

## 207.1 Month Of Service

A month of service is a calendar month during all or any part of which a person:

- A. Works as an employee for compensation; or
- B. Has an "employment" relation (see [FOM 206.2](#)) and:
  - 1. Is "paid for time lost" as an employee; or
  - 2. Is credited under the Railroad Retirement Act with military service; or
  - 3. Is compensated for a lay-over period which was continuous with his last active service and ended in the month following the month of his last active service, if the employee needs an additional service month; or
  - 4. Receives pay for an identifiable period of vacation; or
  - 5. Has compensation for other months in the calendar year that are high enough to provide a deemed service month as explained in [FOM 207.5](#).

Also note that one railroad service month could be credited to the month that an employee filed for and received benefits under Title VII of the Regional Rail Reorganization Act. However if the employee worked in the railroad industry in that month, no service month can be credited based on Title VII filing.

## 207.2 Prior Service Months

Prior service under the Railroad Retirement Act means service performed before 1-1-1937, as explained in [FOM1 Art. 2 Appendix A](#). Service performed before 1937 may be credited only if, on 8-29-1935, the employee met the conditions for an employment relation described in [FOM1 Art. 2 Appendix C](#).

## 207.3 Subsequent Service

Subsequent service is all railroad service performed on or after January 1, 1937.

There is no maximum limit of years of service when only subsequent service is included in the total years of service.

## 207.4 Creditability of Military Service

Military service after 1956 may be credited and included in the employee's years of service as explained in [FOM1 215](#).

## 207.5 Deemed Service Months

### 207.5.1 Deemed Service Month Requirements

Effective for earnings years 1985 or later, a person who had an employment relation (see [FOM1 206.2](#)), or was an employee representative in months in which he did not perform railroad service or did not have creditable "Pay for Time Lost," may be deemed to have extra railroad service months.

The following criteria must be met for an employee to be credited with deemed service months:

- The employee's total compensation for the calendar year exceeds 1/12th of the Tier 2 yearly compensation maximum times the number of actual railroad service months (based on actual railroad service or "Pay for Time Lost"); and
- There are months in the calendar year in which the employee or employee representative had no railroad compensation and has an employment relation.

No deemed service months can be credited after an employment relation ends. An employment relation ends with:

- The employee's retirement annuity ABD;
- The date the employee relinquished job rights in order to receive a separation allowance; or
- The date of the employee's death.

The date of separation (DOS) reported by the employer when an employee receives a separation allowance is used when determining deemed service months. The date rights relinquished (DRR) an employee claims on his or her application is not used. See the following two examples.

EXAMPLE 1: For 2006, the employee had 7 reported service months for January through July and the maximum Tier 2 yearly compensation of \$69,900.00. No service months or compensation were reported for 2007 or 2008.

The employee applies for a retirement annuity on 05/28/2008 and his ABD is 06/01/2008. He claims a DRR of 07/31/2006, his last day of railroad service, on his application. There is no reported DOS, because he did not receive a separation allowance. The only DRR information is what the employee claimed on his application. Therefore, it is not considered in the deemed service month determination. August through December of 2006 can be credited as deemed service months.

EXAMPLE 2: Same facts as above, except the employee received a separation allowance payment on 07/14/2006. That is the date the employer reported as both the DOS and DRR. Therefore, no deemed service months can be credited after July 2006.

An employment relation cannot exist for deemed service months if the employee's last railroad service was outside of the U.S. and the service was not creditable under the RRA.

In survivor cases, a deemed service month can be given for the month in which the employee dies, provided all of the above requirements are met. A deemed service month cannot be given for any month after the month of death.

### 207.5.2 When the Deemed Service Determination Is Made

Deemed service months are credited mechanically when annual service and compensation reports are posted to EDM, and there is enough information available in EDM and other RRB databases for the deeming program to establish employment relation.

When the deeming program cannot establish employment relation mechanically, the Compensation and Employer Services (CES) in Assessment and Training (A&T) releases a Form GL-99, "Employer's Deemed Service Months Questionnaire," to the employer to verify employment relation in the deemable months (see [CCOM 605](#)). When the GL-99 is returned, CES posts a deemed service month on EDM for each potential deemed month in which the employer indicates the employee had an employment relation.

### 207.5.3 How Number of Deemed Service Months are Determined

The following formula is used to calculate the total number of deemed service months that may be credited.

1. Railroad compensation is credited at the rate of 1/12 of the Tier 2 yearly maximum for each month the employee or employee representative actually worked in railroad service:
  - a. **Yearly T2 max. ÷ 12 = monthly max.**
  - b. **Monthly max. x mos. worked = credited comp.**
2. The railroad compensation amount that exceeds the credited compensation in Step 1 (up to the Tier 2 yearly maximum) is divided by 1/12 of the Tier 2 yearly compensation maximum (i.e., the monthly max.). The result is the number of deemed service months that may be credited, with any fraction rounded up to the next full number.

**(Earned comp. – credited comp.) ÷ monthly max. = deemed service months**

The number of deemed service months cannot exceed the number of months in which the employee had no compensation and had an employment relation. Deemed service months are always credited to the first deemable months in the calendar year.

EXAMPLE: The employee worked all months in 2007 and is on leave of absence for the months of January through March 2008. His leave of absence maintained his employment relation. He is recalled April 5, 2008 and works each month through December 2008. He earned \$68,500.00 for the months he worked. \$75,900.00 is the 2008 Tier 2 yearly maximum.

1.  $75,900 \div 12 = 6,325$  (monthly max.)
2.  $6,325 \times 9$  (mos. worked) = 56,925 (credited comp.)
3.  $68,500$  (total earned) – 56,925 = 11,575 (amt. exceeding credited comp.)
4.  $11,575 \div 6,325 = 2$  (1.83 rounded up)

The employee is entitled to two deemed service months for January and February (the first deemable months of the year).

## 207.6 Deemed Service Months - Special Handling Situations

### 207.6.1 Decrease In Deemed Service Months (RESCUE Code 5)

In some cases, deemed service months that were included in the initial annuity calculation may be mechanically removed after the final award was paid. This will cause a RESCUE Code 5 reject, because the decrease in service months will also decrease the employee's Tier 2.

EXAMPLE: For 2004, eight service months for January through August for 2004 and the maximum yearly Tier 2 compensation of \$65,100.00 were reported for the employee. No service months or compensation were reported for 2005. The employee has a total of 366 reported service months through August 2004.

He applies for a retirement annuity on 12/28/2005. The annuity is paid final on 03/03/2006 with an ABD of 02/01/2006. The G-90 used to pay the final award, dated 01/06/2006, shows September through December 2004 as deemed service months. This gives the employee a total of 370 service months, which are included in the annuity calculation.

The case rejects as a Code 5 in a subsequent RESCUE run. The RESCUE G-90 shows that the 4 deemed service months that were initially credited in 2004 were removed.

### **Case Handling**

When you receive a case in which deemed service months were previously credited and used in an annuity calculation and are later removed, first verify that the months were not removed due to any reported service month or compensation adjustments. If there are no service month or compensation adjustments, take the following action:

1. Do not adjust the annuity for the decrease in deemed service months.
2. Compare the G-90 used to pay the final annuity with the RESCUE G-90, and determine which deemed service months were removed.
3. Send an email to the QRSC mailbox and include the following information:
  - “Deemed Service Months Removed” in the Subject line.
  - EE’s name and claim number.
  - EE’s ABD.
  - The year in question.
  - The date of the G-90 used to pay the annuity.
  - The date of the RESCUE G-90 that shows the deemed service months removed.
  - Which deemed service months were removed.

The CESC examiner will determine which of the removed deemed service months should be restored, if any, and post them to EDM. The CESC examiner will respond with a return email to the RBD mailbox advising that CES action has been completed.

After you receive the return email from CESC, request a new G-90 and, if necessary, adjust the annuity.

### **207.7 Effect of Deemed Service Months on Annuity Beginning Date and Current Connection**

Credit for deemed service months occasionally may be a factor in selecting an ABD, if additional months are needed to establish basic eligibility, increase the Tier 2 amount, or create a current connection.

**EXAMPLE:** The employee works in all months from January through May 2008, the month in which he attains age 60, making him eligible for an ABD of 06/01/2008. His reported compensation for the year is \$41,000.00. He wants to receive a 60/30 annuity, but has only 358 service months through May. Based on his compensation of \$41,000.00, he can be credited with two deemed service months, if he designates an

ABD of 08/01/2008, instead of the earlier ABD of 06/01/2008. This would give him 360 service months and entitle him to the 60/30 annuity.

## 207.8 Year of Service

Twelve creditable service months, consecutive or not, constitute a year of service. In determining the employee's total years of service, part of a year is shown as a fraction. For example, 125 months of service is 10 5/12 years.

### 207.8.1 Prior to 10-1-81

Prior to 10-1-81, final fractions of 6 months or more counted as 1 year of service if the employee annuity:

- A. Began to accrue before 7-31-46; or
- B. Began to accrue after 7-31-46, was awarded before 10-30-51 and the employee had at least 54 months of service; or
- C. Was awarded on or after 10-30-51 and the employee had at least 126 months of service.

### 207.8.2 Effective 10-1-81 or Later

Beginning 10-1-81, under the 1981 Railroad Retirement Act amendments, an employee receives credit for his actual months of service. A fractional year of 6 or more months is no longer counted as a full year. An ultimate fraction is taken at its actual value. However, the amendments provided a transitional period for implementing this change. If the application was filed before 4-1-82, the years of service used on or after 10-1-81 cannot be less than what the employee had in 9-1981, when an ultimate fraction of 6 months counted as a full year.

Example 1: An employee qualified for a 60/30 annuity if he had at least 354 months in September 1981 and filed an application before 4-1-82. But, if he filed 4-1-82 or later, he must have 360 months to qualify for a 60/30 annuity.

Example 2: An employee with 27 7/12 years of service in September 1981 filed an application before 4-1-82. His annuity computation was based on 28 years, even if he had no additional service after September 1981.

## 207.9 Service Months Based on Pay for Time Not Worked

### 207.9.1 Period Covered by Dismissal Pay

An employee can receive service months for an identifiable period in which he could have been directed to work, if he receives compensation in lieu of notice of dismissal. In order to credit the service month, it is sufficient that the employer had the right to

exercise the power of direction of the employee's services and could have required the employee to work (see [FOM1 211](#), "Pay For Time Not Worked").

### **207.9.2 Period Covered by Pay for Time Lost**

An employee can receive service months for an identifiable period during which a person maintained an employment relation, but did not actually perform any service, if he was paid compensation for time lost as an employee for that period (see [FOM1 211](#), "Pay For Time Not Worked").

## **207.10 Limitations on Service**

### **207.10.1 Prior Service or Red Cap Service Before 9-1941**

Prior Service (service before 1937) or Red Cap Service before 9-1941 may be included in the years of service as explained in [FOM1 Art. 2 Appendix A](#).

### **207.10.2 Canadian Service**

Refer to [FOM1 205.4](#).

### **207.10.3 Creditability of Military Service**

Military service (M/S) after 1956 may be credited and included in the employee's years of service as explained in [FOM1 215](#). When employee service was rendered and M/S was credited for the same calendar month, only one month of M/S can be counted.

### **207.10.4 Joint Employer Service**

When service was performed for two or more employers in the same calendar month, only one month of service can be counted.

### **207.10.5 Title VII**

One railroad service month could be credited to the month that an employee filed for and received benefits under Title VII of the Regional Rail Reorganization Act. However if the employee worked in the railroad industry in that month, no service month can be credited based on Title VII filing.

### **207.10.6 Service After Annuity Beginning Date**

Active service rendered after an annuity has begun to accrue may be included in the years of service, if the additional amount payable would be more than \$1.00. However, deemed service months ([FOM1 207.5](#)) cannot be given. See [FOM1 207.12](#) for information about service after the ABD and instructions for handling cases with service after the ABD.

### **207.10.7 Service as Delegate to National or International Convention of a Railway Labor Organization**

Service performed on or after April 1, 1954 as a delegate to a national or international convention of a railway labor organization is not creditable unless the person who rendered this service had also performed other service which could be included in his years of service.

### **207.11 Protest of Service Month Record**

Inquiries about service records should be forwarded to the Office of Programs, Policy & Systems-Center of Employer Services (P&S-CESC), Protest Unit. Inquiries from employees, labor unions or railroad employers about the crediting of service in specific cases should also be referred to the Protest Unit.

Under Section 9 of the Railroad Retirement Act, RRB's records of service and compensation are conclusive, unless an error or omission is reported within 4 years after the day on which the initial service month report was required to be made.

### **207.12\_Railroad Service Months After the Annuity Beginning Date**

#### **207.12.1 General**

The Employee Data Maintenance system (EDM) contains the record of an employee's service months and compensation reported by his or her employer(s). EDM is programmed to check for service months after the ABD when either the employee's annual service and compensation report is posted to the earnings record, a service or compensation adjustment is made, or an ABD is added or changed.

Because an annuity is not payable for a month in which an employee is in railroad service, service months reported after the ABD can cause an overpayment in an employee's annuity and must be investigated in many cases to determine if the service months were reported correctly. If the months were reported correctly, the annuity may need to be suspended, an overpayment recovered, or other action may be necessary. Service months reported erroneously (e.g., service months reported for payment in lieu of vacation) are removed from the employee's earnings record.

The main reasons service months after the ABD are reported are:

- The employee returns to railroad service;
- The employee has months for vacation taken after the ABD;
- The employer erroneously reports service months (e.g., for payment in lieu of vacation); or

- The ABD is set to a date earlier than the last month of employer service (usually in disability annuity cases).

### 207.12.2 EDM Service After ABD Indicators

Both the EDM Employee Demographic Information and Employee Service and RUIA Information screens contain a Service After ABD field (see [CCOM 104](#)). When there is an ABD on the EDM record, an indicator (or flag) appears in the field. No indicator means there is no ABD. The indicators are mechanically re-evaluated and reset, if necessary, when service months or compensation are added or adjusted, or when an ABD is added or changed. The indicators are also reset manually in some cases.

The indicators and their meanings are:

LESS THAN 4 SM – There are 0 – 3 service months after the ABD after earnings and/or an ABD are posted to EDM. Service months erroneously reported for payment in lieu of vacation are assumed and SEARCH will cut back any service months and not include them in the computation. No action is necessary.

INVESTIGATION PENDING – There are 4 or more service months after the ABD. Also, the indicator will change to INVESTIGATION PENDING when it is currently set to PROPERLY CREDITED SM and any additional service months are posted. Form GL-132 has been or will be released.

RESOLVED – Investigation has been completed. Usually this means Form GL-132 was returned and either all the service months after the ABD have been removed, or the ABD has been moved to a date after the last reported service month, if allowed by reopening rules (see [RCM 6.2](#) for reopening rules).

PROPERLY CREDITED SM – EE returned to service or, if no longer in service, had service after the ABD. All of the service months after the ABD will remain in EDM. RRB has taken or will take action to suspend, recover any overpayment, etc.

UNRESOLVED – Accounts with at least 4 service months after the ABD that will not be resolved (typically old cases that were unresolved prior to the conversion to the current indicators and processing). No action necessary unless initiated at the Director level.

### 207.12.3 Service After ABD After Annual Earnings Report Posted to EDM

The following occurs when an employer reports service months after the ABD on the employee's annual earnings report.

#### A. When the employer reports 3 service months or less after the ABD:

1. SEARCH assumes the month(s) were erroneously reported for payment in lieu of vacation, credits the compensation to the last day worked, and does not use the service months in annuity calculations;

2. LESS THAN 4 SM is entered in the SERVICE AFTER ABD field of both the EDM Employee Demographic Information and Employee Service and RUIA Information screens.

#### **B. When the Employer Reports 4 or More Service Months after the ABD:**

1. The record is flagged for investigation of the service months after the ABD and INVESTIGATION PENDING is entered in the SERVICE AFTER ABD fields.
2. The reported service months are verified with the employer.
  - If the employer indicates all of the service months were reported erroneously, the months are removed from EDM and RESOLVED is entered in the SERVICE AFTER ABD fields;
  - If the employer indicates the service months were reported correctly, they remain on EDM, PROPERLY CREDITED SM is entered in the SERVICE AFTER ABD fields, and the service after ABD information is forwarded to RBD, normally on Form GL-132, to review and take the necessary action.

#### **207.12.4 Service After ABD After Adjustment Made to Earnings Record**

EDM is programmed to check for service months after the ABD whenever a change is made to an employee's EDM record (e.g., additional service months reported, compensation amount(s) increased, ABD added or changed, etc.). This can result in the employee having 4 or more service months after the ABD when (s)he previously had 3 or less. When this occurs, the SERVICE AFTER ABD flag is reset from LESS THAN 4 SM to INVESTIGATION PENDING. All of the reported service months after the ABD are then investigated, including those that were already posted prior to the adjustment (see [FOM1 207.12.3](#), above).

EXAMPLE: Employee's ABD is 02/01/2006 and service months were initially reported for February, March, and April of 2006. LESS THAN 4 SM was entered in the SERVICE AFTER ABD field, and no action was necessary at the time. The employer submits a 2007 service and compensation report showing a service month reported for March. LESS THAN 4 SM is changed to INVESTIGATION PENDING in the SERVICE AFTER ABD field, and all 4 service months are investigated.

#### **207.12.5 Investigating Service Months After ABD**

##### **A. CESC Investigates Service After ABD**

CESSC of P&S has the primary responsibility for investigating service months after the ABD. The cases requiring investigation primarily are identified in its biannual Return to Service Project. However, individual cases may be referred to CESC by RBD.

CESC generally runs the Return to Service Project twice a year; once in summer, after all annual service and compensation reports have been posted; and once at the end of the year to include any subsequent service and compensation adjustments.

When the project is run, Form GL-132, "Notice of Service Reported for Annuitant Who Is Receiving an RRB Annuity", is printed for each employee with 4 or more service months posted after the ABD, "Investigation Pending" in the EDM Service After Annuity Beginning Date (SAABD) field, and service months after the ABD were reported for months within the four year period prior to the current year (if the project is run in 2009, a GL-132 is printed for each employee with reported service months after the ABD in 2005 or later). Form GL-132 is not printed when the employee's annuity is suspended or terminated with one of the following codes at the time the project is run:

- 01 – Death
- 02 – Returned to employer service
- 08 – Recovery from disability
- 09 – Disabled with excess earnings
- 20 – Return to substantial gainful activity
- 61 – Application or award cancelled
- 62 – Deletion of CHICO record.

CESC sends the forms to the respective railroad employers to verify that the service months after the ABD were reported correctly.

The Quality Reporting Service Center (QRSC) in CESC removes the service months from the record if the employer responds that the service months were reported erroneously (e.g., for payment in lieu of vacation).

CESC forwards Form GL-132 to RBD when:

- The employer indicates the employee returned to service;
- The employer indicates the service months were reported correctly for reasons other than returning to railroad service (e.g., was paid for vacation taken); or
- The employer indicates some, but not all, of the service months were reported erroneously and 4 or more service months after the ABD remain after the erroneous months are removed.

If the Form GL-132 is not fully completed, the information on it conflicts with the action taken on EDM, or the appropriate change to the SAABD indicator was not made, make

a copy of the form for the employee file and return the original to CESC, notating on the form why you are returning it to CESC.

The following chart provides a summary of the action CESC takes based on the information the employer provides.

<b>Months After the ABD Are:</b>	<b>CES Action:</b>
Return to service	<ul style="list-style-type: none"> <li>• Leave months on EDM</li> <li>• Set EDM SAABD flag to PROPERLY CREDITED SERVICE MONTHS</li> <li>• Forward GL-132 to RBD</li> </ul>
Payment for vacation taken	<ul style="list-style-type: none"> <li>• Leave months on EDM</li> <li>• Set EDM SAABD flag to PROPERLY CREDITED SERVICE MONTHS</li> <li>• Forward GL-132 to RBD</li> </ul>
Separation Allowance	<ul style="list-style-type: none"> <li>• Remove months from EDM</li> <li>• Set EDM SAABD flag to Resolved</li> </ul> <p>CESC does not forward GL-132 to RBD when months are separation allowance.</p>
Pay for time lost	<ul style="list-style-type: none"> <li>• Leave months on EDM</li> <li>• Set EDM SAABD flag to PROPERLY CREDITED SERVICE MONTHS</li> <li>• Forward GL-132 to RBD</li> </ul>
Dismissal Allowance	<ul style="list-style-type: none"> <li>• Leave months on EDM</li> </ul>

	<ul style="list-style-type: none"> <li>• Set EDM SAABD flag to PROPERLY CREDITED SERVICE MONTHS</li> <li>• Forward GL-132 to RBD</li> </ul>
Guarantee Pay	<ul style="list-style-type: none"> <li>• Leave months on EDM</li> <li>• Set EDM SAABD flag to PROPERLY CREDITED SERVICE MONTHS</li> <li>• Forward GL-132 to RBD</li> </ul>
Reported in error	<ul style="list-style-type: none"> <li>• Remove months from EDM</li> <li>• Set EDM SAABD flag to RESOLVED</li> </ul> <p>CESC does not forward GL-132 to RBD when months are reported in error.</p>
Payment in lieu of vacation	<ul style="list-style-type: none"> <li>• Remove months from EDM</li> <li>• Set EDM SAABD flag to RESOLVED</li> </ul> <p>CESC does not forward GL-132 to RBD when months are payment in lieu of vacation.</p>

## **B. When RBD Should Request CESC to Investigate**

### **1. EDM SAABD Indicator Is “Investigation Pending”**

When the EDM Service After ABD indicator is “Investigation Pending”, request CESC to investigate when:

- CESC has performed the Return to Service Project (see “NOTE”, below); and
- The case is not on Universal STAR with Category Code CES132.

CES132 is the Category Code used for CESC's Return to Service Project and indicates Forms GL-132 have been released to employers.

NOTE: CESC generally does not perform the Return to Service Project until June or July. Unless a priority case, service after ABD cases should be held until after the SAABD program is run and the cases are entered on Universal STAR.

## **2. EDM SAABD Indicator Is Other Than "Investigation Pending"**

Request CESC to investigate when the EDM SAABD Indicator is other than "Investigation Pending" only when RRB receives documentation that conflicts with the service month after the ABD information posted to EDM or a GL-132 returned by the employer.

If there is no GL-132 in file for a given year and no documentation that shows conflicting service month information for that year, assume all service months after the ABD have been properly investigated and the appropriate changes to the EDM record have been made.

### **C. When RBD Should Not Request CESC to Investigate**

#### **1. EDM SAABD Indicator Is "Investigation Pending"**

When the EDM Service After ABD indicator is "Investigation Pending", do not request CES to investigate when:

- CESC has performed the Return to Service Project (see "NOTE", below); and
- The case is on Universal STAR with Category Code CES132.

CES132 is the Category Code used for CESC's Return to Service Project and indicates Forms GL-132 have been released to employers.

Pend these cases for the receipt of a GL-132 from CESC. Do not pend for less than 2 months, the length of CESC's complete tracing schedule (see [CCOM 1205.4](#)).

NOTE: CESC generally does not perform the Return to Service Project until June or July. Unless a priority case, service after ABD cases should be held until after the SAABD program is run and the cases are entered on Universal STAR.

#### **2. EDM SAABD Indicator Is Other Than "Investigation Pending"**

When the EDM SAABD indicator is other than "Investigation Pending", assume service months have been investigated and necessary changes to EDM made. Do not request CESC to investigate service months after the ABD unless RRB has received documentation that conflicts with the information on EDM or a completed GL-132 returned by the employer.

**D. How to Request CESC to Investigate**

Request CESC to investigate service after the ABD by sending an email to the QRSC mailbox. The email should include the following:

- “RR Service After ABD” in the email subject line;
- The claim number, employee name, and BA number of the employer;
- A statement requesting CESC to investigate the service after the ABD; and
- Any information relating to the service after the ABD available from the file, imaging, etc.

In most cases, CES will fax Form GL-132 to the employer. If RBD handling is required based on the information on the returned form, CESC will send the GL-132 to the RBD Director’s office. If RBD handling is not required, CESC will take its action and send an email to the requestor describing what action they took. Allow 45 days for CESC to respond to the initial request.

**207.12.6 RBD Receives Form GL-132 from CESC**

RBD is responsible for handling any adjudication required based on the service after ABD information on Form GL-132. This includes:

- Suspending the annuity if the annuitant is still in RR service;
- Determining if the additional months have an impact on entitlement for the employee or his family;
- Calculating any overpayment and taking recovery action;
- Making any necessary adjustments to the annuity to include the additional service;
- Changing the ABD (See [FOM1 207.12.7](#)); and
- Coordinating with DBD when the service could impact the annuitant’s disability rating.

RBD is also responsible for imaging the GL-132 when its handling is completed.

The following chart provides a summary of RBD action based on the information the employer provides.

<b>Months After the ABD are:</b>	<b>RBD Action:</b>
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Return to service	<ul style="list-style-type: none"> <li>• Take all required adjudicative action.</li> <li>• Code EE-SPEC-CALC-CD in PREH to a '1' if ABD is not changed.</li> </ul>
Payment for vacation taken	<ul style="list-style-type: none"> <li>• If additional months do not benefit EE or family, no action is necessary.</li> <li>• If additional months benefit EE or family, take all required adjudicative action.</li> <li>• Code EE-SPEC-CALC-CD in PREH to a '1' if ABD is not changed.</li> </ul>
Separation allowance	<ul style="list-style-type: none"> <li>• Review previous use of SAABD.</li> <li>• Close open RESCUE referral (case will be included in next RESCUE run).</li> </ul>
Pay for time lost	<ul style="list-style-type: none"> <li>• Take all required adjudicative action.</li> <li>• Code EE-SPEC-CALC-CD in PREH to a '1' if ABD is not changed.</li> </ul>
Dismissal allowance	<ul style="list-style-type: none"> <li>• Take all required adjudicative action.</li> <li>• Code EE-SPEC-CALC-CD in PREH to a '1' if ABD is not changed.</li> </ul>
Guarantee Pay	<ul style="list-style-type: none"> <li>• Take all required adjudicative action.</li> <li>• Code EE-SPEC-CALC-CD in PREH to a '1' if ABD is not changed.</li> </ul>
Reported in error	<ul style="list-style-type: none"> <li>• Review previous use of SAABD.</li> </ul>

	<ul style="list-style-type: none"> <li>• Close open RESCUE referral (case will be included in next RESCUE run).</li> </ul>
Payment in lieu of vacation	<ul style="list-style-type: none"> <li>• Review previous use of SAABD.</li> <li>• Close open RESCUE referral (case will be included in next RESCUE run).</li> </ul>

NOTE: In rare situations, CESC may be unable to obtain the SAABD information from the employer. If CESC informs you that this is the case, no action is necessary on the SAABD since RRB cannot verify that the service months were reported correctly.

### 207.12.7 Changing the ABD

Whether an ABD should be changed depends on the type of service months posted, and whether the months must be consecutive from the current ABD. Use the following guidelines to determine if an ABD should be changed.

#### A. When Months After ABD are Return to Service or Pay for Time Lost:

- If the service months are consecutive to the original DLWRR or ABD (the employee remained in railroad service), the ABD must be changed to the day after the new DLWRR provided on the GL-132. If a new DLWRR is not provided, change the ABD to the 1<sup>st</sup> day of the month following the last railroad month posted.
- If the service months are not consecutive to the original DLWRR or ABD (i.e., the employee returned to railroad service), the ABD is not changed.

**EXAMPLE #1 – ABD Changed:** EE receives a reduced age 62 annuity with 250 service months credited through his ABD of 04/01/2007. The employer reported service months for April, May, June, July, and August of 2007. Change the ABD to 09/01/2007. Adjust the annuity from the new ABD of 09/01/2007 and recover the overpayment for the 5 months worked.

**EXAMPLE #2 – ABD Not Changed:** EE receives a reduced age 62 annuity with 250 service months credited through his ABD of 04/01/2007. The employer reported service months for July, August, September, and October. Because the additional months are not consecutive to the original DLWRR or ABD, do not change the ABD. Adjust the annuity from November 2007 (month after last month worked) and recover the overpayment for the 4 months worked. Code PREH for return to service.

EXAMPLE #3 – ABD Changed (EE becomes entitled to different type of annuity): EE receives a reduced age 62 annuity with 356 service months credited through his ABD of 04/01/2007. The employer reported service months for April, May, June, and July. The employee is now eligible for a full 60/30 annuity, because he now has 360 service months. Pay the full 60/30 annuity with an ABD of 08/01/2007. Assess the overpayment for the 4 additional service months from 04/2007 through 08/2007.

EXAMPLE #4 – ABD Changed (Months not consecutive, but EE becomes entitled to different type of retirement annuity): EE receives a reduced age 62 annuity with 356 service months credited through his ABD of 04/01/2007. The employer reported service months for July, August, September, and October 2007. The employee is now eligible for a full 60/30 annuity, because he now has 360 service months. Because this is a different type of retirement annuity, change the ABD and pay the full 60/30 annuity effective 11/01/2007, even though the service months are not consecutive from the original ABD. Assess the overpayment for the 4 additional service months from 07/2007 through 10/2007. Code PREH for the new annuity type.

EXAMPLE #5 – ABD Not Changed (Large gap between ABD and SAABD): EE (DOB 10/31/1949) receives an occupational disability annuity with 400 service months credited through his ABD of 12/01/2004. The employer reported service months for June, July, August, September, and October 2006; and January, March, and August 2007. Because the additional months are not consecutive to the ABD or DLWRR, do not change the ABD. Adjust the annuity at each break in service and recover the overpayment for the 8 months worked. Code PREH for return to service.

## **B. When Months After ABD Are for Payment in Lieu of Vacation.**

1. Since the months have been removed, review previous action, if any, that was taken based on the original SAABD months. Reverse the previous action.
2. Close the referral on USTAR, if one is pending.

## **C. When Months after ABD are for Vacation Taken.**

Determine if the additional months benefit the employee or family.

1. If the months do not benefit the employee or family, close the referral on USTAR, if one is pending. No further action is necessary.

**IMPORTANT NOTE:** Service months for vacation taken that are not credited are not removed from EDM (see [FOM1 210.2.1](#)). An overpayment should not be assessed for service months after the ABD when the service months are for vacation taken and have not been credited.

2. If the months benefit the employee or family:

- Calculate the annuity with the additional service months included, as well as the net overpayment.
- E-mail the field requesting them to provide the employer with the information and ask him or her to decide if he wants his annuity adjusted.
- *If the employee wants his annuity adjusted to include the vacation months, have the field obtain a signed statement from him (see [FOM1 207.12.8.B](#)).*
- When the field has obtained the employee's signed statement, adjust the annuity and recover the overpayment for those months.

NOTE: If the vacation months are not consecutive to the DLW-RR and EE would lose more months than will be added if the ABD is changed, the vacation months can be considered a return to service and the ABD can remain unchanged.

- *If the employee does not want his annuity adjusted to include the vacation months, close the referral on USTAR, if one is pending. No further action is necessary.*

## 207.12.8 Special Situations

### A. Service Months after ABD Needed to Qualify for Benefits

An employee may have enough service months on EDM to qualify for additional benefits, but because his annuity was paid based on fewer service months than required for those benefits, they are not payable. However, the employee has the option of using any service months after the ABD to attain the required number of service months needed, including service months reported for return to railroad service.

If the employee wishes to use months after the ABD, the current ABD can be changed or kept, depending on what most benefits the employee or family (an ABD can be changed only if the months are consecutive from the original ABD). However, this generally can be done only within 4 years from the date the annuity was initially awarded (see [RCM 6.2](#) for reopening rules). In either case, the annuity is not payable for the service month(s) used to qualify for the additional benefits, and must be recovered.

*When additional months are used for a Supplemental Annuity, if the required service months to qualify are attained after the employee has already attained the required age, the Supplemental Annuity beginning date is the month following the month the required service months are attained (see [FOM1 315.3](#)).*

### **B. Spouse Files for Full Age Annuity – EE Disability Annuity Based on Less Than 360 Months**

This is an example of a common situation in which additional months are needed to qualify for benefits. Other situations should be handled similarly.

A spouse files an application for a full age spouse annuity. The employee's earnings record indicates he has 360 service months (an employee probably would be aware of this from his BA-6). However, she does not qualify for the spouse annuity, because the employee's disability annuity was paid based on less than 360 service months through his ABD.

### 1. Field Office Handling

When a spouse files for a full age spouse annuity and the employee is a disability annuitant, verify the number of service months credited through his ABD by accessing the PREH 3300 screen. Refer to these fields on the left side of the screen:

- YOS-TOT-CNT (Indicates total full years of service)
- YOS-TOT-RMDR-MO-CNT (Indicates additional service months following the last full year of service)

If the YOS-TOT-CNT is 30 or more, no further action is necessary and the application can be submitted for payment.

If the YOS-TOT-CNT is less than 30, do the following:

- a) Determine the total number of service months through the employee's ABD. Use this formula, if necessary:

$$\text{(YOS-TOT-CNT x 12) + YOS-TOT-RMDR-MO-CNT = Total ABD SM}$$

EXAMPLE: (29 yrs. X 12) + 9 mos. = 357 Total SM on the ABD

- b) Access the EDM Employee Service and Earnings Totals screen (PF16) to verify that the employee has at least 360 total creditable service months (see TOTAL CREDITABLE in the left column under SERVICE MONTHS TOTALS).
- c) If TOTAL CREDITABLE is 360 or more, determine the difference between 360 and the number of service months through the ABD. This is the number of additional months the employee needs for the spouse to qualify for the full age spouse annuity.
- d) Advise the employee of the following:
- Although his service and compensation record indicates he has at least 360 service months, his annuity is based on (give # of SM), which does not qualify the spouse for the full age spouse annuity;

- (# of SM) additional service months need to be used to attain 360 and qualify the spouse for the annuity;
  - RRB may reset the employee's ABD if it is to both the employee's and spouse's advantage and it is less than 4 years from the date his disability annuity was initially awarded;
  - Annuity payments for the additional months that are used must be recovered. Provide an estimate of the overpayment amount [(# of additional months needed) x (current monthly annuity payment) = estimated O/P]. Also advise that all accruals will be applied to the overpayment. If an overpayment remains after the accruals are applied, a letter will be sent that will include the final overpayment amount and repayment options. In most cases, the options are:
    - Refunding the overpayment by cash or credit card;
    - Suspending an annuity until the overpayment amount is recovered (full withholding); or
    - Withholding part of the monthly annuity payment for a set period of time (partial withholding), usually 48 months (i.e.,  $O/P \div 48 = \text{amount withheld monthly}$ ).
- e) If the employee agrees to have the additional service months used, secure a signed statement from him in which he states that he:
- Agrees to have (# months) additional service months used in order for his spouse to qualify for a full age spouse annuity; and
  - Understands the annuity payments for those months must be recovered, and that the estimated overpayment amount is [(# additional months to be used) x (current monthly annuity payment) = estimated overpayment].
- f) When the employee submits the signed statement, refer the case to RBD for handling. Indicate in Remarks that the employee's annuity was based on less than 360 SM on the ABD, he wants to use additional months to give him 360 SM to qualify the spouse for an annuity, and he has submitted his signed statement.
- g) If the employee does not submit a signed statement or indicates he does not want additional months used to qualify the spouse, submit the spouse application for denial.

## 2. RBD Handling

- a) When the field office submits an application for RBD handling or notifies RBD they have secured the signed statement (if the application was already submitted):
- Calculate both the employee's and spouse's annuities with the current employee ABD and also with the ABD reset to the month following the last additional service month used (if it has been less than 4 years from the date the annuity was initially awarded, per the reopening rules in [RCM 6.2](#)).
  - Pay the initial spouse annuity and recertify the employee's annuity using the most advantageous of the two computations. Apply all accruals to the overpayment.
  - Recover any remaining overpayment per current procedure.
- b) If a case rejects on RASI (Reject Code 083 – SPOUSE TOO YOUNG FOR BENEFIT CLAIMED):
- Do not deny the application. Email the field office advising that the case rejected and request them to secure a signed statement from the employee, per the field office handling instructions, above.
  - When the field office notifies RBD they have secured the statement, pay the initial spouse annuity and recertify the employee's annuity. Apply all accruals to the overpayment.
  - Recover any remaining overpayment per current procedure.
- c) If the employee has less than 4 reported service months after the ABD (EDM SAABD flag is LESS THAN 4 SM):

Send an e-mail to the QRSC mailbox requesting that the service months after the ABD be verified. The e-mail should include the following information:

- "Verify Service Months for Additional Benefits" in the subject line;
- The claim number, employee name, BA number, ABD, and the service months that need to be verified; and
- A general statement that the service months after the ABD need to be verified, because the employee needs additional service months for additional benefits.
- After they have completed their investigation, CESC will send a return e-mail to the RBD mailbox advising whether all reported months are valid

service months, none are valid service months, or if only some are valid service months, which months they are.

If there are no longer enough valid service months for the employee to qualify for additional benefits, request the field office to inform the employee that this is the case. If an application has been submitted, deny the application.

If there are enough properly reported service months for the additional benefits to be paid, handle following the instructions in 2(a) or 2(b), above.