110.65.1 Employee in Compensated Service Filing a Disability Application**

In most cases, under the Railroad Retirement Act, an employee who is actively working for a railroad employer at the time of filing is, by definition, not disabled. The fact that they are working any railroad job shows that they are able to work. However the definition of compensated service includes not only compensation with respect to active service performed by an employee for an employer, but also includes pay for time lost, wage continuation payments, certain employee protection payments, and any other payment for which the employee will receive additional creditable service.

#### **For applications filed on or after January 1, 2006,**

An employee is allowed to still be in compensated service while filing a disability application provided that the compensated service terminates within 90 days from the date of filing **and** the compensated service is not active service. When an employee files a disability application while in compensated service, it is necessary for the employee to provide an identifiable ending date of the compensation. In cases where the compensated service exceeds 90 days the disability application will be denied. Any request for reconsideration or appeal from such a denial is to be limited to the issue of whether the employee was in compensated service to an employer within 90 days of the filing date.

Disability applications filed in advance can be handled as follows:

#### **A. Employee Filing While in Active Service**

For cases in which an employee requests to file a disability application while still actively working the field should take steps to discourage the filing of the application. The field should inform the applicant that the application will be denied based on the employee still actively working. If the applicant insists on filing, have the employee complete the AA-1, AA-1d and G-251 and forward to DBD for denial.

#### **B. Employee Filing Within 90 Days and in Compensated Service Other Than Active Service**

For cases in which an employee requests to file a disability application while still in compensated service (that is not active service), but within 90 days from the last day of compensated service the field should develop the disability application in the usual manner as described in [FOM 1310](#). The field should request from the employee some documentation or proof that verifies the ending date for the period of compensation being claimed (i.e. settlements, wage continuation plan,

dismissal allowance, etc). The employee should be able to provide you with some form of documentation. In cases where the employee is not able to provide the necessary documentation to prove the date last in compensated service, you may continue to develop the disability application. When the employee is able to secure the necessary documentation, forward it with the application to DBD upon its receipt.

### C. Employee Filing Over 90 Days From the Last Date of Compensated Service

For cases in which the employee requests to file a disability application while in compensated service that is 90 days or more from the last date of compensated service the field should take steps to discourage the filing of the application. The field should inform the applicant that the application will be denied based on the employee not being eligible. If the applicant insists on filing, have the employee complete the AA-1, AA-1d and the G-251, and if possible provide the documentation of the last day of compensated service. Forward the case to DBD for denial.

You may file the disability application under the same rules and procedures used for advanced Age and Service applications. On APPLE, enter the expected ending date of the compensation in the Employment Ended field. Code the application for manual review and indicate in Remarks that the disability application is being filed in advance and/or that the application is being submitted for denial. The DLW (or in this case, the date creditable compensation ended) will be verified through the monthly G-88a listings sent to individual employers.

## 110.70 Taking Applications

An application can be secured through in-person contact with the applicant (usually in the field office or at CORP), or it can be completed by telephone.

Applications which need a pen and ink signature can be given or mailed to the applicant for signature.

Upon request, a paper application package may be given or mailed for completion by the applicant.

You and the applicant should work out the method most suitable for the situation and the applicant's desires.

Before an application can be processed at headquarters, all applicable entries must be completed. Questions that do not apply can be skipped or marked as "N/A" for "does not apply".

### 110.70.1 Identifying Data

In all cases, the employee's social security number (and claim number, if different) must be entered on the application, as well as the name and address of the employee or

other applicant. The claim number/social security number of the employee, if not secured from an authoritative document in the applicant's possession, can be obtained through the use of the SCORE microfiche (see [FOM-I-16](#)). Completion of the name and address spaces should be done in accordance with forms instructions, keeping in mind the acceptability limitations imposed by computer/keypunch processing.

### **110.70.2 Certification**

It is extremely important to review the events that may affect an annuitant's entitlement to an annuity. A clear explanation at the time of filing may prevent overpayments from occurring. Give each employee annuity applicant, spouse annuity applicant, or divorced spouse annuity applicant a booklet RB-9, "Employee and Spouse Annuities Events That Must Be Reported." Review the events in that booklet and the events that are listed in the application certification, either by telephone or in personal contact so the applicant has a clear understanding of how those events may affect his annuity.

### **110.71 Developing Applicant's Social Security Number**

The RRB requires an applicant's social security number (SSN) for tax reporting purposes. Every annuity applicant who resides in the United States must report his SSN to the RRB. We also require an SSN from an individual who lives in the U.S. and applies for the following benefits:

- An accrued annuity,
- A lump sum death benefit, and
- A residual lump sum.

If an applicant residing in the U.S. does not have an SSN, he must apply for one, regardless of his age.

Refer him to the nearest SSA district office to file an application for an SSN (Form SS-5). Inform him that proofs of birth and United States citizenship (if he is a U.S. citizen) will be required by SSA at the time of application. Request the beneficiary to inform the RRB district office of his SSN, when received. Pend the field office file for beneficiary contact if the SSN is not received within 6 months.

Do not hold the application pending receipt of the SSN. Note the application checklist that the SSN will be submitted when it is received in the field office.

NOTE: Development of a new SSN is not required in retirement cases for a child who qualifies a spouse for an annuity, a spouse or child IPI (ineligible person included) in the overall minimum, a disabled child who has Medicare only, or a spouse or divorced spouse who receives court-ordered payments under a community property settlement. Development of a new SSN is not required for a widow(er) applying for Medicare only, or for a citizen of a foreign country who does not reside in the U.S.

## 110.72 Presumed Electronic Funds Transfer (EFT)

The Federal government has established a policy that requires Federal agencies to convert their payments to an electronic environment. EFT shall be the presumed method of making payments. Accordingly, effective January 1995, the RRB began implementing its Presumed EFT Policy with initial applicants. This policy does not mean "mandatory method" and waiver can be granted for specific reasons as provided in section [110.74](#). However, with the government's emphasis on providing a more efficient payment system, Federal agencies are expected to adopt Direct Deposit (DD) as the presumed method for paying individuals with bank accounts. Electronic Benefits Transfer (EBT) will be the presumed method of payment for unbanked annuitants. Currently, the EBT program is limited to the state of Texas. As it becomes locally available, it should be presented as the payment alternative.

## 110.73 Securing Direct Deposit Information

Due to the Presumed EFT Policy, it will now be necessary for applicants to furnish DD information during the initial application process. All applicants should be encouraged to bring DD information to the office. For detailed instructions on payment by Direct Deposit, refer to [FOM1 115.20](#). For instructions on processing direct deposit forms, refer to [FOM1 115.21](#). The IDDA (Initial Direct Deposit Application) system allows field office personnel to mechanically input the direct deposit information during the application process. The IDDA ENTRY SCREEN will hold DD information until a payment record is established. This screen is to be used in initial cases where payment has not been established.

NOTE: Occasionally, a beneficiary may request the field office to temporarily use the field office address to receive his/her annuity checks until a permanent address is available. Compliance with this request is discouraged. Instead, explain the benefits of DD and EBT. If the beneficiary is unable or unwilling to use one of these payment methods, encourage the use of a post office box until a DD account can be established.

### 110.73.1 DD Information Available When Application is Filed

If the applicant has the DD information during the initial application taking process, access IDDA and the IDDA ENTRY SCREEN according to [FOM1 1572.15](#), and enter the DD data. The first (or initial) and succeeding payments will be released to the DD account. The award letter will advise the annuitant that payments will be deposited into the DD account.

### 110.73.2 DD Information Provided After the Application is Filed

If the DD information is provided after the application is filed, take the following action depending upon whether or not the claim has paid:

- A. Claim Has Not Paid - If the DD information is furnished after the application has been taken and the claim has not paid, enter the DD information on IDDA according to the instructions in [FOM-I-1572.15](#).
- B. Claim Has Paid - If the DD information is furnished after the annuity is in pay status, enter the information via the FAST COA/DD Entry Screen as explained in [FOM-I-1570](#).

### **110.73.3 Beneficiary Has No SSN**

Since the beneficiary's social security number is required for the Initial DD Application (IDDA) screen, DD information for annuitants, who at the time of filing do not have a social security number, must be controlled. If DD information is available at the time of filing, take the information and do not enter it into IDDA. Control for the social security number and when it is received, enter the DD information on IDDA if the claim has not paid. Refer to section FOM 110.71 for information regarding development of the social security number. If payment has begun when the social security number is received, enter the DD information via the FAST COA/DD Entry Screen as explained in [FOM-I-1570.15](#).

### **110.74 Waiver Of Presumed EFT**

Waiver of Presumed EFT shall be granted to annuitants who meet one or more of the following conditions:

- Annuitants who have no established bank account and do not live in an area with EBT service;
- Annuitants who insist upon receiving a paper check,

Note: So that the annuitant can make an informed choice, field office personnel shall explain the advantages of DD and EBT, i.e., DD is more reliable, convenient, and safer than paper checks. If the waiver is granted, document the annuity application accordingly;

- Annuitants who reside in a foreign country.

### **110.75 Annuity Beginning Date**

The annuity beginning date is explained in [FOM-I-111](#).

### **110.80 When a New Application And Payee Substitution Forms Are Required From Representative Payee**

If a representative payee is selected after an application is filed but before RR Act benefits are awarded, obtain an AA-5 from the representative payee. A new application will be required in addition to the AA-5 if the representative payee did not file the

previous application on behalf of the incompetent and it has been determined that the applicant was in fact incompetent at the time the first application was filed. The official filing date of the new application in such case will be the date the first application was received by RRB.

Conversely, if a representative payee files an initial application on behalf of an annuitant alleging the annuitant is incompetent and, before RR Act benefits are awarded, it is determined the annuitant was competent at the time the first application was filed, a new application must be secured from the annuitant. The official filing date of the new application in such a case will be the date the first application was received by RRB.

If a representative payee is selected after RR Act benefits are awarded, a new application is not required from the representative; obtain only an AA-5 and appropriate certification forms.

## **110.85 Signature on Application**

### **110.85.1 Pen and Ink Signature**

An application should be signed in longhand by the applicant, a person acting in behalf of the applicant, or by his fiduciary (guardian, trustee, administrator, executor, committee or conservator). The signature always must be the name of the person actually signing the form, even if acting on behalf of the beneficiary. A printed signature is acceptable if that is the usual manner in which the applicant signs his name. However, a printed signature should be verified by comparison with other signatures of the applicant, and an explanation should accompany transmittal of the application to headquarters.

The preferred method of signing an application is in ink or indelible pencil. However, an application signed with an ordinary pencil is acceptable if the applicant should die before an indelible signature can be obtained or the imprint will permanently remain as a record of the authentication and there is nothing to call the validity of the pencil signature into question.

The applicant should sign his or her full name; one or more given names may be represented by initials, even though the application forms indicate the first name and middle initial should be shown. A signature is acceptable if it is shown with only one given name and the surname, even though the signer may have other given names. Make sure the signature on the application and all related forms agree.

If the signer is a married woman or widow, she should use her given name and her husband's surname (or her maiden name if it was retained). If the application is signed using her husband's given names(s) preceded by "Mrs.", do not ask her to complete a new application for this reason alone.

### **110.85.2 Signature by Mark**

If, because of illiteracy or physical disability, the applicant is unable to sign his name in the usual manner, he may sign by mark. Should he require assistance, his hand may be guided; it will suffice if he touches the pen or indelible pencil used.

The applicant's name, however shown, should be entered in the space provided for that purpose. A signature by mark must be witnessed by two persons, who should countersign their names and give their complete addresses. If an RRB employee signs as a witness to a mark, his signature alone will suffice, indicating that he or she is an RRB employee.

Other markings such as thumb prints are also acceptable as signatures if properly witnessed. Broadly speaking, whatever a person represents as his or her signature and recognizes as such for the purposes at hand, is a signature and is acceptable as such.

NOTE: Use a "check" mark to denote the place for the signature rather than an "X," since an "X" is often used as a signature by mark.

### **110.85.3 Signature by Fiduciary**

When a fiduciary (guardian, trustee, administrator, executor, committee or conservator) files an application, he should 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 Doe"). However, an application bearing the signature of a fiduciary not followed by such a description is acceptable if otherwise in order.

When two or more persons have been appointed to act jointly for an estate or an individual with equal authority as co-administrator, co-executor, etc., the application should be signed by each person appointed. However, if it is received signed by only one of the persons so appointed, it is acceptable. A new application is not required solely to obtain 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 (irrespective of intended payee's competence), he must submit evidence of his appointment. If such evidence is acceptable, but the fiduciary did not sign the application, to secure his signature furnish another application as explained in [FOM-I-110.95](#).

### **110.85.4 Signature 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 Doe". 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 (for purposes of protecting a filing date) if there is a clear indication of the identity of the individual on whose behalf it is filed. If the potential beneficiary is not incompetent, however, an

application signed personally by the applicant must be secured before an award can be made.

### **110.85.5 Signature by Attestation**

An application is considered signed by Attestation when the Field Representative documents and annotates the application that the applicant:

- Intends to file an application,
- agrees to sign the application, and
- understands the Penalty Clause.

### **110.86 Alternative Signature – Attestation**

Attestation is an alternative method to sign an electronically completed application or form, taken in person or by telephone that confirms the applicant's intent to file an application, understanding the Penalty Clause and agreement to sign the application.

#### **110.86.1 Definitions**

**Attestation** – The action by a RRB employee of confirming the applicant's:

- Intent to file an application or form
- Affirmation under penalty of perjury that the information is correct, and
- Agreement to sign the application or form

#### **110.86.2 Field Representative Responsibilities**

When taking an application, either in person or by telephone, Field Representatives are required to do the following:

1. Advise applicant that RRB no longer requires a pen and ink signature.
2. Inform the applicant that you will confirm;
  - a. their intent to file an application;
  - b. under penalty of perjury, the information provided by the applicant is correct;
  - c. that the applicant agrees to sign the application.
3. Read the scripted language at appropriate times during the interview. Refer to [FOM 110.86.4](#) through .7 for the scripts.

4. Complete the application.
5. Confirm the applicant's intent to file and to sign the application or form.
6. Review the Penalty Clause with the applicant.
7. Complete the Attested Signature field on the APPLE Document Printing screen to annotate the application has been signed by Attestation.
8. Print the Attestation Summary. The Attestation Summary can be printed from the APPLE Document Printing screen.
9. Image the Attestation Summary.
10. Provide the applicant with a Summary of the information provided. If the Summary will be mailed to the applicant, use the RL-60a cover letter.
11. Advise the applicant if any additional documentation is needed.
12. Advise the applicant to review the Summary and contact RRB of any changes or additional information, within 10 calendar days.
13. Release the application when all documentation has been received.

### **110.86.3 Changes to the Attestation Summary**

After the applicant receives the summary of the application information, the applicant is requested to advise of any changes or corrections within 10 calendar days. How the changes or corrections are handled, is determined by when the information is received. It is not necessary to release an updated Summary to the applicant. If the applicant requests a revised Summary, it can be printed from the APPLE Document Print Screen.

1. Before the application is released.
  - a. Make changes or corrections to the application requested by the applicant.
  - b. Print an updated copy of the Attestation Summary and send to the applicant.
  - c. Document the change or correction on the Remarks screen.
2. Application has been released, award has not been paid
  - a. Application is in a "Pend" status
    - i. Unrelease the application. (Remove the "Y" in the Release field)
    - ii. Make the appropriate changes or corrections requested by the applicant.

- iii. Document the change or correction on the APPLE Remarks screen.
  - iv. Rerelease the application. (Reenter the "Y" in the Release field.)
  - b. Application is being processed by RASI.
    - i. Notify RBD of the changes by email.
    - ii. Document the change or correction on the APPLE Remarks screen.
  - c. Application Referred to Headquarters (application status REFHQ)
    - i. Notify the appropriate Operating Unit by email.
    - ii. Document the change or correction on the APPLE Remarks screen.
3. Award has been Paid
- a. Field Office
    - i. Notify the appropriate Operating Unit by email.
    - ii. Document the change or correction on the APPLE Remarks screen.
  - b. Operating Unit
    - i. Determine if additional information affects the date of entitlement or annuity amount.
    - ii. Take any necessary actions.

#### **110.86.4 Application Scripts for In Person Interview (Employee, Spouse, Divorced Spouse and Survivor Recurring)**

##### 1. Start of Interview

During this interview, I will ask you questions that will be used to process your application for (annuity type). Your answers will be stored electronically in our records. At the end of this interview, I will ask you to confirm the truthfulness of your answers under penalty of perjury. I will record your responses. You should be aware that if you provide false or fraudulent information you are committing a crime under Federal Law.

##### 2. Obtaining Affirmation of Intent to File and Understanding the Penalty Clause

*Prior to reading the following scripts, recite back to the applicant the applicant's social security number, date of birth and date last worked (if applicant is the employee) as shown on the application.*

Do you understand that the information you have provided will be used to process your application for (annuity type)?

Do you understand that if you submit false or fraudulent information or withhold information, your action would be considered a crime punishable under Federal law which may include fines, imprisonment, or both?

Do you declare under penalty of perjury that this information is true and correct to the best of your knowledge?

### 3. End of Interview

Here is a printed summary of the information that you provided to be used to process your application. You should retain this summary for your records. Please review all the information carefully and let us know if anything needs to be corrected. You should also let us know if any of the information changes.

## **110.86.5 Application Scripts for Telephone Interview (Employee, Spouse, Divorced Spouse and Survivor Recurring)**

### 1. Start of Interview

During this interview, I will ask you questions that will be used to process your application for (annuity type). Your answers will be stored electronically in our records. At the end of this interview, I will ask you to confirm the truthfulness of your answers under penalty of perjury. I will record your responses. You should be aware that if you provide false or fraudulent information you are committing a crime under Federal Law.

### 2. Obtaining Affirmation of Intent to File and Understanding the Penalty Clause

*Prior to reading the following scripts, recite back to the applicant the applicant's social security number, date of birth and date last worked (if applicant is the employee) as shown on the application.*

Do you understand that the information you have provided will be used to process your application for (annuity type)?

Do you understand that if you submit false or fraudulent information or withhold information, your action would be considered a crime punishable under Federal law which may include fines, imprisonment, or both?

Do you declare under penalty of perjury that this information is true and correct to the best of your knowledge?

### 3. End of Interview

You will receive a printed summary of the information that you provided to be used to process your application. You should retain this summary for your records. Please review all the information carefully and let us know if anything needs to be corrected. You should also let us know if any of the information changes. If you have not received the summary within 10 calendar days, contact us.

## 110.86.6 G-346 Scripts for In Person Interview with the Employee

### 1. Start of Interview

During this interview, I will ask you questions that will be used to process (Spouse's Name) application for a spouse annuity. At the end of this interview, I will ask you to confirm the truthfulness of your answers under penalty of perjury. I will record your responses. You should be aware that if you provide false or fraudulent information you are committing a crime under Federal Law.

### 2. Obtaining Affirmation of Intent to File and Understanding the Penalty Clause

Do you understand that the information you have provided will be used to process (Spouse's Name) application for a Spouse Annuity?

Do you understand that if you submit false or fraudulent information or withhold information, your action would be considered a crime punishable under Federal law which may include fines, imprisonment, or both?

Do you declare under penalty of perjury that this information is true and correct to the best of your knowledge?

### 3. End of Interview

Here is a printed summary of the information that you provided. You should retain this summary for your records. Please review all the information carefully and let us know if anything needs to be corrected.

## 110.86.7 G-346 Scripts for Telephone Interview with the Employee

### 1. Start of Interview

During this interview, I will ask you questions that will be used to process (Spouse's Name) application for a spouse annuity. At the end of this interview, I will ask you to confirm the truthfulness of your answers under penalty of perjury. I will record your responses. You should be aware that if you provide false or fraudulent information you are committing a crime under Federal Law.

## 2. Obtaining Affirmation of Intent to File and Understanding the Penalty Clause

Do you understand that the information you have provided will be used to process (Spouse's Name) application for a Spouse Annuity?

Do you understand that if you submit false or fraudulent information or withhold information, your action would be considered a crime punishable under Federal law which may include fines, imprisonment, or both?

Do you declare under penalty of perjury that this information is true and correct to the best of your knowledge?

## 3. End of Interview

You will receive a printed summary of the information that you provided. You should retain this summary for your records. Please review all the information carefully and let us know if anything needs to be corrected. If you have not received the summary within 10 days, contact us.

### 110.86.8 Forms Approved for Attestation

The following applications and forms have been approved to use an Alternative Signature Method (Attestation)

- AA-1, Application for Employee Annuity (Age and Service/Disability)
- AA-3, Application for Spouse Annuity (Spouse and Divorced Spouse)
- AA-17, Application for Survivor Annuity (All Survivors)
- G-346, Employee's Certification

### 110.90 Acceptable Application

If an application is completed and signed, it is valid if received by RRB on or before the date of the applicant's death. It is also acceptable if it is received on the first business day after a non-work day on which the death of the applicant occurred. When Form AA-1d is completed, signed, and filed by an employee who dies without filing an AA-1, the AA-1d meets the application filing requirement. The employee's survivors as listed in [FOM1 615.5.2](#), may file an AA-1 so that a disability determination may be made. Use the date the AA-1d is received as the official filing date for the application. If the employee is found to be disabled prior to death and death did not occur during the waiting period or the first month after the waiting period, annuity entitlement is established. Survivors may then file Form AA-21 for annuities due but unpaid at death, as outlined in [FOM1 615.5.5](#).

## **110.95 Unacceptable Application**

### **110.95.1 Application Not Properly Signed**

An application is not acceptable if:

- The pen and ink signature has been altered,
- It has not been signed properly by the applicant,
- The signature is substantially illegible or of doubtful authenticity,
- The application has been signed by someone other than the applicant and that person does not indicate he or she is the applicant's representative, and there is no clear indication as to the identity of the person on whose behalf the application is filed.
- An Alternative Signature has not been properly attested and notated by the Field Representative.

If one or more of the above conditions exist, a new application form should be sent to the applicant via "Certified Mail - Return Receipt Requested." The new application should have all of the legible information from the original application transcribed on it. Include a letter specifying the manner in which the application should be signed, informing the applicant that the new signed application must be returned within 30 calendar days in order to retain the original filing date. This rule applies to each application in both life and death cases in which the official filing date affects the rights of the applicant to benefits.

### **110.95.2 Application Signed Properly, But Otherwise Incomplete or Illegible**

An application must be corrected by the applicant, or in the case of an incompetent, by his legal representative or person recognized by RRB to act in his behalf, if:

- Any portion of the application is substantially illegible or of doubtful authenticity, or
- There are substantial omissions on the application.

When such correction of an application is necessary, the applicant, his legal representative, or person recognized by RRB as filing on behalf of the applicant, should be notified that the deficiency must be corrected by submission of another properly completed application. This action does not mean that the original application is invalid. It does mean, however, that there is some question or doubt regarding its validity which can be remedied best by submission of a supplemental application.

Enter the applicant's name and other identifying information (RRB claim number and SS number) on the supplemental application and, with a red pencil, check the items that are

to be corrected. It is not necessary to transcribe acceptable information from the original application. Release the application by regular mail with a cover letter instructing the applicant to complete the items on the application that have been checked and to sign and date it in the designated places.

Remember to "Officially File" all applications as of the date of their receipt, even if they may be unacceptable due to omission, improper signatures, or illegibility.

An application cannot be altered in any way except by the person who executed and signed it, 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.

### **110.95.3 Faxed Application**

A faxed application does not meet the signature requirement to qualify as a valid application. A faxed application is considered the same as a photocopy and is not acceptable. RRB policy requires an original document or certified copy of a document. RRB policy requires a signed application with an original signature.

If a faxed application is received, it should be returned for an original signature.

### **110.100 Control and Transmittal Of Application**

Effective 05-13-02, a new version of APPLE was put into production. All Retirement, Survivor, and Medicare applications and proofs are processed through APPLE.

**NOTE:** Applications, proofs, other forms and materials that cannot be processed through APPLE should be attached to Form G-626 and routed to headquarters as follows:

- Retirement Applications – RBD
- Survivor Applications – SBD
- Medicare Applications - MS

All disability applications, paper forms AA1-D, AA17b and AA-19a will continue to be placed in paper claim folders. If these cases are being submitted along with an annuity application, the field office prints the G-626 and attaches the summary/certification, forms and medical evidence being sent with application to the transmittal and sends the package in a separate envelope to Initial Folder preparation (IFP).

**NOTE:** For Medical evidence, terminally ill (TERI) and/or Compassionate Allowance (CAL) cases, disability freeze only applications, or other material which otherwise would

have been sent directly to the Disability Benefits Division (DBD) using Post Office Box 10695, send via overnight delivery to the Disability Benefits Division using 844 N. Rush Street, Chicago, IL 60611. Indicate "DISABILITY" on the Name line in item 2 "DELIVERY TO" on the overnight delivery Shipping Document. Again, a telephone number is not required.

If it is determined that overnight delivery is the appropriate method of shipping, always consider using the least expensive shipping option that is appropriate for the type of document or electronic media being sent. Currently, the RRB uses United Parcel Service (UPS) as the overnight delivery service, however, this may be subject to change. Two options for UPS are available.

- Use the "**UPS 2<sup>nd</sup> Day Air**" service delivery option whenever possible for routine shipment of documents or media containing PII.
- Use the "**UPS Next Day Air**" service delivery option when circumstances warrant overnight shipping, such as when submitting medical evidence to DBD which is needed to rate TERI/CAL case.

If an AA1d, AA17b, or AA-19a is being submitted without an annuity application in order to obtain other benefits such as early Medicare, O/M, etc., transmit the forms and medical evidence to DBD, via overnight delivery. Show "Disability" as the "Name" on the overnight delivery shipping document; no telephone number is necessary. Do not hold an officially filed application for outstanding supporting evidence unless it is obvious that the required evidence can be obtained within 15 calendar days for transmittal with the application. If the required evidence can be obtained within 15 days, the application may be held pending its receipt. Do not hold an officially filed application more than 15 calendar days even if the required evidence has not been received. Refer to section [FOM1 110.105.2](#) for the appropriate submission of supporting material received after 15 calendar days.

Review the application for completeness before submitting it to headquarters. All answers that have been altered or whited-out need to be initialed and dated by the contact representative.

Do not forward the application until it is complete to insure proper mechanical handling (if appropriate) and to eliminate unnecessary assignments from headquarters for further development or supplemental applications.

Consider the application complete when all the required items have been answered.

**EXCEPTION:** Do not hold an application pending the receipt of a new SSA number for an applicant.

Review of the application should be completed as soon as possible after its development.

Use the appropriate transmittal form (G-626) in transmitting applications. Complete all applicable items on the check list for the application package. Use the "Remarks" section on the transmittal sheet to call attention to any peculiarities in the case that should be considered in its processing at Headquarters.

Manual review cases include those in which:

- The applicant (employee or spouse) is still employed, or an LPE/SEI determination must be made at RRB Headquarters;
- The applicant was discharged and has an appeal pending before the National Railroad Adjustment Board alleging wrongful discharge and requesting pay for time lost;
- Any case in which there is an established overpayment;
- Any case in which a Headquarters determination must be made before entitlement can be established (i.e., DOB discrepancy, C/C determination, etc).

An application is considered to be self-administered when it is given to the applicant for completion in the field office, or mailed to the applicant for completion. The application is self-administered even if a field office employee provides assistance to the applicant. However, if the applicant's attempt to complete the application is completely unsuccessful, and a field office employee completes the application, the application is considered to be personally filed. Also, consider an application that is completed wholly by a field office employee as personally filed.

In retirement cases, release the G-88A.2 as soon as possible in the course of developing an application, but not before the claimed DLW-RR. It is not necessary to hold the G-88A.2 until the application is released to Headquarters.

### **110.100.1 Handling of Carrier or Mail-Filed Claims**

Officially file and develop a carrier-filed claim (application submitted by employer), or an application received by mail, in the same manner as one personally filed by a field office. Review the application for completeness and reconcile any discrepancies or deficiencies before submitting it.

### **110.100.2 Application Development by More than One Field Office**

In the course of developing an application, a contact is occasionally required by another field office. When this is the case, the originating field office should request the other field office to obtain the data in question and submit it directly to Headquarters. The originating field office should send a copy of the request to Headquarters, along with the application and supporting evidence developed in the case.

The other field office should obtain the data in question and submit it to Headquarters, or take whatever action is appropriate. For example: the request may be to obtain a

statement that a parent is not dependent on a deceased employee. If dependency is claimed, the office should develop for a Parent's Insurance Annuity.

### 110.100.3 Identifying Third Party Facilitator in Initial DIB Applications

Field Service (F/S) staff should identify when an Initial Disability application is received from a third-party facilitator. For clarification, the term “third-party facilitator” specifically **excludes** all RRB field employees, individuals who are filing on a disability applicant’s behalf as their representative payee, as well as any family members of the disability applicant (*i.e. spouse or son/daughters, etc.*).

If the initial employee disability application is received from a third-party facilitator (*i.e. “Mr. Jones’ Office Services” or an attorney/law firm*), please make a brief notation in the Remarks section of Application Express (APPLE) as an alert to the Disability Benefits Division (DBD) examiner. The notation should include the name of the third-party facilitator, as well as any known contact information such as their address/phone number. Lastly, a “negative response” (*i.e. “No use of a third-party facilitator”*) is not required for any initial disability application.

**NOTE:** It is **not** necessary to submit these types of cases for Manual Review.

### 110.105 Tracing Development of An Application/Abandonment

Follow the procedures outlined below and in [FOM-I-17](#) in the development of evidence and in the abandonment actions for cases in which requested data in support of an annuity application is not submitted following the initial development.

#### 110.105.1 Application Officially Filed

Headquarters will formally deny filed applications when applicants fail to submit required proofs or other supporting data. Field offices will notify HQ by email that a case has been abandoned after documentation from the applicant has not been received within a reasonable time.

If the supporting documents have not been submitted within 15 days from the date of the application, send tracer letter RL-57-B-F. The letter advises the applicant has 15 days to submit requested documentation or advise if additional time is needed. If there is no contact from the applicant, final action on the application will be taken on the basis of the supporting evidence currently on record. A copy of the tracer letter should be imaged. If tracing action is done in person or by telephone, the contact should be documented in the file.

If more time is needed for applicant to secure information, notify HQ via email.

Abandon development and notify headquarters via e-mail in the following situations:

- Applicant/annuitant does not submit requested data within 15 days from the date of the tracer action and additional time has not been granted due to extenuating circumstances. Abandon development and notify headquarters by e-mail.
- Applicant/annuitant advises that he will not submit required or requested data within 15 days from the date of tracer action.

Inform applicant that a decision will be rendered in the case on the basis of the information in file and he will be notified by HQ.

Do not forward any material involving abandonment of development to HQ.

### **110.105.2 Summary/Certification Released for Signature and Not Returned**

An application on APPLE can be abandoned by the field office when the Summary/Certification has been sent to the applicant and the summary/certification is not returned.

When an application and other requested data are not submitted after 30 days of the initial development, trace with the applicant via RL-57-B-F.

If the applicant cannot submit the requested material within 15 days of the date of the tracer and needs additional time, the field office may extend the period for submission of the material. Since each case is different, no rules can be set on what additional time can be granted in a case. Every effort should be made to give additional time and assistance to an applicant who is making a sincere effort to prosecute his claim.

If the applicant/annuitant decides not to submit the data, the applicant/annuitant should notify the field office, giving his reasons.

To abandon, access the APPLE Application Menu screen, enter the number of the application being abandoned in SELECT, and press PF20 twice. The status will change to from APP CERT to APPABND. Explain in remarks (PF12) why the case has been abandoned.

Do not forward any material involving abandonment of development to Headquarters. Only notify Headquarters that case has been abandoned when HQ has requested the development.

**EXCEPTION:** Refer to [FOM1 1325.15.3](#) for information regarding abandoning development in disability cases.

### **110.105.3 Action to Take When Material Is Received After Denial of the Application**

If no reply is received to a request for information or evidence after 45 days from the date of the last request, or if notice of abandonment is received from the district office, Headquarters will send the applicant a denial letter, which will be imaged. If the field office receives the requested material on an abandoned case within 60 days, submit the material in the usual manner.

If the evidence establishes that the applicant was eligible on or before the date of the formal denial notice, the case will be reopened to permit payment. However, if the evidence fails to show that the applicant was eligible on or before the date of the denial, a new application must be filed before an annuity can accrue; you will receive an assignment to secure one. In such a case, retroactivity will be on the basis of the new application.

When the requested material is received more than 60 days from the date of the denial, secure a new application and submit it to Headquarters along with the additional evidence. If you are unsure if 60 days have elapsed since the date of the denial, get a new application.

### **110.105.4 Special Situations in Survivor Cases**

If an insurance annuity applicant fails to prosecute a claim and is denied for that reason, any decisions on payment of an LSDP or RLS in the case will be withheld for 1 year from the date of the formal denial.

An applicant for a lump sum payment in this type of case should be advised that RRB is unable to process the claim for the 1-year period because of the possibility that a person filing for an insurance annuity may preclude payment of the lump-sum. At the end of the 1-year period, the lump-sum claim will be considered further.

If a survivor insurance annuity applicant has submitted all required evidence and it is determined that the applicant is ineligible, the annuity claim will be denied. In such cases, any claims for an LSDP or RLS will be processed to a conclusion, provided there are no other persons potentially entitled to an insurance annuity in the case.

### **110.110 Cancellation of Application**

An employee, spouse, survivor applicant or annuitant may cancel a previously filed application for an annuity.

A request to cancel must be in writing. When an applicant files a written request with the RRB to cancel the award and/or application, the field office should review the applicant's reason for cancelling. If the applicant states that the annuity will increase if the annuity beginning date (ABD) is postponed, compare the rates with the differing ABDs using REAP. If the comparison validates the applicant's understanding, image

the request and take the appropriate action on APPLE. Refer to [FOM 110.111](#) and [FOM 1581.35.7](#). If the comparison reveals that the applicant's understanding is incorrect, contact the applicant to explain why the rate will not increase.

Refer to [FOM-I-110.25](#) for additional information.

NOTE: This is particularly important when tier 1 is reduced by social security benefits, public service pension, railroad retirement dual entitlement, etc. In these cases, postponing retirement to eliminate age reduction may not increase the net annuity. Make sure the applicant understands that age reduction is not the only factor reducing the annuity.

### **110.110.1 Effect of Cancellation**

The effect of a cancellation is the same as if no application were filed.

- If an employee's application is cancelled, the spouse's application is also cancelled;
- If a spouse's application is cancelled, the employee's application is not affected.

#### EXAMPLES:

1. If a widow, who filed an AA-I8 cancels his/her application, only his/her application is cancelled. The application filed for the child(ren) will not be cancelled.
2. If the person who filed an AA-I9 for several children cancels the application of one child, only that child's application is cancelled. The other child(ren)'s applications are not cancelled.
3. 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.

An individual whose application was cancelled may reapply by filing a new application. Any retroactivity would depend on the filing date of the new application.

When an application is cancelled on APPLE, Form letter RL-31, Acknowledgement of Application Cancellation, will be released automatically by the APPLE system to the claimant. A copy of this letter is imaged.

### **110.110.2 Development When Representative Payee Requests Cancellation**

If a representative payee requests cancellation of an annuitant's application, determine if (s)he no longer wants to be representative payee, or wants to cancel the annuitant's application.

If (s)he wants to cancel the annuitant's application, take every precaution to protect the annuitant's interests, and thoroughly explain the effect of cancellation to the representative payee.

If the representative payee is a court-appointed guardian, (s)he must submit a court order authorizing him/her to cancel the application.

If (s)he is not a court-appointed guardian, (s)he must submit a statement showing why it would be to the annuitant's advantage to cancel the application.

If it appears that cancellation of the application would not be to the annuitant's advantage, select another representative payee and secure an application from that person.

### **110.110.3 Cancellation Requests in Spouse to Widow Conversion Cases**

Although the spouse to widow conversion does not require a separate widow's application, the spouse annuity and the widow's annuity are two distinct types of annuities. The same cancellation rules that apply for an initial widow annuity also apply in the spouse to widow conversion.

Whether the conversion has been processed or not, the cancellation effective date is the employee's month and year of death. Any spouse or widow payments released for the month of the employee's death and later must be returned or repaid. Spouse payments for months prior to the employee's death do not have to be returned if only the widow's annuity is being cancelled.

The spouse to widow cancellation request must be processed by SBD.

### **110.111 Cancellation Before Annuity Is Awarded**

An annuity application may be cancelled before award if the applicant:

- Files a written request with the RRB to cancel his application, and
- Files the request for cancellation on or before the date the annuity is awarded, and
- Is alive on the date the written request is filed or the applicant is deceased and the rights of no person other than the person requesting cancellation will be adversely affected.
- If a request for cancellation that meets the above requirements is received in a field office and the case is not a spouse-to-widow conversion, take the following actions:
  - Cancel the application on APPLE in all cases. Select the application being cancelled on the APPLE menu and press the F5 key. This will change the

application status code to cancel. This will also result in the mechanical generation and release of RL-31. Pending applications will be dumped the night the denial or cancellation is processed. It is important that any new application for this applicant not be released until after the cancelled or denied application has been dumped from RASI or the new application will reject. It usually takes about a day or two for an employee or spouse case to be removed from the RASI master and REQUEST. Before submitting a new application, always check REQUEST. The new application can be submitted if the message "RECORD NOT FOUND" appears on the REQUEST screen after the claim and screen number is entered.

- Notify RIS or SIS, as applicable, of the cancellation by electronic mail. If it is a disability case, also notify DBD.
- Image the written cancellation request and supporting documentation.
- Prior to 9-22-2009, the cancellation request and documentation were forwarded to Headquarters to be imaged.
- If the cancellation request is for a spouse-to-widow conversion case, the F/O will release the case to Headquarters using the manual review code in APPLE.

### **110.112 Cancellation After Annuity Is Awarded (Partial or Final)**

An annuity application may be cancelled after it is awarded if the annuitant:

- Files a written request with the RRB to cancel the award and application, and
- Submits the written consent of any person whose entitlement is affected by the cancellation, and
- Repays the annuity payments that he and any auxiliary beneficiary, whose application is also being cancelled, received. Repayment can be made by cash refund or by set off against the annuity.

**NOTE:** If an employee or spouse annuity was paid (***partial or final***) when the cancellation request is received, be sure to dump the case from RASI.

**NOTE:** A disabled widow(er) who has been awarded a DWIA may, at any time prior to attaining age 60, cancel the application for the DWIA and elect to receive the RLS. However, all annuity payments received must be refunded or set-off from the RLS.

Special consideration in RRA maximum cases before January 1, 2002: For cases with a spouse ABD before January 1, 2002, the RRA maximum can reduce total family income after the spouse files an annuity application. These are cases in which the RRA maximum reduction in the employee annuity exceeds the spouse annuity rate (for

example, when the annuity rate is zero after reductions for social security benefits and the RRA maximum).

In the past, we discouraged filing or solicited cancellations of spouse applications under these circumstances. With the repeal of the RRA maximum provision, this procedure is no longer necessary.

Special consideration for BNSF cases: When the field service receives a call from the annuitant asking to cancel the application because he/she intends to continue work in the railroad; or changes the Date Last Worked Railroad and this change will cause the ABD to be adjusted: the claims representative should check PREH to see if the annuitant has paid final. If YES, and the last railroad is BNSF, call Michelle Caywood at 847-352-0965. Advise that the RL-5a may have the annuitant's name, but the annuity will be suspended or canceled as the annuitant intends to continue railroad work.

### **110.113 Application Taken When Annuity in Suspense**

If an application is filed for an annuitant who is currently on the rolls in a suspended status, determine if the annuitant has maintained entitlement to the annuity. If the annuitant has maintained entitlement, the application can be Closed Without Award (CWOA).

### **110.115 Waiver Of Annuity Payments**

Effective 9-1-54, any annuitant is permitted to waive his annuity or pension in whole or in part. The purpose of the waiver provision is to permit an annuitant to waive payment of all or part of his annuity and thus reduce his total annual income in order to obtain some particular advantage. Advise the annuitant that although he has the right to waive a benefit under the RR Act, the effect of that waiver, so far as obtaining some particular advantage is concerned, rests strictly with the other party or governmental agency involved.

NOTE: Although an employee annuitant may waive a supplemental annuity in whole or in part, his entitlement to that annuity would not be affected; consequently, the reduction applied to the regular annuity (if applicable) in such a case would not be restored.

#### **110.115.1 Effect of Waiver**

A waiver has the following effects on an annuity:

- A. The amount of annuity waived is deducted from the full amount of the annuity otherwise payable to the person who made the waiver (annuities payable to other beneficiaries are not affected); and
- B. The part of the annuity that was not paid because of a waiver can never be paid to anyone for the period during which it was in effect.

Waiver of an annuity only affects the payment, not entitlement. Therefore, waiver of annuity payment does not make the LSDP or RLS payable, nor will it affect the amount of the LSDP or RLS. The total annuity payments which would have been payable had the annuitant not filed a waiver are deductible when computing the amount of the RLS. However, a deduction is not made from the RLS for any month in which the annuity was not payable for some other reason, e.g., any month in which an annuity could not be paid because work deductions applied.

Waiver of an RR Act annuity, which is due and payable, cannot transfer jurisdiction to SSA to make a survivor eligible for an SS Act LSDP or for an insurance benefit based on the employee's wages.

### **110.115.2 Effect of Employee Waiver on Spouse Annuity**

The waiver of all or any part of an employee's annuity will not affect the amount of the spouse's annuity otherwise payable to such employee's spouse. The amount of the spouse's annuity is computed as if no part of the employee's annuity had been waived.

### **110.115.3 Effect of Waiver on O/M Increase**

In any case in which the O/M is applicable, the amount of payment waived is deducted from the annuity as increased under the O/M provision, otherwise payable to the person who made the waiver.

### **110.115.4 Waiver of Vested Dual Benefit (VDB) Entitlement**

When entitlement to a VDB causes a decrease in the annuity rate, the annuitant may wish to waive entitlement to the VDB.

An annuitant may initiate a request for VDB waiver at any time. However, ORSP will initiate development of VDB waiver only when the tier II reduction for the VDB exceeds the amount of VDB payable.

When ORSP initiates development for VDB waiver, you will receive a memorandum explaining the advantages of waiving the VDB. The memo will include the annuity rates with and without the VDB, and the effect on annuity payments if the VDB is not waived.

### **110.115.5 Waiver and VA Benefits**

Section 20(b) of the 1937 RR Act became effective 6-1-59. This amendment to the RR Act provided that a pension or annuity is not income for the purpose of determining a veteran's income in a case involving a non-service connected disability pension available to a veteran who is totally and permanently disabled. The Veteran's Pension Act of 1959 (Public Law 86-211) repealed section 20(b) of the 1937 Railroad Retirement Act.

Since the laws relating to veterans' pensions are not administered by the RRB, the RRB cannot give an authoritative opinion on the effect of those amendments. Therefore, if

you receive an inquiry about the effect of the amendment repealing section 20(b) of the 1937 RR Act, refer the inquirer to the VA.

### **110.115.6 Manner of Waiving Payments**

A person may waive all or part of the monthly annuity by furnishing an unambiguous signed statement expressing his desire to waive and specifying that he wishes to waive:

- A. The full amount of his annuity beginning with the monthly payment due on the first day of a month and year, or
- B. That part of his monthly annuity over a stated amount beginning with the monthly payment due on the first day of a month and year, or
- C. A specific dollar amount of his annuity beginning with the monthly payments due on the first day of a month and year.

The annuitant may specify the amount of annuity that he wishes to waive in any other unambiguous manner. For example, he may state that he wishes to waive a lump-sum amount in one specified calendar month of a year.

Certain additional requirements must be met when a waiver is filed by the legal representative of the annuitant (see [FOM-I-110.115.11](#)).

### **110.115.7 Effective Date of Waiver**

- A. Annuity in force - When payments are in force, the waiver is effective with the later of:
  - The payment due on the first day of the month specified in the waiver, or
  - The payment due on the first day of the month following the month in which the RRB receives the waiver.
- B. Annuity not in force - When an annuity has not been awarded or payments are in suspense, a waiver will be effective with the later of:
  - The payment due on the first day of the month specified in the waiver, or
  - The payment effective with the beginning date or reinstatement date of the annuity.

### **110.115.8 Duration and Revocation of Waiver**

A waiver, once made, continues in effect until RRB receives an unambiguous statement signed by the annuitant or his legal representative requesting that the waiver be terminated. If a legal representative requests revocation of waiver, see [FOM-I-110.115.11](#).

### 110.115.9 Effective Date of Revocation of Waiver

- A. Annuity in force - A revocation is effective with the later of:
- The payment due on the first day of the month specified in the revocation, or
  - The payment due on the first day of the month following the month in which RRB receives the revocation.
- B. Annuity not in force - A revocation of the waiver affects reinstatement:
1. If annuity payments are in suspense for a reason other than the waiver, the revocation may be effective with the later of:
    - The payment due on the first day of the month specified in the revocation, or
    - The payment effective with the beginning date or the reinstatement date of the annuity.
  2. If annuity payments are in suspense because of a waiver, the revocation may be effective with the later of:
    - The payment due on the first day of the month specified in the revocation, or
    - The payment due on the first day of the month following the month in which RRB received the revocation.

### 110.115.10 Handling Waiver Rights Inquiries

When an inquiry about a waiver is received, give the inquirer a full explanation of the waiver provision of the act and tell him that if he wishes to reduce his annuity to meet the income limitations set by VA or some other agency or organization he should seek full information from the agency concerned. He should find out whether his waiver of RR Act benefits would be honored by the other agency and, if so, exactly what amount he should waive.

Tell the person that he may waive payment of all or any part of the annuity by furnishing an unambiguous signed statement.

When an ambiguous request to waive benefits is received by mail, forward such correspondence to ORSP.

### 110.115.11 Handling Waiver Requests Filed by Annuitant's Legal Guardian

A waiver executed and filed by the guardian or legal representative of an annuitant may be given effect only if a court order, issued by the same court which appointed the representative, specifically authorizing the legal representative to waive payment of his

ward's annuity is submitted. The legal representative may waive no greater amount than the amount that is specified in the court order.

#### **110.115.12 Unacceptable Waivers**

If you receive an unacceptable waiver (one that is unclear, ambiguous or unsigned), inform the person of the reasons it is unacceptable and how an acceptable statement can be completed. If an acceptable waiver cannot be substituted immediately, submit the unacceptable statement to Headquarters. If an acceptable waiver is received within 30 days, the waiver may take effect based on the original unacceptable statement.

